Political and legal sciences

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THEORETICAL AND LEGAL CHARACTERISTICS OF PUBLIC CONTROL IN THE FIELD OF JUDICIAL AUTHORITIES

The formation of Ukraine as an open, democratic, legal state is proportionally interconnected with ensuring the ability of civil society institutions to exercise public control over the activities of state authorities and local governments at the appropriate level. Public control is the basis for guaranteeing democracy.

Judicial reform requires, among other things, ensuring high-quality cooperation between judicial authorities and the public. In this context, public scrutiny is an integral component of creating an effective mechanism for cooperation between judicial authorities and civil society institutions. Given the above, the scientific and practical interest in the issues of public control over the activities of judicial authorities is actualized.

Various aspects of control, including public control, have been studied in the scientific works of V. Averianov, O. Andriiko, Yu. Barabash, S. Bratel, V. Voloshchuk, V. Garashchuk, I. Golosnichenko, A. Grabylnikov, S Denysiuk, M. Koziubra, A. Krupnyk, S. Kushnir, T. Nalyvaiko, S. Nistratov, M. Novikov, O. Petryshyn, O. Polinets, G. Pryshliak, I. Skvirskyi, O. Sushinskyi, V. Taroieva, S. Timchenko, V. Fedorov, V. Shestak, S. Shestak and others. K. Babenko, M. Vilhushinsky, V. Horodovenko, I. Hrytsenko, P. Kablak, M. Logunov, O. Ovsiannikova, V. Oliinyk, S. Prylutskyi and others have studied the issues of the relationship between judicial authorities and the public. These scholars have made a significant contribution to the development of the theoretical foundations of public control and the functioning of judicial authorities. However, in the context of intensive judicial reform, the democratic vector of development of our state, the issue of interaction between judicial authorities and the public becomes especially important, especially given the fragmentary and conceptual disorder of research in this area. The comprehensiveness of the study of public control over the activities of judicial authorities involves the study of scientific works and practices of foreign authors.

Public control is a necessary condition for the functioning of society, as it is an effective guarantee of social security and stability. History shows that state institutions

of any form of state system or government in the absence of control over them tend to degenerate and degrade. Such conditions are a favorable ground for the development of totalitarian methods of government, which inevitably leads to restrictions on human rights and freedoms. In addition, this kind of control provides a real opportunity for the population to influence political processes in society, to be an active participant in public life[1], i.e. to promote the implementation of constitutional provisions that the only source of power in the state is the people.

The control of public authorities by civil society is a characteristic feature of both democracy and a democratic state. The social purpose of democracy is manifested in its function as a function of control, which is aimed at ensuring the activities of state bodies within their competence[2]. Both the state and civil society should have equal powers, as a result of which civil society will be able to combat abuses in public administration effectively, as it controls the activities of the bureaucracy, helps to identify offences committed in the process of state power[3].

The independence of courts and the independence of judges is a guarantee of protection of human and civil rights and freedoms, rights and legitimate interests of legal entities, as well as the interests of society and the state[4]. However, any democratic constitutional system is based on the axiomatic assumption that power should be divided, limited, accessible, predictable, effective and controlled[5]. There is now a significant need for radical changes in the judiciary and the reform of some of its institutions. In the process of building the rule of law, one of its most important criteria is the creation of a fair, transparent and efficient judiciary[6]. In this aspect, public control is an effective mechanism for deterring and counteracting the abuse of power by public authorities, including the judiciary, as is constantly emphasized by international human rights institutions.

Public confidence in the judiciary, as well as in the authority of the judiciary in matters of morality, honesty and integrity of judicial authorities is of paramount importance in a modern democratic society (Bangalore Principles of Judicial Conduct)[7]. One of the priority tasks of the judiciary in Ukraine in accordance with the Strategy for Reforming the Judicial system, Judicial proceedings and Related Legal Institutions for 2015-2020 is to increase public confidence in judicial authorities and related legal institutions[8].

