

Tetiana VOLOSHANIVSKA,
Candidate of Legal Sciences, Associate
Professor, Associate Professor of the
Department of Criminal Procedure and
Criminalistics of the Faculty of Training
of Specialists for Pre-trial Investigation
of the Odesa State University of Internal
Affairs

Ihor FEDOROV,
Candidate of Legal Sciences, Associate
Professor of the Department of
Constitutional and International
Law of the Institute of Law and Security
of Odesa State University
of Internal Affairs

THE CONSTITUTIONAL BASIS OF JURY TRIALS IN UKRAINE: CHALLENGES AND PROSPECTS

Over the past few years, with the support of experts from international organizations, Ukraine has been undertaking extensive work in the field of legislative regulation to support the judicial system and related legal institutions. This effort is aimed at achieving compliance with the standards of the Council of Europe and best practices of the European Union. An important aspect of this activity is the implementation of democratic reforms, including in the judicial-legal sphere, aimed at ensuring the fundamental rights and freedoms of individuals and citizens.

Special attention within these reforms is given to the introduction of jury trials as a means of direct citizen participation in the judiciary, allowing certain categories of cases to be considered jointly with professional judges. This approach, which emphasizes active population participation in justice, especially through the institution of jury trials, is a critically important element of judicial reforms not only in Europe but also in other countries. The jury trial serves as an important mechanism for protection against potentially negative tendencies in the judicial system, such as judges' dependence on state bodies, political influence, public opinion, risks of formalism in justice, professional burnout due to prolonged legal practice, bureaucracy, and excessive formalism in judiciary proceedings.

The institution of the jury trial acts as a key representative element of civil society in justice, underscoring its role in the formation and development of democratic principles. Its significance in the context of the current stage of judicial system reform is undeniable, ensuring not only transparency and fairness of the

judicial process but also strengthening citizens' trust in justice. Despite the recognized importance of this institution, issues of its organizational structure and functioning mechanisms remain subjects for in-depth theoretical analysis and practical research. This requires scholars, jurists, and practitioners to thoroughly study and discuss in order to optimize the internal organizational processes and efficiency of the jury trial, ensuring its compliance with contemporary requirements and societal expectations.

The jury trial institution serves as a key representative element of civil society in justice, highlighting its role in the establishment and development of democratic principles. Its significance in the context of the current stage of judicial system reform is undeniable, ensuring not only transparency and fairness in the judicial process but also strengthening citizens' trust in the judiciary. Despite the recognized importance of this institution, questions regarding its organizational structure and functioning mechanisms remain subjects for in-depth theoretical analysis and practical research. This requires scholars, jurists, and practitioners to thoroughly study and discuss in order to optimize the internal organizational processes and efficiency of the jury trial system, ensuring its compliance with contemporary requirements and societal expectations.

The Constitution of Ukraine, particularly in Articles 124, 127, and 129, enshrines the right of the people to directly participate in the administration of justice through the jury trial mechanism [1]. This provision distinguishes the jury trial institution as an important part of the judicial system, endowed by the Constitution with powers in the judiciary. However, until 2012, these constitutional norms lacked an effective mechanism for their practical implementation, making them more declarative.

The situation changed with the adoption of the new Criminal Procedure Code and the update of the Law «On the Judiciary and the Status of Judges» [2], which provided the necessary legal frameworks for activating the activity of the jury institution and strengthening the rule of law in the country. These changes emphasized the importance of direct citizen participation in the judiciary, making the jury institution a key element in supporting justice and democracy.

The Criminal Procedure Code of Ukraine establishes the continental model of the jury trial, which allows jurors, together with professional judges, to decide on both the factual and legal issues of the case. This approach strengthens the principles of democracy and the rule of law, giving citizens the opportunity to directly influence the judiciary.

At the same time, the operation of this institution in Ukraine is limited to the level of local general courts and is applied only in criminal cases related to crimes punishable by life imprisonment, and only if there is a motion from the defendant.

Amendments to the Constitution of Ukraine, adopted on June 2, 2016, regarding justice, which envisaged the abolition of the institution of people's assessors and the preservation of the mechanism of direct participation of the people in justice through jurors, marked a significant step in the reform of the judicial

system. In 2017, the Civil Procedure Code of Ukraine was adapted to these changes, in particular, replacing people's assessors with jurors in civil litigation. An important feature of the civil process is that the composition of the panel for case consideration is reduced to one judge and two jurors, which is different from the composition of the panel in criminal cases.

