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JURY TRIAL AS A FORM OF DIRECT DEMOCRACY IN UKRAINE: CHALLENGES AND PROSPECTS FOR ITS DEVELOPMENT

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Summary

The purpose of this article is to conduct a comprehensive constitutional and legal analysis of the institution of jury trials as a form of direct participation of the people in the administration of justice in modern Ukraine, as well as the problems and prospects of its development. Based on the conceptual framework presented, it can be argued that the jury trial represents one of the most effective forms of direct democracy. In the context of Ukraine's current constitutional development, the jury trial plays an important role in ensuring fairness and transparency in judicial proceedings. The Constitution of Ukraine explicitly provides for public participation in the administration of justice through juries. However, the constitutional right of Ukrainian citizens to participate in the administration of justice via jury trials in cases defined by law has not been fully realized. Moreover, even the limited instances in which jurors have been involved in the adjudication of certain categories of cases have often taken place in violation of existing legislation. These circumstances highlight the need for reform of this institution, taking into account international legal standards and the particularities of Ukraine's legal system in the post-war period.

Reforming the jury trial system in wartime conditions presents significant challenges. Nevertheless, such reform is essential to preserve the traditions of constitutional democracy. The main direction of the reform process should include addressing several urgent issues: introducing a classical model of jury trial that maintains a balance between public participation and judicial independence; ensuring the independent status of jurors during the adjudication process; and improving the procedures for compiling jury lists and enhancing jurors' qualifications.

Key words: jury trial, public participation, direct democracy, constitutional democracy, justice reform, judiciary, fairness and transparency in the judiciary, judicial integrity.

1. Introduction.

Ukraine's path toward European integration requires the establishment of an effective mechanism for the participation of civil society institutions and individual citizens in the governance of public affairs, including the functioning of the judiciary. Civil society is a full-fledged co-creator of legal reality – a reality that cannot be formed by state authorities alone. It is shaped collectively by the people, by all structures of civil society, and by each individual.

Even under martial law, the topic of this study remains highly relevant. This is due to the need to preserve and strengthen the traditions of constitutional democracy, which have shown consistent development in Ukraine. It is vital not to lose the democratic gains achieved since independence. On the contrary, it is necessary to preserve, expand, and institutionalize the

democratic memory associated with the development of constitutional governance. History offers numerous examples of how war or prolonged authoritarian rule can disrupt or even reverse the democratic development of a state and nation. For example, in the 1920s and 1930s, Japan had a jury trial system similar to that of Spain. However, it was dismantled in 1943 during the war. While it was partially revived during the country's liberal political period, it was subsequently abolished again during the era of militarism and autocracy. As Richard O. Lempert notes, this illustrates a discernible pattern (Lempert, 2001, p. 3).

The conceptual foundations of the jury trial institution have been explored in the works of numerous foreign legal scholars and political theorists, including Alexis de Tocqueville, Patrick Devlin, Camille Slominsky, Mykhailo Laskovsky, Richard O.

Lempert, Robert Yastrebsky, among others. In Ukraine, the specific features of the jury trial system have been examined by such scholars as V. Bigun, E. Bohdanov, A. Hryhorenko, V. Voinorovych, I. Zharovska, R. Kuybida, S. Prylutskyi, O. Ursuliuv, and V. Shcherba. While this topic has received considerable attention in the academic literature, a number of important issues – particularly those concerning the challenges and prospects for the development of jury trials in Ukraine in the post-war period – remain underexplored.

2. Jury trials as a form of direct of democracy and legitimacy of public authority.

The right to participate in the governance of public affairs can be defined as the legal opportunity for citizens to engage in the activities of public authorities, either on their own initiative or at the initiative of the authorities themselves, with the aim of more effectively taking into account, observing, and ensuring the interests of society in the exercise of state power. Citizens may also exercise this right through direct or indirect participation in the administration of justice. This right can be implemented in various forms: public oversight and monitoring of judicial bodies, participation in court proceedings as jurors, and mediation as a means of pre-trial dispute resolution. In this context, it is appropriate to speak of a particular form of democracy – judicial democracy – a model of exercising judicial power in which the people participate either directly or indirectly (Bihun, 2011 p. 215).