1 Барабаш, Ю., Павшук, К. (2010) Сутність громадського контролю в Україні. Правничий часопис Донецького університету, 1, С. 168-175.; Ігнатенко, О. С. (2020) Громадянський контроль як інструмент впливу на процеси державного управління в сучасній Україні. Інвестиції: практика та досвід, 15-16, С. 158-161.

2 Основы государства и права / под ред. В.В. Комарова. Харьков, 1994, С. 33-34.

3 Ялбулганов, А. А. (1999) О правовом регулировании государственного финансового контроля. Юрист, 2, С. 16.; Терещенко, М. М. (2019) Функціональний вплив громадського контролю на реалізацію державного контролю як інструменту забезпечення відкритості органів публічної влади. Економіка та держава. Серія: Державне управління, 4, С. 113-116.

4 Струс-Духнич, Т. В. (2012) Судова влада в період розбудови громадянського суспільства: теоретико-правові аспекти: автореф. дис. … канд. юрид. наук. Львів, С. 9.

5 Косінов, С. (2013) Контроль над публічною владою як форма юридичної діяльності. Право України, 12, С. 249.

6 Концепція реформування судової системи України. URL: https://uba.ua/ukr/projects/15/

7 Бангалорські принципи поведінки суддів, схвалені Резолюцією Економічної та соціальної ради ООН від 27.07.2006 р. № 2006/23. URL: http://crimecor.rada.gov.ua/komzloch/control/uk/publish/article;jsessionid=FDBFB35CEA772BBA6DDE038AA3B87E38?art_id=48076&cat_id=46352

8 Про Стратегію реформування судоустрою, судочинства та суміжних правових інститутів на 2015-2020 роки: Указ Президента України від 20.05.2015 № 276/2015. Офіційний вісник України, 2015, 41, Т. 38.

Judges cannot administer justice effectively without public confidence, as they are part of the society they serve. They should be aware of the public's expectations of the judiciary and complaints about its functioning. This could be facilitated by the existence of permanent mechanisms for obtaining such information, established by councils of judges or other independent bodies[9].

H. Ortega y Gasset believed that only the government which relies on the support of public opinion will be strong[10]. As L. Moskvych rightly points out, the trust of citizens is a special source of strength of the judiciary and at the same time an indicator of its effectiveness. Authorities without public support are not viable. Maintaining this state of affairs can lead to increased social tensions in society. Strengthening the authority of the court will contribute to the achievement of public recognition of this institution, which will be manifested in trust in it[11]. In particular, one of the indicators of the effectiveness of measures to reform the judiciary in Ukraine should be to increase the level of trust in the court, because today there is a gradual transformation of the nature of justice – from repressive to restorative[12]. In a democratic society, increasing the level of trust in the government, including the public's trust in the judiciary, is possible through the implementation of public control, which can be one of the priority measures to reform the judiciary in Ukraine and give impetus to an effective judiciary.

Given the complex internal structure, as well as the tendency of many authors to reveal the meaning of the concept of "public control", based on only one of the elements of its structure, there are a large number of definitions of the concept. Having repeatedly reviewed the content of the studied concept in the development of civil society and legal science, today among scientists there is no unity of opinion on its understanding, which makes relevant and practically important process of finding its optimal definition. However, it should be noted that, despite such attention to the category of "public control", currently there is no official definition[13]. The meaning of the term "control" is the initial basis for defining the concept of "public control". In this context, it is first necessary to clarify the meaning of the term "control", which will further ensure the consistency of the presentation of the material, as well as create a basis for formulating such a legal definition as "public control over the activities of judicial authorities".

"The Large Explanatory Dictionary of the Modern Ukrainian Language" indicates several interpretations at once: "control" – 1) checking the compliance of the controlled object with the established requirements; 2) inspection, accounting for the activities of someone or something, supervision of someone, something; 3) an institution or organization that

9 Рекомендація CM/Rec (2010) 12 Комітету міністрів Ради Європи державам-членам щодо суддів: незалежність, ефективність та обов'язки. URL: http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=994_a38

10 Ортега-і-Гасет Вибрані твори / пер. з ісп. В. Бурхарда, В. Сахна, О. Товстенко. Київ, 1994, 420 с.

