# ГРАЖДАНСКОЕ ПРАВО И ПРОЦЕСС

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## THE PRINCIPLE OF A TRIAL WITHIN A REASONABLE TIME: UKRAINIAN LAW ENFORCEMENT REALITIES

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**SUMMARY**

The article is devoted to a legal study of the content and essence of the new constitutional principle of administering justice in Ukraine – regarding a reasonable time for a court to consider a case. The systematic violation of the temporary rules of the duration of the process in the national justice system was studied. The work found that regulatory innovations did not lead to an improvement in the situation with the unlawful delay of the trial. The examples of specific court cases show the shortcomings of the national legal proceedings in the field of timeliness of the opening of proceedings for cases, the formation of the full text and the direction of court verdicts to the participants in the proceedings. It is proposed at the legislative level to introduce civil and administrative responsibility of judges and other participants in the process in this area.

**Key words:** reasonable time, timely legal proceedings, temporal aspects of the process.

**ПРИНЦИП РОЗГЛЯДУ СУДОВОЇ СПРАВИ УПРОДОВЖ РОЗУМНОГО СТРОКУ: УКРАЇНСЬКІ ПРАВОЗАСТОСОВНІ РЕАЛІЇ**

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**АНОТАЦІЯ**

Статтю присвячено правовому дослідженню змісту та сутності нового конституційного принципу здійснення правосуддя в Україні – розумному строку розгляду справи судом. Вивчено питання системності порушення часових правил щодо тривалості процесу в системі національного правосуддя. У роботі встановлено, що нормативні новації не привели до покращення ситуації з неправомірним затягуванням судового процесу. На прикладах конкретних судових справ показано вади національного судочинства у сфері своєчасності відкриття проваджень у справах, формування повного тексту та направлення вердиктів суду учасникам розгляду. Пропонується на законодавчому рівні запровадити цивільну та адміністративну відповідальність суддів та інших учасників процесу в цій сфері.

**Ключові слова:** розумний строк, необґрунтоване затягування, своєчасне судочинство.

**Formulation of the problem.** The current version of the Constitution of Ukraine, among the foundations of administering justice, has enshrined a new fundamental principle of "reasonable time for consideration of a case by a court". Its appearance, as is commonly believed, is due to the participation of Ukraine in the Convention for the Protection of Human Rights and Fundamental Freedoms. The short story follows directly from the content of an international legal document, in art. 6 of which the human right to a fair trial is postulated in such a way that it includes as an integral part the right to a reasonable period of consideration of the case. However, using the term "reasonable time", the Convention does not define its content. This process occurs through the analysis of specific case-law of the European Court of Human Rights, which, in accordance with the Law of Ukraine "On the Implementation of Decisions and Application of the Practice of the European Court of Human Rights", is recognized as a source of national law. Under such circumstances, each person has the right to apply to the national court for the protection of his violated subjective right, substantiating his claims not only with the laws of Ukraine, but also with a specific decision of the ECHR, which have a precedent character.

**Relevance of the topic.** As you can see, the legal configuration of the international legal norm establishes, among others, such elements of the right to judicial protection as the right to a timely trial by an independent and impartial court. Ukraine so far does not fully comply with the specified European criteria in building its national legal proceedings. Therefore, we have numerous decisions of the European Court of Human Rights against our state. It is enough to name the decision of the ECHR of 19.12.2013 in the case of "Yuri Volkov v. Ukraine", of 10.10.2013 in the case of "Voloshin v. Ukraine", of 28.11.2013 in the case of "Gorbatenko v. Ukraine", of 31.10.2013 in the case of "Tarasov v. Ukraine" [1]. The unreasonable delay of the trial and the denial of the use of justice is the basis for initiating by the interested parties the procedure for the payment of material compensation by the state. Trying to properly solve these problems, the national system is simply forced to focus, as a model, on the criteria for timely legal proceedings in force in European society.