The principal advantage of implementing this model of democracy lies in the high level of legitimacy of decisions made through it. Judicial legitimacy is an axiological characteristic – one of the fundamental features of the judiciary – expressed in citizens' recognition of the procedures for the formation and functioning of state authority as fair, lawful, and appropriate. This recognition results in a willingness to comply with government regulations and decisions. Citizen participation serves as the foundation for the legitimacy – or perceived fairness – of both individual decisions and public institutions as a whole. Accordingly, the legitimization of the judiciary refers to the process of direct and indirect public involvement in the administration of justice, which, in turn, reinforces the legitimacy of the judicial system.

The jury trial is one of the key forms of direct citizen participation in the administration of justice. In the context of modern constitutional development, the jury trial plays a vital role in ensuring fairness and transparency in judicial proceedings. The institution of jury trial has been established and applied in many legal systems around the world as a key mechanism for securing democratic safeguards. Its core principle is the delegation of decision-making in certain court cases to a group of impartial citizens who serve as peers – equals among equals. This model is grounded in the

belief that ordinary citizens are capable of applying the values of their community to the pursuit of justice. Such a mechanism not only promotes fairness in individual trials, but also serves as an important check on the arbitrary exercise of state power. As P. Devlin aptly observed, the jury trial is “a lamp that shows that freedom lives” (Patrick, 1970 p. 36).

Citizen participation in the administration of justice is a key condition for fostering public trust in the judiciary and for its recognition as fair and impartial. Public confidence in the courts is one of the fundamental pillars of democracy, while trust in the judge presiding over a case is an essential component of the rule of law. This understanding is particularly important in the context of Ukraine's development as a constitutional democratic state, even under conditions of martial law.

Current levels of public trust in the judiciary, as demonstrated by sociological studies and expert assessments, remain unsatisfactory. Between 2013 and 2022, trust in the judiciary fluctuated between 44% and 48%. The lowest levels of trust were recorded in 2014 and during the period from 2016 to 2019, while the highest levels were observed in 2015 and 2021.

According to the results of the study “*Attitudes of Ukrainian Citizens Towards the Judicial System*” conducted in 2020 by the Razumkov Centre's sociological service at the request of the Council of Europe Office in Ukraine, most Ukrainian citizens without personal experience interacting with the courts form their views based on secondhand information or media coverage – and these views are predominantly negative. The judiciary was found to be one of the least trusted state and public institutions. For instance, when asked about a hypothetical court case involving a wealthy citizen and a low-income citizen, 78.2% of respondents believed that the wealthier individual would have a better chance of winning. Only 1.4% of respondents thought the opposite (Report on the results of the study „Attitude of Ukrainian citizens to the judicial system”: Supreme Court).

However, the level of trust among citizens who have had recent personal experience interacting with the courts is significantly higher. Moreover, the trust balance within this group is positive – meaning that the number of citizens who trust the courts exceeds the number who do not. Among those who have participated in court proceedings as plaintiffs, defendants, accused persons, victims, witnesses, or experts, 53.3% stated that the court decision was lawful and fair, while 22.5% considered it neither lawful nor fair. An additional 13.1% were unfamiliar with the decision in their case, and 12.0% found it difficult to answer this question. The proportion of respondents who regarded the court decision as lawful and fair does not differ statistically from the results of previous surveys conducted in 2012, 2017, and 2019 (3, *ibid.*). These findings suggest that the social dimension of the judiciary's functioning – in

particular, citizen participation in court proceedings – can positively influence public trust in the judicial system.

The same study also found that a significant number of citizens continue to believe that public involvement in the formation and functioning of the judiciary is justified. In 2017, a plurality of Ukrainians believed that, in order to ensure judicial independence, judges should be elected by the people – a view supported by 37.7% of respondents. By 2019, this figure had declined to 31.3%. Although still among the most supported positions, it shared first place with the view that judges should be appointed by the High Council of Justice or another independent judicial body (28.8%) (3, *ibid.*). When assessing the potential role of civil society representatives in conducting judicial qualification assessments and competitive selection procedures, a relative majority of respondents expressed the view that they should play a supporting, rather than decisive, role.

Citizens' trust in the judiciary under martial law from 2022 to 2025 remains low, with 73% of all citizens expressing distrust in the courts and the judicial system in general – regardless of whether they have had personal experience participating in legal proceedings (4, *Assessment of the situation in the country, trust in social institutions, politicians, officials and public figures, attitude to elections during the war, belief in victory*).