11 Москвич, Л. (2011) Суспільна довіра до суду як показник ефективності судової влади. Вісник Верховного Суду України, 2 (126), С. 25.

12 Олійник, В. М. (2017) Громадський контроль за діяльністю органів судової влади: підходи до визначення поняття. Науковий вісник Дніпропетровського державного університету внутрішніх справ, 1 (85), С. 119.

13 Наливайко, Л.Р., Олійник, В.М. (2019) Теоретико-правова характеристика взаємодії органів судової влади та інститутів громадянського суспільства: монографія. Дніпро, 192 с.

supervises someone or something or checks it[14]. In "The Legal Encyclopedia" this term is interpreted as a check of the implementation of laws, decisions, etc. and is one of the most important functions of public administration. According to objects, subjects and spheres, it is divided into state, departmental, supra-departmental, production and other types of control[15]. Scientific analysis of the concept of "control" shows that its feature and main function is verification, and the differences are in the subjects who conduct it, the objects at which it is directed and the purpose of its implementation.

The legal and other scientific literature offers many definitions of the concept of public control, reducing it to an indication of the subjects carrying out control activities. Public control, according to O. Andriiko, is one of the types of social control exercised by associations of citizens and citizens themselves and is an important form of democracy and a way to involve the population in the management of society and the state[16]. According to A. Krupnyk, public control is a tool for public assessment of the performance of public authorities and other controlled objects of their social tasks[17]. O. Poltarakov defines public control as a system of relations between civil society and the state, which is based on the accountability of state executive bodies to state legislative bodies (parliamentary control) and non-governmental organizations ("third sector" and the media)[18]. Public control is the systematic activity of civil society institutions or individuals in order to solve socially significant problems, protect and ensure human rights and freedoms, meet the needs and interests of society as a whole, establish compliance with the requirements of law in the process of their social interaction with the public, which is aimed at ensuring the effectiveness of state and public relations[19].

L. Rohatina considers public control in the system of state authorities and local self-government in two senses. In a narrow sense, public control means control over the activities of government bodies exercised by citizens and institutional structures of civil society in order to detect and stop various types of abuse of power. In a broad sense, public control is a social phenomenon in which civil society participates in determining the main directions of domestic and foreign policy, in addressing socially significant issues at all levels and controls the implementation process[20].

Normative legal regulation of the research issue is insufficient because, for example, at the legislative level there is still no normative definition of public control. The Law of Ukraine "On Democratic Civilian Control over the Military Organization and Law Enforcement Bodies", which expired on June 21, 2018, referred only to democratic civilian control. The definition of

14 Великий тлумачний словник сучасної української мови (з дод. і допов.) / уклад. і голов. ред. В.Т. Бусел та ін. Київ; Ірпінь, 2005, С. 569.

15 Большой энциклопедический словарь (1991): в 2-х т. / гл. ред. А.М. Прохоров. Москва,Т. 2, С. 323.

16 Юридична енциклопедія (1998): в 6 т. / редкол.: Ю.С. Шемшученко та ін. Київ, Т. 1: А-Г, 672 с.

17 Крупник, А. С. (2007) Зарубіжний досвід громадського контролю: уроки для України. Ефективність державного управління. Львів, Вип. 14, С. 146-154.

18 Полтораков, О. Громадський контроль над «силовими» структурами в Україні: проблеми та перспективи. Національний інститут проблем міжнародної безпеки. URL: http://www.niisp.org.ua/defau~38.php

19 Наливайко, Л. Р., Савченко, О. В. (2017) Теоретико-правові засади громадського контролю за діяльністю органів державної влади: монографія. Київ, С. 54

20 Рогатіна, Л. П. (2011) Громадський контроль над державою: сутність, механізми реалізації та перспективи розвитку: автореф. дис. ... канд. політ. наук. Одеса, 20 с.

democratic civilian control contained in this Law was also included in the new Law of Ukraine "On National Security of Ukraine" of June 21, 2018[21] in a similar wording, only with certain clarifications, taking into account the specifics of legal regulation by this Law.