Guided by these requirements, the national legislator is trying to reorganize existing procedural normative acts, adjusting law enforcement temporal mechanisms to universally recognized principles of fair, honest and humane legal proceedings.

Now, for about two years now, new versions of the Ukrainian Procedural Codes have been operating, which, in particular, have been significantly adjusted in terms of temporary measurements, and should be applied to various stages of the process. However, in the scientific community there is no consensus on whether legislative changes in the temporal plan are progressive, and whether they are aimed at achieving the main goal of legal proceedings – the optimal protection of individual rights from violation and elimination of its consequences.

**The state of the study.** In the scientific literature, the temporal aspects of the concept of the right to a fair trial were studied by such scientists as V. Butkevich, V. Denisov, V. Evintov, O. Kuzmenko, N. Mole, K. Harb, P. Rabinovich, O. Tolochko, L. Alekseeva, I. Pilyaev, M. Soroka, S. Shevchuk and others. The study of these scientists was aimed at providing a general description of the concept of fair trial, including in its temporary dimension. But the civilistic doctrine still lacks an analysis of the effectiveness and efficiency of updated temporal legislation. There is no serious clarification of questions about the time limits for the consideration of cases and the enforcement of court decisions that would meet the criterion of reasonableness in specific cases. In the conducted studies, there are practically no attempts to adapt the European case-law to Ukrainian national law enforcement, taking into account its specificity and features. At the same time, carrying out such work will allow for the development of concepts on the effectiveness of timely enforcement. This is the goal and purpose of the article.

**Statement of the main material.** Life shows that the development of legal ideology is directed from maximum legal positivism to an ever wider judicial discretion. Indeed, only judicial practice develops criteria for fair trial. But, even if this is so, then it is necessary to formalize judicial developments. Article 17 of the Law of Ukraine of February 23, 2006 "On the implementation of decisions and application of the practice of the European Court of Human Rights" provides for the application by the courts of the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 and the practice of the European Court of Human Rights as sources of law when considering cases. Moreover, the practice of the Court is understood in a broad sense, that is, as all decisions of the European Court of Human Rights with respect to all countries party to the Convention. However, despite the fact that the issue of accessibility and timeliness of justice has been repeatedly considered by the European Court, Ukrainian courts continue the practice of violating the corresponding rights of citizens.

In this context, it should be noted that the violation of the provisional rules for judicial review is traditionally one of the main shortcomings of national justice. After all, even issuing a verdict honest and appropriate to the circumstances of the case, but with significant non-observance of reasonable time limits, constitutes an independent form of violation of the human right to a fair trial. As stated by the Higher Specialized Court of Ukraine for the consideration of civil and criminal cases, in some cases, the courts unreasonably refuse the right to judicial protection in civil cases to interested parties, for example, by refusing to open the proceedings and return the application. Often when considering civil cases, ignoring the substantive and procedural laws leads not only to the abolition of court decisions on appeal or cassation, but also to a significant violation of the terms for making decisions on the merits. Courts of appeal and cassation instances do not always pay attention and do not respond to violations by the courts of the time limits established by law for considering cases. It should be added that for such neglect of a legal norm, de facto, no measures of responsibility on the part of the bodies that are called upon to apply it to judges violating the law (High Council of Justice) have not yet been noticed.