This figure should be interpreted with caution, as the Razumkov Centre study in question did not focus specifically on the judiciary but rather on state governance more broadly, which may have negatively influenced the results. Nonetheless, the findings reveal certain important trends. For instance, the 2023 Human Rights Report on Ukraine, prepared by the Bureau of Democracy, Human Rights, and Labor of the U.S. Department of State, supports this critical assessment. The authors note that although the Constitution of Ukraine guarantees judicial independence, in practice the courts remained ineffective and highly susceptible to political influence and corruption (5, *2023 Country Reports on Human Rights Practices: Ukraine*).

Naturally, citizen participation in the administration of justice alone cannot fully resolve the problem of public distrust in the judiciary – particularly when it comes to eliminating corruption among certain judges. However, such participation can enhance the transparency of judicial processes. In transitional democracies, the establishment of a legitimate (fair) and independent judiciary rests on at least two foundational principles: the integrity of judges and the involvement of citizens in the administration of justice.

3. Constitutionaal and legislative regulation of citizens' participation in the administration of justice.

The principle of citizen participation in the administration of justice is enshrined in Part 4 of

Article 124 of the Constitution of Ukraine (as amended by Law No. 1401–VIII of June 2, 2016), which states: “The people shall participate in the administration of justice through juries” (Constitution of Ukraine, 1996). Despite the brevity of this constitutional provision, it contains substantial potential for the development of judicial democracy in Ukraine. From this norm, one may derive a constitutional standard of minimum public participation in judicial processes. The wording of Article 124 – “participate in the administration of justice” – resonates with Article 38 of the Constitution of Ukraine, which guarantees citizens the right to “participate in the administration of state affairs.” It also aligns with Article 5, which affirms that the people exercise power directly or through public authorities, and with Article 6, which establishes the principle of separation of powers into legislative, executive, and judicial branches.

Although the Constitution, quite naturally, assigns primary responsibility for the administration of justice to professional judges, the role of public participation in this process is, in my view, highly significant. A minimal level of citizen involvement in the administration of justice does not in any way violate the principle of judicial independence; on the contrary, it enhances the legitimacy of the judiciary. The judiciary differs fundamentally from the other branches of government in terms of the scope of permissible public oversight. It is not a representative body directly elected by the people, but rather one formed through a meritocratic process. Judges are appointed based on competitive selection procedures designed to assess their professional competence and personal integrity. Citizen participation in the judicial appointment process – for example, through expert panels that evaluate judicial integrity – can have a positive effect on public trust in the judiciary as an institution.

Article 124 of the Constitution is complemented by Article 127, which stipulates that justice is administered by judges, but in cases specified by law, it may also be administered with the participation of jurors. Jury trials should thus be viewed as a form of the direct exercise of state power – specifically, judicial power – by citizens through their participation in legal proceedings. At the same time, the Constitution provides safeguards to prevent excessive public interference in judicial affairs. The determination of the categories of cases eligible for jury trials is a matter reserved exclusively for the legislature. It is therefore essential to maintain a proper balance, at the legislative level, between preserving judicial independence and enabling direct community involvement in the administration of justice.

Even in the first edition of the Constitution of Ukraine, adopted on June 28, 1996, fundamental provisions were enshrined that affirmed the people's direct participation in the administration of justice through the institution of lay assessors and jurors. Specifically, Article 124

stated that the people participate in the administration of justice through lay assessors and jurors; Article 127 established that justice is administered by professional judges and, in cases prescribed by law, also by lay assessors and jurors; and Article 129 provided that judicial proceedings are conducted by a single judge, a panel of judges, or a jury. However, at that time, there was no legislative framework regulating this form of democratic participation in the judicial process.

It was only in 2012, with the adoption of the new Criminal Procedure Code of Ukraine (hereinafter – CPC of Ukraine), that the institution of jury trials was formally introduced. According to Part 3 of Article 31 of the current CPC, criminal proceedings at the court of first instance involving crimes punishable by life imprisonment shall be conducted, at the request of the accused, by a jury composed of two professional judges and three jurors. In cases involving multiple defendants, the trial shall be conducted by a jury for all co-defendants if at least one of them submits a motion for such proceedings. Pursuant to Article 383 of the CPC, all matters relating to the trial – with the exception of issues concerning the selection, revocation, or modification of preventive measures during court proceedings – shall be decided jointly by the judge and the jurors (Criminal Procedure Code of Ukraine, 2012).