A comprehensive review provides an opportunity to state that public control is one of the fundamental social phenomena that determines the vector of state and legal development of Ukraine. "Public control over the activities of judicial authorities" is a type of social control exercised by civil society institutions or individual citizens through a set of legal and organizational measures to protect and ensure human rights and freedoms, meet the needs and interests of society by establishing compliance with judicial authorities in accordance with the law.

Theoretical and legal analysis of domestic legislation is important, which provides for public control over the activities of judicial authorities in order to generalize, systematize and further improve and bring to international standards.

Analysis of current legislation allows us to identify the following groups of regulations in the field of public control over the activities of judicial authorities: 1) national legislation: the Constitution of Ukraine, laws of Ukraine, bylaws, etc.; 2) international treaties ratified by the Verkhovna Rada of Ukraine.

In Part 1 of Article 5 of the Constitution of Ukraine stipulates that the only source of power in Ukraine is the people, which it exercises directly and through state authorities and local governments; Part 1 of Article 38 provides that citizens have the right to participate in the management of public affairs[22]. These provisions are the primary legal basis for public control in Ukraine.

During the period of Ukraine's independence, in order to solve the problem of normative legal regulation of public control, attempts were made to develop a draft Law of Ukraine "On Public Control", among them registered bills "On Public Control" № 6358 of July 13, 2001; № 6246 of October 11, 2004; № 4697 dated April 14, 2014; № 2737-1 dated May 13, 2015; draft Law of Ukraine "On Public Control" № 2297a of July 6, 2015; draft Law of Ukraine "On Civil Control over the Activities of Authorities, their Officers and Officials" № 9013 of August 7, 2018. Despite the fact that there is no unambiguous concept and common vision of public control over the activities of judicial authorities in the domestic legislative activity, these draft laws show a desire to improve and specify the institutional capacity and procedural aspects of public control. The development of such a socially important law is an urgent need in today's conditions, as the existence of practical problems associated with the formation of public control makes it impossible to create such a law hastily.

The current state of development of civil society relations, as well as a comprehensive analysis of draft laws on public control provides an opportunity to propose the following structure of the draft Law of Ukraine "On Public Control": Section I. General provisions; Section II. Legal status of subjects of public control; Section III. Principles of implementation of public control; Section IV. Forms and stages of implementation of

21 Про національну безпеку України: Закон України від 21 червня 2018 р. Відомості Верховної Ради України. 2018, 31, Ст. 241.

22 Конституція України від 28 червня 1996 р. Відомості Верховної Ради України. 1996, 30, Ст. 141 (зі змінами внесеними Законом України «Про внесення змін до статті 80 Конституції України (щодо недоторканності народних депутатів України)» від 03 вересня 2019 р. Відомості Верховної Ради України. 2019, 38, Ст. 160.).

public control; Section V. Guarantees of implementation of public control; Section VI. Decisions on the results of public control; Liability for violation of legislation in the field of public control; Section VIII. Final provisions.

With regard to bylaws, there is also a lack of systemic and consistent provisions of these acts, which requires attention to this issue.

Bylaws that ensure the implementation of public control include: Decrees of the President of Ukraine of August 1, 2002 "On additional measures to ensure openness in the activities of public authorities"; of February 7, 2008 "On priority measures to ensure the implementation and guarantee of the constitutional right to appeal to state authorities and local governments"; Resolution of the Cabinet of Ministers of Ukraine of August 29, 2002 "On measures to further ensure openness in the activities of executive bodies"; of November 3, 2010, which approved the Procedure for public consultations on the formation and implementation of public policy; Clarification of the Ministry of Justice of Ukraine dated February 3, 2011 "Interaction of the state and civil society institutions"; National Strategy for Promoting the Development of Civil Society in Ukraine for 2016-2020, approved by the Decree of the President of Ukraine of February 26, 2016, etc.