Observance of reasonable terms as an element of a common right to a fair court is a necessary condition for the operation of the law enforcement system, and therefore, this issue requires adequate reflection in the legislation of Ukraine. The ECHR paid particular attention to this aspect, since the absence of the indicated legal guarantees constitutes a "great danger" to the rule of law, when "extraordinary delays in the administration of justice" occur within the framework of national legal systems, according to which the parties to the proceedings do not have any national remedies for the violated right. The main thing is the requirement for a clear formulation of the rule of law, which streamlines the temporal aspects of production. Moreover, it is extremely important that the subject of the dispute is aware of the meaning of their behavior regulated by law. As the ECHR points out in its decision in the case of "Olsson v. Sweden", the norm of a national law cannot be regarded as "law" if it is not formulated with sufficient accuracy so that a citizen can, if necessary, with appropriate recommendations, to some extent predict the consequences which a perfect action may entail" [2, p. 61]. In this context, one of the requirements that European legal institutions apply to national justice is to ensure that the behavior of a particular subject is adapted to the regulatory conditions of legal reality, to protect it from arbitrary interference by the state, and to be confident in its legal status. They leave the content of the concept of legal certainty, which provides an opportunity for a person to confidently plan their actions. For this, legal norms should be clear and aimed at ensuring the predictability of situations that arise in certain legal relations that are mediated by law.

However, the content of the principle of legal certainty is not limited to the requirements for regulatory legal acts. In legal science, it is mainly considered in a broader aspect and covers such manifestations as the inviolability and immutability of acquired legal rights (vested rights), legitimacy of expectations (legitimate expectations) – the right of a person in their actions to rely on the stability of existing legislation, and therefore the irreversibility of the law and the impossibility of applying the law to a person who could not know about its existence (non-retroactivity) [3, p. 128–129]. It is through these elements of the principle under study that the significance of temporal factors of consolidating the real content of legal certainty is manifested. Thus, certain procedural requirements relate to the mandatory promulgation of regulatory legal acts, the prohibition of their reverse action, the sequence of lawmaking, the provision of sufficient time for changes in the legal system in the event of a change in law or the adoption of a new, reasonable stability of law. In this sense, the term "stability" means "stability, constancy, immutability". Based on this, legal certainty assumes that the system of existing legal requirements is sustainable, at least for the foreseeable period. This means that each norm should be sufficiently clear, such that it is explained unambiguously. In this case, of course, we are talking about the certainty of the external manifestation of a legal norm, and not its essential nature, since the certainty of the latter directly follows from its very nature as a measure of freedom for all subjects of law [4, p. 5–6]. Legal certainty in the form of stability of relations is manifested at the level of law enforcement, where it ensures the constancy and immutability of judicial decisions. In other words, the principle of legal certainty guarantees the stability of final court decisions.

Some researchers associate the stability of lawmaking and law enforcement with the rule on the predictability of law in a particular situation. It includes the following provisions of temporal content: lack of retroactive effect of the act (impossibility of applying the act to situations that arose before the entry into force) of the invalidity of the act, which was not duly published; justification of the expectation, which implies the possibility of amending legal acts after prior notification to those to whom the new rules are addressed; clarity and clarity of law for those concerned; the statute of limitations, according

to which it is impossible to demand recognition of a legal act as unlawful or to require the fulfillment of some obligations when a lot of time has passed after entry into force [5, p. 60]. Other scholars also note the application of temporary criteria in implementing the principle of legal certainty. They divide this principle into two subprinciples: 1) the impossibility of the reverse action of the legislation, unless the legislative goals cannot be achieved otherwise, provided that the principle of protecting legitimate expectations is observed; 2) protection of legitimate expectations, while the expectations are recognized as legitimate if they are reasonable, that is, they correspond to the real expectations of the "cautious person" [6, p. 42]. European legal institutions (Court of the European Union) have also repeatedly emphasized in their practice the importance of statutory expectations in the sense of the principle of legal certainty (case of "A. Racke GmbH & Co. v Hauptzollamt Mainz" (1979)) [7].