Currently, the Criminal Code of Ukraine (hereinafter – CC of Ukraine) provides for life imprisonment as a penalty for the following crimes: encroachment on the territorial integrity and inviolability of Ukraine (Part 3 of Article 110 CC); encroachment on the life of a state or public figure (Article 112 CC); intentional murder (Part 2 of Article 115 CC); terrorist act (Part 3 of Article 258 CC); falsification of medicinal products or distribution of falsified medicines (Part 3 of Article 321-1 CC); encroachment on the life of a law enforcement officer, a member of a public formation for the protection of public order and the state border, or a servicemember (Article 348 CC); encroachment on the life of a judge, lay assessor, or juror in connection with the administration of justice (Article 379 CC); encroachment on the life of a defense attorney or representative in connection with legal assistance activities (Article 400 CC); resistance to a superior officer or coercion to violate official duties (Part 5 of Article 404 CC); violation of the laws and customs of war (Part 2 of Article 438 CC); use of weapons of mass destruction (Part 2 of Article 439 CC); genocide (Part 1 of Article 442 CC); encroachment on the life of a representative of a foreign state (Article 443 CC); mercenary activity (Part 3 of Article 447 CC).

Therefore, only two conditions must be met for jurors to be involved in a case: the person must be charged with a crime punishable by life imprisonment, and the defendant must request that their case be heard by a jury.

Under martial law, pursuant to Part 10 of Article 615 of Criminal Procedure Code of Ukraine, criminal

proceedings in the court of first instance for crimes punishable by life imprisonment shall be conducted collegially by a court composed of three judges, except for criminal proceedings in a court in which, prior to the introduction of martial law and the entry into force of this part, the composition of the court was determined with the participation of jurors.

On June 2, 2016, constitutional amendments concerning the judiciary were adopted, which abolished the institution of lay assessors while retaining the provision that the people directly participate in the administration of justice through jury trials. At the same time, Chapter 3, titled «Jury», was introduced into the Law of Ukraine «On the Judiciary and the Status of Judges». According to Article 63 of this Law, a juror is defined as a person who, in cases prescribed by procedural law and with his or her consent, participates in adjudication alongside a judge or is otherwise involved in the administration of justice. The law provides that jurors may be involved in the adjudication of criminal and civil cases at courts of first instance (On Justice and the Status of Judges, 2016).

In 2017, corresponding amendments were made to the Civil Procedure Code of Ukraine (hereinafter – CPC of Ukraine), which replaced lay assessors with jurors. Currently, the CPC provides that certain categories of civil cases shall be heard in courts of first instance by a panel composed of one professional judge and two jurors. These cases include: limitation of an individual's civil capacity, recognition of an individual as incapacitated, and restoration of civil capacity (Articles 295–300 CPC); recognition of an individual as missing or declaration of death (Articles 305–309 CPC); adoption (Articles 310–314 CPC); compulsory psychiatric care (Articles 339–342 CPC); compulsory hospitalization in a tuberculosis treatment facility (Articles 343–346 CPC). In such cases, jurors enjoy the same rights as professional judges when administering justice (Civil Procedure Code of Ukraine, 2004).

Thus, Ukrainian legislation provides for the participation of jurors in certain categories of cases in both criminal and civil proceedings. In practice, jurors deliberate and decide on virtually all matters of the trial together with judges. However, there are notable differences between civil and criminal proceedings regarding the involvement of jurors. In civil proceedings, the participation of jurors is mandatory in specific categories of non-contentious (special) proceedings, with no alternative procedure available. In contrast, criminal proceedings allow for the involvement of jurors only at the request of the accused in cases punishable by life imprisonment. The right to such a trial is ensured through corresponding obligations of certain actors within the criminal justice system.