Speaking about the normative legal framework of the institute of public control, which should be based on thorough comprehensive theoretical and practical research, it should be noted that today Ukraine has international (European) obligations, which it undertook during membership and in the framework of cooperation in institutions such as the UN, OSCE, Council of Europe, NATO, EU, etc. These organizations have developed rules, recommendations and standards relating to the organization and implementation of public control in certain spheres of public life and should be implemented in national legislation[23].

Among the basic documents cannot be ignored international regulations, including: Universal Declaration of Human Rights: in Article 21 states that everyone has the right to participate in the government of his country directly or through freely elected representatives (Part 1), and the will of the people should be the basis of government: this will should be manifested in periodic and rigged elections, which should be held in general and equal suffrage by secret ballot or through other equivalent forms that ensure freedom of voting (Part 3)[24]; the Convention for the Protection of Human Rights and Fundamental Freedoms[25], despite being one of the international instruments that does not explicitly provide for the right to exercise public control, contains fundamental provisions that affect its development; International Covenant on Civil and Political Rights[26] in paragraph 1 of part (a) of Article 25 gives citizens the right to participate in the conduct of public affairs both directly and through freely elected representatives; the United Nations Convention against Corruption encourages honesty, accountability

23 Наливайко, Л.Р., Олійник, В.М. (2019) Теоретико-правова характеристика взаємодії органів судової влади та інститутів громадянського суспільства: монографія. Дніпро, С. 124.

24 Загальна декларація прав людини від 10 грудня 1948 р. Офіційний вісник України. 2008. № 93. Ст. 3103.

25 Конвенція про захист прав людини і основоположних свобод від 04 листопада 1950 р. Офіційний вісник України. 1998. № 13, № 32.

26 Міжнародний пакт про громадянські і політичні права від 16 грудня 1966. URL: http://zakon2.rada.gov.ua/laws/show/995_043/print1445350091361444.

and good governance of public affairs and state property[27]. These international acts do not contain direct provisions on the right to exercise public control, including over the activities of judicial authorities, but they do contain provisions that serve as a fundamental foundation for the implementation of this form of democracy as public control.

Thus, the legislators' disregard for the importance of the institution of public control has led to the actual accumulation of normative legal acts that do not operate systematically and in a coordinated manner. In such circumstances, there is an urgent need to adopt a single law that should regulate the institution of public control.

In today's conditions, public control over judicial authorities can take two forms: direct – provided through the direct participation of civil society in the administration of justice (people's assessors, jurors) and indirect – provided through openness and publicity, access of citizens and the media to judicial information and its objective coverage[28]. Given the specifics of the organization and functioning of the judicial system, the media is, first, one of the forms of indirect control, which largely depends on its effectiveness; secondly, an important means of communication between judicial authorities and the public. The development of the information society has helped to increase the role of the media in shaping the worldview of citizens, in particular regarding the activities of judicial authorities. By informing the population, the mass media form in citizens the ability to analyze the activities of the government and increase the responsibility of the latter.

The main indicator of the democratic state of society is the degree of freedom of the press, as the media must breathe power into the minds of most citizens, so that they are not controlled by either undemocratic states or undemocratic market forces[29]. It is important to emphasize that public opinion about the courts is formed under the influence of the media, which are the main public channel for mass dissemination of information, and the publicity of the proceedings is an unalterable requirement of today[30]. The media are directly involved in shaping public opinion by disseminating information of a certain direction, which they can directly produce[31].

Given the fact that there should be no restrictions on the admission of journalists to court hearings, except as provided by law, the very creation of an effective system of interaction between courts and the media is an urgent task today. Circumstances in the presence of which the public and the press may not be allowed by the court are the same as in national regulations (Part 3 of Article 12 of the Code of Administrative Procedure of Ukraine, Part 3 of Article 6 of the Civil Procedure Code of Ukraine, Part 1, 2 of Article 44 of the Commercial Procedure Code of Ukraine, Part 2 of Article 27 of the Criminal Procedure Code of Ukraine), and in international acts: Part 1 of Article 14 of the International Covenant on Civil and

27 Конвенція Організації Об'єднаних Націй проти корупції від 31 жовтня 2003 р. Офіційний вісник України. 2010. № 10, № 44. Ст. 2938.; Олійник, В. (2017) Правове регулювання громадського контролю за діяльністю органів судової влади. Evropsky politicky a pravni diskurz, Vol. 4, Iss. 3, С. 233-237.