So, the principle of legal temporal expectations is an integral part of the principle of legal certainty. It consists in the fact that when a person is convinced of the achievement of the planned result, acting in accordance with the rules of law, the protection of these expectations should be guaranteed. Moreover, for the implementation of this principle certain criteria must be met. As already indicated, protection is only provided to expectations when they are legitimate. In addition, only those legitimate expectations that belong to prudent and prudent entities are protected [8, p. 160–161]. An important aspect of the concept of the principle of legal certainty is the mechanism according to which the law is not retroactive. The European Court of Human Rights postulates it as one of the necessary elements of this principle [9, p. 30]. As a general rule, the law should be directed to the future. It is believed that the reverse effect of legal requirements is contrary to this principle, since legal entities must know the consequences of their behavior, in particular when constructing civil relations, otherwise it negatively affects the rights and legitimate interests of a person. Therefore, this approach ensures the realization of the inalienable right of a person to be sure that his proper behavior after a certain period will not lead to a deterioration of the legal situation. However, as the ECHR points out, the application of the retroactive force of the norm is allowed in exceptional cases, for example, when it is required by goals that the company needs to achieve and respect for the legitimate expectations of the person is ensured.

Meanwhile, the application as a justification of court decisions of legal acts that are not valid in the present time, today has become a serious problem of national legal proceedings. Ukrainian judges, doing nothing extravagantly, often apply legal acts that are not relevant to the case, because they did not exist at the time the contentious relationship arose, or never entered into force at all. Therefore, we have to admit that our courts often do not take into account the indicated principle of the impossibility of the reverse effect of a legal act in time, exercising "retroactively" the application of certain regulatory provisions. This is most characteristic of normative acts of a local nature, when judges cannot or do not want to analyze in detail the time of publication and publication of it.

Another necessary element of the principle of legal certainty is recognized as the requirement of mandatory promulgation of legal acts (non obligat lex nisi promulgata). Its main purpose is to ensure that none of the norms adopted by state bodies can be applied to persons not informed about it. According to the decisions of the ECHR, "the law should be adequately accessible and the citizen should be able to navigate according to the circumstances what legal norms apply to this case" [10]. Indeed, presuming that citizens know the laws, the state must do everything necessary to bring regulatory requirements to their attention. This ensures compliance with the rule of predictability of the law and ensuring the inadmissibility of making unpredictable changes to it.

Thus, a prerequisite for the entry into force of legal acts is the fact of their promulgation. Of particular relevance in this regard is the publication of local regulations issued by local governments, other state or public institutions, a prerequisite for the entry into force of such acts. In Ukrainian courts today there is absolutely no practice of checking by the law enforcement body whether a certain document was published, and then whether it entered into legal force, and when it happened. Meanwhile, in this regard, the highest judicial authorities of the state have repeatedly made certain recommendations. So, in paragraph 7 of the resolution of the Plenum of the Supreme Court of Ukraine of November 1, 1996 No. 9 "On the application of the Constitution of Ukraine in the administration of justice", it was proposed to draw the attention of the courts to the fact that according to part 2 of art. 57 of the Constitution are invalid and therefore cannot be applied, those laws and other regulatory legal acts that determine the rights and obligations of citizens that are not brought to the attention of the population in the manner prescribed by law. This means that a court decision cannot be based on unpublished regulations of such content.

We believe that the interconnectedness of the subjective substantive law of its holder with the legal obligation of the obligated person is the quintessence of the legal relationship [11, p. 22]. In order to determine the proper duration of the consideration and resolution of litigations, the European Court proposes to conduct an appropriate investigation of each case in order to properly use the concept of "reasonable time". For domestic scientific thought and legislation, a similar approach to solving the issue is also quite symptomatic. By and large, the meaning of the "reasonable time" criterion is to guarantee the adoption of a judicial decision within a reasonable period, while setting the limit of the state of uncertainty in which a person is in relation to his position during the judicial review of the case, and which is important both for this person and from the point of view of the concept of "legal certainty" as such [12, p. 33–34].

What has changed with the introduction of new regulatory procedural rules? It should be noted that the new national procedural legislation, which has been enacted since November 15, 2017, is intended to minimize the possibility of judges unreasonably delaying the consideration of a case. So it was conceived. In fact, the situation is far from what it should be. It is necessary to evaluate the concept of rationality, which is introduced in Ukrainian national legislation. The periods of existence of a certain right may be determined by law, other legal acts or by agreement of the parties. The rules established normatively should be expected and understandable, and concepts should contain clear words and phrases when they express only those terms that are intended to express.