The institution of the jury in Ukraine, as regulated by criminal procedure law, comprises a panel of three jurors

and two professional judges. According to Articles 64 and 65 of the Law of Ukraine “On the Judiciary and the Status of Judges”, the territorial office of the State Judicial Administration of Ukraine submits a proposal to the relevant local council for the approval of a list of jurors. The local council is responsible for forming and approving a list of citizens – in the number specified in the proposal – who permanently reside within the territorial jurisdiction of the relevant district court and have consented to serve as jurors. A citizen of Ukraine who has reached the age of thirty and resides permanently in the jurisdiction of the district court may be appointed as a juror.

The following categories of citizens are excluded from jury lists:

- individuals who have been declared by a court to have limited legal capacity or to be legally incapacitated;

- individuals with chronic mental or other health conditions that prevent them from fulfilling the duties of a juror;

- individuals with an unexpunged or unserved criminal conviction;

Members of Parliament of Ukraine, members of the Cabinet of Ministers of Ukraine, judges, prosecutors, law enforcement officers, military personnel, court staff, other civil servants, officials of local self-government bodies, attorneys, notaries, members of the High Qualification Commission of Judges of Ukraine, and the High Council of Justice;

- individuals who have been subject to administrative sanctions for committing a corruption-related offense within the past year;

- citizens aged sixty-five or older;

- individuals who do not speak the state (Ukrainian) language.

4. Problems of practical implementation of the jury institute in Ukraine.

The introduction of jury trials in Ukraine, despite their symbolic and practical importance, has so far resulted in only minimal citizen participation in the administration of justice. The current model falls short of the classical Anglo-Saxon jury system and more closely resembles the Soviet-era institution of jurors known under the socialist legal framework. Because of its limited and inconsistent implementation, the Ukrainian jury system has proven ineffective within the broader context of democratic transformation and constitutional reform in post-Soviet Ukraine. This conclusion is supported by statistical findings from a study conducted in 2017–2018 by the Ukrainian Center for Public Data and the Center for Democracy and the Rule of Law, with the support of the United States Agency for International Development (USAID), which analyzed the adjudication of criminal and civil cases involving jurors.

A statistical analysis of court decisions involving jury participation in criminal and civil cases reveals a

low level of citizen involvement in judicial proceedings relative to the total number of cases. This is illustrated by the fact that in the vast majority of criminal cases where a jury trial could have been conducted, the trial was instead held before a panel of professional judges without the participation of jurors. In fact, only one in seven defendants eligible for a jury trial was actually tried with a jury. This is despite the fact that such cases involve charges punishable by life imprisonment. The data indicate that defendants frequently choose not to exercise their right to a jury trial, as such trials are only held at the request of the accused (Statistical analysis of the consideration of criminal and civil cases with the participation of juries).

Even in criminal cases where jurors were involved, no active participation by jurors in the proceedings was observed. The analysis did not identify a single instance of a separate opinion issued by a juror. This suggests that jurors fully concurred with the verdicts prepared by professional judges. According to the statistical findings, the acquittal rate in jury trials was even lower than in trials presided over solely by professional judges – 5% compared to 6.6%, respectively.

Similarly, in the analysis of civil cases involving jurors, no separate opinions by jurors were found. In the overwhelming majority of such cases – involving limitation of legal capacity, adoption, recognition of a person as missing or deceased, involuntary psychiatric care, or compulsory hospitalization in an anti-tuberculosis institution – the courts granted the applications.

There have also been numerous instances in which civil cases were adjudicated without the participation of a jury, despite the explicit legal requirement that such cases be heard by a panel consisting of one judge and two jurors. Given that these cases involve the limitation of an individual’s legal capacity, the declaration of a person as missing or deceased, or the involuntary provision of psychiatric care or hospitalization, such practices constitute a violation of the rights of the individuals concerned (*ibid.*).

Based on the foregoing, the following preliminary conclusion may be drawn: the constitutional right of Ukrainian citizens to participate in the administration of justice through jury trials in cases specified by law has not been properly implemented. Moreover, even the limited instances in which juries have participated in judicial proceedings have often taken place in violation of existing legal provisions. This highlights the urgent need to reform the institution of jury trial, taking into account both international legal standards and the specific challenges facing the Ukrainian legal system in the post-war context.