28 Прилуцький, С. В. (2010) Судова влада і громадянське суспільство: взаємозв'язок, місце та роль у правовій державі. Правова держава, Вип. 21, С. 348-349.

29 Кикоть, Г. В. (2006) Юридичні факти в системі правовідносин: автореф. дис. ... канд. юрид. наук. Київ, С. 8.

30 Закаблук, М. (2012) Концепція комунікації судової влади допоможе громадськості та Феміді порозумітися. Закон і бізнес, 1 (1040). URL: http://zib.com.ua/ua/7279-koncepciya_komunikacii_sudovoi_vladi_dopomozhe_gromadskosti_.html.

31 Співак, В. (2011) Реформа судової влади: проблеми теорії та практики. Вісник Вищого адміністративного суду України, 1, С. 45.

Political Rights, Part 1 of Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms). Values that threaten the need to restrict media access to all or part of the trial are: moral interests, public order or national security in a democratic society, if required by the interests of minors or the protection of the privacy of the parties, or to the extent recognized by the court strictly necessary, when, in special circumstances, the publicity of the proceedings may harm the interests of justice[32].

The media is the intermediary that provides the link between the state and society. Independent media embody and represent public opinion as a social institution and as a "fourth power" perform the functions of observer and controller of the legislative, executive and judicial branches. The importance of the media for civil society is also to create a symbolic public sphere – an imaginary public forum that can be used to express and lobby public and local interests[33]. However, it should be noted that the interaction of courts with the media is a difficult problem, as the Ukrainian media still need to be modified, in particular through the adoption of generally accepted rules of integrity and respect for judicial authorities, which in practice has created an information vacuum that is manifested in the absence of an effective mechanism for interaction between the media and the courts, sometimes biased attitude to the coverage of their work.

Standards of interaction between courts and the media are enshrined in international instruments. In accordance with UN Economic and Social Council Resolution 1296 of 11 November 1994, the Madrid Principles on the Interaction of the Media and Judicial Independence were extended. The main provision of the document is the statement that the function and right of the media is to collect and disseminate information, statements and critical allegations about the proceedings, as well as coverage of court cases before, after and during the trial without violating the presumption of innocence[34].

In the judiciary's relationship with the media, the main goal should be to protect judges from the pressure of public opinion inspired by the media's findings in the case under consideration or to be considered. At the same time, society should have free access to the courtroom through the media. Courts should not be afraid of public opinion and should not be exempt from media criticism. Legal force and finality of sentences do not exclude the possibility of such criticism, as justice is one of the most important participants in the social game in a democratic state governed by the rule of law. It is also impossible to build the authority of courts on prohibitions and lack of access to information. As a rule, this has the opposite effect[35].

However, in practice there may be cases when publications in the media do not only increase the authority of the judiciary, but also reduce the level of trust in them in society.

32 Конвенція про захист прав людини і основоположних свобод від 04 листопада 1950 р. Офіційний вісник України, 1998, 13, 32.

33 Смородинський, В. (2004) Проблема систематизації функцій судової влади. Вісник Академії правових наук України, 3 (38), С. 34-42.; Nalyvaiko, L. R., Chepik-Tregubenko, O. S. (2019) Main Directions of Effective Interaction of Public Authorities and Institutes of Civil Society / Legislation of EU countries: history, shortcomings and prospects for the development: collective monograph. Frankfurt (Oder), P. 197-214.

34 Романюк О. Відкритість судових процесів: українська практика і міжнародні стандарти. URL: http://osvita.mediasapiens.ua/media_law/world_journalists/vidkritist_sudovikh_protsesiv_ukrainska_praktika_i_mizhnarodni_standarti/

35 Каблак, П. (2014) Засоби масової інформації у взаємодії судової влади та громадськості. Юридичний вісник, 6, С. 48-52.; Саф'ян, М. (2007) Роль суддів при побудові громадянського суспільства. Судоустрій і судочинство в Україні, 7, С. 119.