As a general rule, a reasonable period is considered to be the time objectively necessary to carry out procedural actions, take procedural decisions and consider and resolve a case in order to ensure timely (without undue delay) judicial protection. However, our legislation does not always carefully consider this aspect: formulating in detail the content of a certain authority and the corresponding obligation that arise in specific circumstances, it often leaves the question of the duration of authority open. In this case, if the validity period of the subjective right is not explicitly indicated, the criteria of reasonableness should be used to calculate the period of existence or the implementation of a certain subjective right. According to tradition, the result of understanding and the procedure for applying certain legislative requirements is determined by judicial practice. However, in our opinion, the rejection of the legislative elaboration of certain temporal factors should be considered as an exceptional

measure, since it means providing law enforcement authorities with unlimited judicial discretion in resolving disputes. As a result, subjectivity is possible, because often the courts allow a rather broad interpretation of the content (including duration) of a specific authority or obligation.

Therefore, we are convinced that widespread enforcement discretion in terms of determining the reasonableness of the timing of individual stages and the whole production as a whole is possible only, as an exception, in cases where it is impossible to establish the exact duration of a certain procedural action. It is worth noting that the Ukrainian legislator, in order to eliminate the foregoing judicial subjectivity in determining the appropriate, desirable and necessary (read – reasonable) duration of the trial, imperatively established separate temporal rules for the consideration of the case: art. 210 of the Civil Procedure Code states that "the court must begin consideration of the case on the merits not later than sixty days from the date of opening of the proceedings on the case, and in the case of extension of the period of preliminary proceedings – not on later than the day following the expiration of such a period. The court shall examine the case on the merits within thirty days from the day the commencement of the trial on the merits begins. The proceedings at the stage of its consideration on the merits are stopped only on the grounds established by law".

In the national procedural legislation, numerous norms also establish the maximum permissible time limits for the performance of certain procedural actions. So, an application for securing a claim is parsed by the court in which the case is being processed, no later than two days from the day it was received without notifying the defendant and other persons involved in the case. The plaintiff has the right to change the subject or basis of the claim, increase or decrease the size of claims by submitting a written application before the end of the preparatory hearing or no later than five days before the first court hearing if the case is examined in the simplified claim procedure (art. 47 of the Civil Procedure Code). The application for revision of the decision in absentia must be considered within fifteen days from the date of receipt (art. 286 of the Civil Procedure Code). The appeal against the decision of the court of first instance should be considered within sixty days from the date of the decision to open the appeal proceedings, and the appeal against the decision of the court of first instance within thirty days from the date of the decision to open the appeal proceedings (art. 371 of the Code of Civil Procedure of Ukraine). To the participants of the case who were not present at the court session, or if the court decision was made outside the court session or without notifying (calling) the case participants, a copy of the court decision is sent within two days from the date of its preparation in full in electronic form in the manner specified by law, – if the person has an official e-mail or by registered letter with acknowledgment of receipt – if such an address is absent (art. 272 of the Civil Procedural Code). There are a lot of similar examples when the law imperatively determines the maximum permissible period for a law enforcement body to carry out a procedural action.