5. Prospects for reforming the jury system in Ukraine.

The first point to emphasize is that the current model of jury trial in Ukraine significantly restricts public

participation in the administration of justice. It has failed to fulfill its intended function due to its incomplete and hybrid character, which reflects only the formal features of the classical liberal model, while retaining a paternalistic substance. Accordingly, the Ukrainian system of jury trial requires reform toward a classical model, which has demonstrated its effectiveness not only in England and the United States, but also in various continental European countries. A particularly interesting example is offered by Poland, where the practice of jury participation has been thoroughly examined in the monograph *“People’s Participation in the Administration of Justice”*, published in Warsaw in 2021 (Piotrowski, 2021, p.218).

The classical model of jury trial is characterized by a clear division of competences between the jury and the professional judge. The jury delivers an unmotivated (non-reasoned) verdict, and such a decision may only be overturned in cases of substantial violations of procedural law. Under this model, the jury deliberates and reaches its verdict independently, without the involvement of the professional judge in the decision-making process. The jury is tasked specifically with answering the question of whether the defendant is guilty of the alleged crime. If the jury returns a guilty verdict, the professional judge is then responsible for determining the appropriate sentence and resolving other legal matters requiring specialized legal knowledge. This functional division of roles allows the jury to be regarded as the «judge of fact», while the professional judge serves as the «judge of law».

The classical model of jury trial makes it possible to maintain a balance between public participation in the administration of justice and the independence of the judiciary, which is why it may be considered an effective mechanism for Ukraine’s democratic development in the post-war period. For practical and institutional reasons, the introduction of a new model of jury trial in Ukraine should proceed gradually, allowing for the establishment of a truly effective instrument for delivering justice. Nonetheless, it is imperative that the foundations of such a model be laid at the legislative level today – one that guarantees the genuine participation of jurors in judicial proceedings and ensures they are provided with the necessary rights and procedural safeguards.

The second essential aspect of reforming the jury system in Ukraine concerns the guarantee of the independent status of jurors in the exercise of their judicial functions. A jury remains effective only insofar as it is free from external pressure, whether from the state or the public. To ensure this, it is necessary to establish effective legal mechanisms that protect jurors from unlawful interference in the performance of their duties. In particular, the removal of jurors from ongoing criminal proceedings must not be based on political expediency; rather, it must occur on reasonable and

lawful grounds, and such a decision should not be made unilaterally by the presiding judge, but rather by a panel that includes the jurors themselves. Furthermore, a jury verdict must not be undermined through appellate review conducted without the participation of jurors. A jury’s acquittal verdict should take immediate legal effect upon its pronouncement and be subject to appeal only in cases where procedural violations occurred in the jury selection process. The proposal to introduce jury participation at the appellate and cassation levels also merits serious consideration (Jury trial in Ukraine: the chosen model must take into account the risks of martial law.).

Ensuring the independent status of jurors also entails the provision of legal guarantees of immunity during the period of their service, similar to those afforded to professional judges. Additionally, financial independence is crucial: jurors should receive remuneration equivalent to the official salary of a local court judge, along with reimbursement of travel expenses and per diem allowances. While implementation of this proposal may be difficult during wartime, it should become the standard practice in the post-war period.

In times of war, the issue of juror mobilization becomes particularly relevant. Expert opinion on this matter is divided. For example, the authors of draft law No. 3843 *“On Jury Trial”* hold the view that jurors are subject to military mobilization on general grounds. The draft law does not provide any procedures for exempting jurors from military service in order to ensure their participation in trials during martial law (14, On jury trial. Law). An alternative position suggests that if a juror is mobilized during the course of a trial, their continued participation becomes impossible. In such circumstances, the court would be forced to suspend the proceedings until a new jury is empaneled. If a juror is replaced or the jury panel is left incomplete, the court may determine that the case must be retried. Such delays can undermine the parties’ confidence in the transparency and efficiency of the process, the legitimacy of the court’s composition, and the objectivity of its decisions.

Furthermore, the mobilization of a juror has a direct impact on the rights of the accused, the victim, and other participants in the proceedings. It raises concerns related to the right to trial within a reasonable time, as guaranteed by Article 6 of the European Convention on Human Rights and Fundamental Freedoms (1950). We concur with Yu. Hryhorenko in the view that one possible solution to this problem would be to provide exemptions from military mobilization for jurors for the duration of their service in court (ibid.).