The status of jurors is regulated by detailed norms that define the procedure for forming lists of jurors, the rules and terms of their involvement in the judicial process, and also provide guarantees of their independence and inviolability.

The introduction of jurors in the civil process provides an additional level of democratic control and strengthens citizens' trust in the judicial system.

Despite its existence and integration into the judicial system, the functioning of the jury institution in Ukraine is accompanied by a number of challenges and problems that require attention and resolution. One of the main problems is the incompetence of jurors in legal matters, which calls into question the effectiveness of their participation in the judiciary. Additionally, there is the issue of jurors' dependency on the opinions of professional judges, which can undermine the principle of independence and objectivity of the trial.

Clearly, to enhance the effectiveness of the jury institution in Ukraine, comprehensive measures are needed to improve the competence of jurors, strengthen their independence, and activate their role in the judicial process.

This may include improving the selection and training process for jurors, ensuring greater transparency and objectivity in their activities, and encouraging active participation of jurors in case deliberations.

The process of forming juror lists in Ukraine, according to Article 64 of the Law of Ukraine «On the Judiciary and Status of Judges», is an important element in ensuring citizen participation in the judicial process. This process involves active interaction between the territorial branches of the State Judicial Administration of Ukraine and local councils responsible for forming and approving the respective lists.

Problems arising from this process, especially the significant concern in large cities where there is a considerable shortage of jurors, exemplify the challenges in this area. For instance, the situation in Odesa, where, at the beginning of 2022, a 40% shortfall in jurors was recorded in four local courts, indicates serious challenges in this sphere. Such a shortfall can negatively affect the efficiency of the judicial system and its ability to ensure a fair trial.

One problem is that the formation of juror lists relies exclusively on local self-government bodies, which can lead to delays and insufficient provision of qualified candidates. The lack of interaction and coordination between judicial bodies and local self-government bodies only deepens this problem.

Recognizing that the need to reform our State's judicial system, even in wartime, is urgent, President Volodymyr Zelenskyy, by his Decree of June 30, 2023, No. 359/2023, enacted the decision of the National Security and Defense Council of June 23, 2023, «On accelerating judicial reform and overcoming manifestations of

corruption in the justice system». Among other measures, this decision includes «strengthening the role of the jury trial institution and expanding the cases of its application» It should be noted that, for now, this measure will be applied in the area of criminal judiciary [3].

To address this issue, several approaches are possible, including improving coordination between the judiciary and local self-government bodies, enhancing mechanisms to motivate citizens to participate in fulfilling jury duties, and developing more effective procedures for the selection and training of jurors. It is also important to ensure an appropriate information campaign about the role and significance of the jury institution in the judicial system, to attract more interested and qualified citizens.

1. Constitution of Ukraine, document № 254к/96-ВР, URL: <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text> (accessed on 06.02.2024);

2. Law of Ukraine «On the Judiciary and the Status of Judges», document №1402-VIII, URL: <https://zakon.rada.gov.ua/laws/show/1402-19#Text> (accessed on 06.02.2024);

3. Decision of the National Security and Defense Council of June 23, 2023, «On accelerating judicial reform and overcoming manifestations of corruption in the justice system», document №n0033525-23, URL: <https://zakon.rada.gov.ua/laws/show/n0033525-23#Text> (accessed on 06.02.2024).

Владислав БОРИСОВ,
доцент, кандидат історичних наук,
кафедра філософії та
українознавства
ДВНЗ «Український державний
хіміко-технологічний університет»

ПРАВОВІ АСПЕКТИ СТАНОВЛЕННЯ ТА РОЗВИТКУ ОСВІТИ В УКРАЇНІ В 1920-Х – НА ПОЧ. 1930-Х Р.: ІСТОРИЧНИЙ ДОСВІД ТА СУЧАСНІСТЬ

В наш час у процесі виведення освіти на якісно новий, сучасний рівень досвід її становлення та розвитку у 20-30-х роках минулого століття є надзвичайно актуальним.

У роки Громадянської війни (1918-1921 р.) більшість загальноосвітніх закладів України були зруйновані та втратили свої педагогічні кадри, багато дітей залишилось без батьківського піклування, стали безпритульними. В таких умовах питома вага загальноосвітньої школи в системі народної освіти зменшилась та була перенесена на дитячі будинки. Більш того наркомат освіти УСРР взяв курс на поширення професійно-технічної освіти. Головним типом