Therefore, it would seem that in our national legislation the basic temporal foundations of the justice of justice, as provided for in the Convention, are embodied. However, if we analyze the issue more deeply, a meticulous look will show that there is a certain significant difference between the meaning of a reasonable term in the understanding of the Ukrainian and European legislators. Ukrainian procedural laws qualify a period as a fragment of time during which a participant in a process or a court must perform a significant action. In other words, a "reasonable" period is a period of certain actions established by law to resolve a case in order to protect violated, unrecognized or disputed rights, freedoms or interests. Such an approach enables Ukrainian lawyers to characterize a "reasonable" time as a set of procedural terms for performing the necessary procedural actions without unreasonable delay. At the same time, the ECtHR assesses a reasonable time as the duration of the entire proceeding, from its inception to the full implementation of the judgment. According to this concept, the reasonableness of the term is connected with the result of justice – the achievement of justice and the restoration of rights. In other words, the term for consideration of a case is an integral part of a "reasonable term". And the latter contains the time during which the case is decided by the courts of all instances, as well as the time period for the execution of the judgment. As practice shows, it is the time gap described in the stages of the consideration of a court case that often leads to a violation of human rights in connection with an unjustified delay in the process.

Guided by the idea of determining the time coordinates of individual procedural actions within the limits of their reasonableness, the domestic legislator removed certain specified deadlines from the relevant sections of the code. For example, now the law does not establish clear deadlines for opening proceedings in the event that a claim is left without consideration to eliminate the deficiencies of the application, to prepare a full court decision, and the like. Based on this approach, we will try to find out whether the situation with unjustified puffs in the process has improved, which was a systemic problem in Ukraine, replacing a significant number of pending procedural deadlines with the possibility of determining the temporal boundaries of the process within a "reasonable time". Unfortunately, the enforcement realities are such that the new temporal legislation, which the valley would seem to accelerate the consideration of cases, guided by the European principles of timeliness, actually led to the completely opposite effect: the cases began to be considered much longer. It is always so in our state. For example, without any time frame for a certain procedural action, now the judges widely use this method of deliberately delaying the consideration of a case: upon receipt of a statement of claim, a decision is made to leave the claim without consideration, while the grounds for this are usually far-fetched and such, which openly contradict the current legislation. And then really serious abuse begins. This determination is sent to the plaintiff at best in six months (the judge considers this or even a longer period reasonable). Then, after receiving a response from the plaintiff correcting the comments, the judge, after half a year at least (this time may also vary within the "reasonableness" of his choice), can slowly open the proceedings. There are a lot of examples of such practice now, most likely this is the coordinated activity of our courts.

Another very negative result that violates the principle of legal certainty, today we have the actions of judges regarding the delay in producing the full text of court decisions and the lengthy sending of court decisions to the dispute side. It has also recently become a tradition of Ukrainian unjust refereeing [13]. Such consequences, in fact, are caused by the imperfection of the law in the temporal sense. As you know, the Code of Civil Procedure determines the preventive deadline for making a court decision. Part 1 of art. 268 of this document stipulates that a court decision or its introductory and operative parts shall be proclaimed immediately after the end of the trial and publicly, except in cases established by the Code. The presiding judge shall explain the content of the decision, the procedure and the time period for appeal. If only the introductory and resolutive parts of the court decision are announced at the court session, the court shall notify when the persons participating in the case will be able to familiarize themselves with the full court decision. In other words,

sometimes you have to wait until the incomplete text (introductory and operative parts of the decision) turns into the full one, because otherwise the legal position of the court itself and the possibility of appealing the verdict are incomprehensible. Therefore, the principle of legal certainty corresponds to the establishment of an insignificant time for the technical completion of the court decision.

It's a shame, but in this matter, lawmakers made another "gift" to all lawyers. The fact is that until recently, the deadline for the production of the full text of the decision was determined by the rule of part 3 of art. 209 of the Code of Civil Procedure of Ukraine, where the following was indicated: in exceptional cases, depending on the complexity of the case, the preparation of a full decision may be postponed for a period of not more than five days from the date of completion of the consideration of the case, but the court must declare the introductory and resolutive parts at the same meeting in which it ended consideration of the case. Now, with a statement of procedural laws in the new edition in this area there is a gap. Since the full text of the court decision and the motives contained therein are the basis for the realization of a person's procedural right to appeal and cassation appeal, a delay in its production is firstly a valid reason for missing the procedural term, and secondly, a significant violation by the judges of the right to a fair trial as regards the observance of reasonable time limits for legal proceedings. We believe that the new laws deliberately deprived the normative binding of a significant number of procedural acts that existed previously. Thus, the government protects dishonest judges not even from liability (we never had it and, most likely, will not have it for a long time), but from the very possibility of conducting a case in an unreasonable time. Meanwhile, the lengthy failure to pass the full text of the court decision, as it was, remains a chronic disease of national justice [14].