The third important aspect concerns the improvement of the procedure for compiling jury lists and enhancing jurors’ qualifications. The effective functioning of the jury system largely depends on the

mechanism for selecting candidates to serve as jurors. However, the current legal provisions governing the selection of jurors do not establish a clear or coherent procedure. As previously noted, Article 64 of the Law of Ukraine “On the Judiciary and the Status of Judges” assigns responsibility for the formation, approval, and revision of jury lists to the territorial departments of the State Judicial Administration of Ukraine and to local councils. It should be emphasized that this process is often lengthy and inefficient, presenting obstacles to the timely formation and approval of jury lists. Moreover, the selection process lacks transparency for the general public. The absence of clear procedures for submitting applications to serve as a juror – including public announcements, deadlines, and criteria – contributes to a disorganized and opaque process.

To streamline and enhance the jury selection procedure in Ukraine, it would be advisable to remove local councils from this process and assign exclusive responsibility to the territorial departments of the State Judicial Administration of Ukraine. This reform should be accompanied by the development and implementation of a centralized information system for compiling jury lists and by the establishment of clear, standardized selection criteria. Such an approach would significantly simplify and accelerate the process of forming jury pools, as the State Judicial Administration and its territorial offices would be able to directly access and process the necessary information to ensure the proper and efficient functioning of the jury system in Ukraine.

Another important issue concerns the legal culture and legal education of civil society, particularly in the context of jury trials (Bogdanov 2024, p. 15). Ukrainian legislation does not establish any qualification requirements for individuals serving as jurors – a practice that is also common in many foreign jurisdictions. However, it must be acknowledged that the general level of legal awareness and culture among citizens in Western democracies is significantly higher than in post-Soviet Ukraine. This objective gap can only be bridged through a long-term democratic process, closely tied to the development of a robust system of legal education.

In this regard, it would be advisable to improve the legal awareness of prospective jurors by introducing targeted educational initiatives – including training programs, conferences, and roundtables hosted by universities, as well as the distribution of video and audio materials on the basics of law and judicial procedure. It is also worth noting that the institution of jury trial itself serves as a tool for civic legal education. Through jury service, citizens gain direct exposure to legal procedures, core principles of law, and the operation of the judiciary – thereby increasing their understanding of rights and responsibilities. Such engagement not only enhances individual legal competence, but also

contributes to strengthening public trust in the judiciary and in democratic institutions more broadly (Zharovska, 2024, pp. 1–6).

All of the above underscores the urgent need for substantial legislative reform. It is encouraging that on December 5, 2024, the Verkhovna Rada of Ukraine adopted, as a basis, two draft laws: Draft Law No. 3843 of July 14, 2020, “*On Jury Trial*” (, *ibid.*), and Draft Law No. 3844 of July 14, 2020, “*On Amendments to the Law of Ukraine ‘On the Judiciary and the Status of Judges’ in Connection with the Adoption of the Law of Ukraine ‘On Jury Trial’*”, authored by members of parliament P. Frolov, F. Venislavskyi, I. Fris, and P. Pavlish.

According to the explanatory note to Draft Law No. 3843 “*On Jury Trial*”, its principal aim is to implement the provisions of Article 124 of the Constitution of Ukraine, which, as previously discussed, enshrines the participation of citizens in the administration of justice through the institution of the jury. To achieve this goal, the draft proposes the adoption of a new, standalone law on jury trial. In particular, it defines key concepts, jurisdiction, and the composition of jury trials; regulates the procedure for forming juries; sets out the eligibility requirements for jurors; and outlines their rights and responsibilities. The draft also regulates the grounds and procedures for releasing a juror from duty, provides a mechanism for substituting retired jurors with alternates, and governs the internal functioning of juries, including deliberation and voting procedures during verdict adoption.

These draft laws represent a marked departure from current legislation governing citizen participation in the justice system, as they are based on the classical model of jury trial. The very fact that parliament approved the concept of these laws signals the beginning of systemic reform aimed at enhancing the role of civil society in the administration of justice.