Criticism of a judge's actions in a media publication is an ambiguous issue. For example, according to the judgment of the European Court of Human Rights in the case of De Gayes and Geisels v. Belgium. The court recognized that "judges should be protected from destructive attacks by the media that are not based on any factual grounds". At the same time, if criticism of judicial problems or individual judges is based on "proper and thorough journalistic investigations which are part of the public discussion of important public needs", then there is no reason to restrict the freedom of the media[36].

In the case law of the European Court of Human Rights, the case of Prager and Oberschlick v. Austria is noteworthy, in which the applicants, journalists of "The Forum" magazine, published an article entitled "Attention! Strict judges!", which criticized judges sitting in Austrian criminal courts. This article contained statements that not only characterize the professional activities of judges, but also relate to the personalities of specific judges. Austrian national courts upheld Judge I.'s lawsuit against journalist Prager, accusing him of defamation. The European Court rejected Prager and Oberschlick's statement, saying that the press is one of the means by which politicians and the public can make sure that judges perform their duties in accordance with the purpose underlying their tasks, but the press cannot exceed certain limits set, in particular, to protect the reputation of others. Mr. Prager could not prove the truth of his statements or the good faith of his evaluative judgments[37].

A similar decision is made by the European Court in the case "Barford v. Denmark"[38]. In such cases, judicial authorities need to know clearly how to respond to such problematic situations and to devise mechanisms to prevent their spread.

It should be noted that judges of Ukrainian courts in the presence of such publications very rarely apply to the court to protect the honor and dignity of both their own and the judiciary[39]. In order to establish interaction between the media and judges, it is necessary to implement the practice of European countries. In particular, such a form of communication as a meeting of court chairmen with editors-in-chief and newspaper publishers has proven itself. These conversations are organized not so much to inform newspapers as to maintain a constructive relationship between the judiciary and the media. Personal contact, calm round table discussion remove some problems in relations with the press and simplify further cooperation[40].

Interesting is the experience of the United Kingdom, where the Supreme Court has officially allowed journalists to use Twitter to transmit messages from court hearings. Earlier in the United Kingdom, the use of social networks in the courtroom was not allowed, and photography and video recording were prohibited during court proceedings.

36 Каблак, П. (2014) Засоби масової інформації у взаємодії судової влади та громадськості. Юридичний вісник, 6, С. 48-52.; Судебное решение от 24.02.1997 «Де Хаэс (De Haes) и Гийселс (Gijsels) против Бельгии». URL: http://europeancourt.ru/uploads/ECHR_De_Haes _and_Gysels_v_Belgium_24_02_1997.pdf

37 Овсяннікова, О. (2012) Етичні проблеми взаємодії судової влади та засобів масової інформації. Вісник академії правових наук України, 1, С. 175-180.; Справа «Прагер і Обершлік проти Австрії» (Case of Prager and Oberschlick v. Austria) (2006). Практика Європейського суду з прав людини. Рішення. Коментарі, 4, С. 93.

38 Абросимова, Е. Б. (2005) Проблемы транспарентности правосудия: монография. Москва, С. 96.

39 Луспеник, Д. Д. (2006) Не захистився – втратив довіру: як судді обстоювати свою честь і гідність при необґрунтованих звинуваченнях. Закон і бізнес, 50, С. 8.

40 Вейсберг, М. (2003) Як владі працювати з незалежною пресою. Київ, 64 с.

Journalists could use dictaphones only in exceptional cases. Violation of these rules was punishable by contempt of court[41].

L. Gurowitz, director of public relations for the courts of the District of Columbia, shared her experience in running the court's official website and social media pages at an international conference. The language of acquaintance with the court is adapted for understanding by young people, i.e. with the use of youth slang. She also advised Ukrainian courts to open their doors to anyone and provide maximum information about themselves in order to prevent negative attitudes. But according to the participants, judges, if it is worth having their accounts on social networks, do not use them for purely professional positioning. In addition, it was noted that such activities of judges should also be subject to the rules of judicial ethics[42].