Despite the prevalence of such unlawful actions, there is no reaction from the higher judicial authorities and the High Council of Justice yet. Thus, the courts, contrary to the current Ukrainian procedural legislation, deprive a person of the constitutional right to access to justice by filing an appeal. Usually, the latter's complaint to the Supreme Court of Justice of Ukraine also remains without any response. In this regard, the European Court is quite categorical: for example, in the case of "Balatsky v. Ukraine", the ECHR admitted a violation, given the failure of the national judicial authorities to finalize the decision on the applicant's case, confining himself to an out-of-court communication, namely a letter that could not be appealed [15].

However, the root of the problem lies not only in the area of imperfection of the current procedural legislation regarding temporal certainty. The traditional neglect of direct regulatory requirements by our judges also affects. So, despite the fact that the law clearly establishes that the term for cassation review of a case is no more than two months, the cases in the Supreme Court are much longer: it is considered great happiness when the cassation review of the case takes place within a year from the date of the opening of proceedings. And this despite the fact that now this court does not have a traditional excuse regarding the insufficient number of judges. As you can see, the main reason for the unjustified delays in the consideration of court cases, and thus a violation of the guaranteed art. 6 of the Convention, the human right to a timely trial is the practical impunity of judges.

In this context, we have repeatedly proposed the adoption of a law on liability for the unlawful delay of a lawsuit. Such acts successfully operate in various countries. For example, on June 17, 2004, the Polish Parliament adopted the Law "On complaints of violation of a party's right to be considered without undue delay in the trial". Its widespread use has successfully overcome the problem, which was also chronic in this state. Appropriate steps should be urgently taken in Ukraine. The law should provide for measures of civil and administrative responsibility of all participants in the proceedings, and most importantly – judges for the long unreasonable delay in the commission of the necessary procedural actions. Given the mentality of Ukrainians, this is the only effective measure to overcome this problem, which the European community in the person of the ECHR has long qualified as a systemic one.

**Conclusions.** From the study we can draw the following conclusions. The violation of the right to a timely and impartial hearing in a national court (art. 6 § 1 of the Convention) was found by the European Court in its numerous decisions. The absence of appropriate legal guarantees constitutes a serious danger to the rule of law. The urgent need remains for judges to understand their personal responsibility for the timely consideration of cases, to prevent the facts of denial of access to justice, and to take all necessary measures to strictly observe the principle of impartiality. The wrong approach of Ukrainian courts will lead to a violation of the rights of the state of Ukraine as a party to the future process in the ECHR. In the end, such deliberate non-application of the current Ukrainian legislation to which the Convention applies, when a court considers a case, should, at a minimum, result in the disciplinary sanction imposed on judges under paragraph "7" of part 1 of art. 106 of the Law of Ukraine "On the Judicial System and the Status of Judges".

Despite the fact that Ukraine each time declares its attempts to build a fair trial based on the involvement of European principles, including temporal, significant results in this process is not yet visible. Changes in the legislation did not lead to the elimination of unjustified judicial abuse with a delay in the consideration of civil cases. Separate gaps in regulatory acts are actively used for such violations, but even clear temporal requirements of the law are openly violated. And above all, the lack of sanctions against a particular judge for unreasonably delaying the case is cause for concern. A practical effective means of overcoming this problem is the adoption of an appropriate law. Therefore, time will show whether the practical approaches developed by our legal proceedings over many years will change, and whether the Ukrainian law enforcement system will move towards European principles of legal proceedings.

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