It is also worth noting that other draft laws submitted to the Verkhovna Rada of Ukraine in 2020 reflect a similar conceptual approach to enhancing public participation in the justice system. These include several initiatives introduced by the Cabinet of Ministers of Ukraine: Draft Law No. 4190 of October 5, 2020, “*On Amendments to the Code of Ukraine on Administrative Offenses, the Criminal Code of Ukraine, and the Criminal Procedure Code of Ukraine to Ensure the Participation of Ukrainian Citizens in the Administration of Justice*”, Draft Law No. 4191 of October 5, 2020, “*On Amendments to the Law of Ukraine ‘On the Judiciary and the Status of Judges’ to Improve the Procedure for Involving Ukrainian Citizens in the Administration of Justice and the Formation of Jury Lists*”, Draft Law No. 4192 of October 5, 2020, “*On Amendments to Certain Laws of Ukraine to Ensure the Participation of Ukrainian Citizens in the Administration of Justice*”.

In addition, a separate legislative initiative was submitted by People's Deputy Serhiy Vlasenko — Draft Law No. 2062 of September 4, 2019, "*On Amendments to the Criminal Procedure Code of Ukraine and the Law of Ukraine 'On the Judiciary and the Status of Judges' Regarding the Improvement of the Functioning of the Jury Trial in Ukraine*".

These legislative proposals reinforce the general trend toward expanding the role of citizens in the justice system and indicate growing recognition of the need to reform the institution of jury trial in line with constitutional principles and international standards.

6. Conclusions

The participation of the people in the administration of justice through jury trials is explicitly guaranteed by the Constitution of Ukraine and has been further enshrined in a number of legislative acts. However, the constitutional right of Ukrainian citizens to participate in the administration of justice through juries, in cases specified by law, has not been fully realized in practice. Moreover, even the limited instances of jury participation that have occurred have often been conducted in violation of existing legal provisions. These circumstances underscore the urgent need for comprehensive reform of the jury trial system, with due consideration for international legal standards and the unique conditions of Ukraine's legal development in the post-war period.

Reforming the institution of jury trial in the context of martial law presents substantial challenges. Nevertheless, such reform is essential for preserving and strengthening the tradition of constitutional democracy in Ukraine. The key directions for reform should include: the introduction of a classical model of jury trial that ensures a balance between public participation and judicial independence; the guarantee of jurors' independent status during the administration of justice, including safeguards against external influence and undue interference; the improvement of the procedure for compiling jury lists and the enhancement of juror qualifications through legal education and institutional support.

Successful implementation of these reforms will help establish a legitimate, transparent, and democratic system of justice that reflects both the constitutional values of Ukraine and the expectations of its citizens.

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СУД ПРИСЯЖНИХ ЯК ФОРМА БЕЗПОСЕРЕДНЬОЇ ДЕМОКРАТІЇ В УКРАЇНІ: ВИКЛИКИ ТА ПЕРСПЕКТИВИ ЙОГО СТАНОВЛЕННЯ

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Анотація

Метою статті є здійснення комплексного конституційно-правового аналізу інституту суду присяжних як форми безпосередньої участі народу у здійсненні правосуддя в умовах сучасної України, проблем та перспектив його становлення. На основі вище наведених концептуальних положень можна стверджувати, що суд присяжних є одним із дієвих форм безпосередньої демократії. У контексті сучасного конституційного розвитку, суд присяжних виступає важливим елементом забезпечення справедливості та транспарентності судових процесів. Участь народу у здійсненні правосуддя за участі присяжних прямо передбачена Конституцією України. Однак, конституційне право громадян України щодо здійснення правосуддя шляхом участі присяжних у визначених законом випадках не було належним чином реалізоване. Більше того, навіть ті незначні випадки залучення присяжних до судового розгляду окремих категорій справ відбувалися з порушенням чинного законодавства. Це зумовлює необхідність реформування цього інституту з урахуванням міжнародних правових стандартів та особливостей становлення правової системи України в післявоєнний період.

Реформування суду присяжних в умовах війни суттєво ускладнюється. Однак воно повинно відбуватися з метою збереження традиції конституційної демократії. Основний вектор розвитку процесів реформування передбачає вирішення низки нагальних питань: запровадження класичної моделі суду присяжних, яка дозволяє зберегти баланс між участю народу у здійсненні правосуддя та незалежністю судової влади; гарантування незалежного статусу присяжних в процесі здійснення правосуддя; удосконалення процедури формування списків присяжних та рівня їх кваліфікації.

Ключові слова: суд присяжних, участь народу, безпосереднє народовладдя, конституційна демократія, реформа правосуддя, судова влада, справедливість та транспарентність судової влади, доброчесність суддів.