Summarizing the above, we can conclude that in Ukraine the formation of democracy acquires a qualitatively new meaning – from a declarative foreign policy course, it is gradually becoming a comprehensive domestic policy of reform. At this stage, control becomes relevant as a necessary component of state and public life, a factor in the development of civil society.

1. In modern conditions of state formation and reform of legal institutions, public control occupies an important place in the activities of judicial authorities. Public control over the activities of judicial authorities is a type of social control carried out by civil society institutions or individual citizens through a set of legal and organizational measures to protect and ensure human rights and freedoms, meet the needs and interests of society by establishing compliance with the functioning of judicial authorities accordчing to legal requirements.

2. The formation of national legal bases should be carried out in theoretical and practical directions. The comprehensive study of public control over the activities of judicial authorities involves the study of scientific works by foreign authors on civil society, forms and methods of interaction of the latter with public authorities, as well as the practice of public control in democracies. It is important to have a systematic theoretical and legal analysis of domestic legislation, which provides for public control over the activities of judicial authorities in order to generalize, systematize and further improve and bring it into line with international standards.

3. Analysis of current legislation allows to distinguish the following groups of regulations in the field of public control over the activities of judicial authorities: 1) national legislation: the Constitution of Ukraine, laws of Ukraine, bylaws, etc.; 2) international treaties ratified by the Verkhovna Rada of Ukraine. The lack of consistency and interconnection of legal acts, inconsistencies between the laws of various branches of legislation on public control over the activities of public authorities, including judicial authorities, requires the adoption of a special legal act – the Law of Ukraine "On Public Control", structure of which may be as follows: Section I. General provisions; Section II. Legal status of subjects of public

41 Городовенко, В. В. (2011) Актуальні проблеми забезпечення відкритості судової влади. Вісник Верховного Суду України, 12 (136), С. 23.

42 Суди та ЗМІ: як досягнути конструктивного діалогу. Юридична газета online. URL: http://yur-gazeta.com/publications/events/sudi-ta-zmi-yak-dosyagnuti-konstruktivnogo-dialogu.html.

control; Section III. Principles of implementation of public control; Section IV. Forms and stages of implementation of public control; Section V. Guarantees of implementation of public control; Section VI. Decisions on the results of public control; Liability for violation of legislation in the field of public control; Section VIII. Final provisions. The provisions of this Law should be specified in bylaws.

4. As one of the indirect forms of control and the most important communication channels, the activity of the media plays a leading role in exercising public control over the activities of judicial authorities. Awareness of citizens about the activities of judicial authorities through the media and the desire of the judiciary to provide such information in full will help increase the authority of the judiciary in society, the establishment of relations between the citizen and the court. Thus, an important task today is to establish a constructive relationship between the media and the courts in order to form in citizens an objective opinion about the organization of the courts and the consideration of cases. The effectiveness of the interaction between the court and the media is possible through the creation of an organizational system of communication. In particular, on the one hand, the creation of press services in courts with highly qualified press secretaries, on the other hand, to pay attention to the problems of journalism, because Ukraine lacks journalists who could cover the activities of judicial authorities and the peculiarities of court cases.

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INTERACTION OF THE STATE AND THE PERSON AS A VALUE REFERENCE POINT OF THE MODERN STATE

The modern world makes its adjustments and sets global challenges for numerous institutional formations through which it is possible to ensure modern processes of consolidation and management of society. Herewith, the largest institutional entity in this context is the state, which is able to solve the most global tasks in various spheres of social development. It follows that the problem of clarifying and researching the value reference points of the modern state is of particular importance and lies in the plane of extremely important and controversial issues and is associated with the need to clarify the nature of value reference points of the state as one of the aspects of the value system of modern social development.

In our opinion, the study of the value reference points of the modern state is associated with necessity: