

Access to Justice in Eastern Europe
 ISSN 2663-0575 (Print) ISSN 2663-0583 (Online)
 Journal homepage <http://ajee-journal.com>

ABOUT EQUAL ACCESS TO JUSTICE IN A CONTEMPORARY WORLD

Justice has a special value...
 Justice in those myriad realms will be
 impossible without a just justice system.¹

Access to justice must be interpreted in a broad
 manner.²

This issue of *Access to Justice in Eastern Europe* is related to various aspects of the development of contemporary legal doctrine. Since the UN announced sustainable development goals, more and more studies are focusing on how we can achieve them and the most effective ways to do so. No one can deny that every person seeks and deserves justice. So the question is, how can we guarantee equal justice for all in a world with so many cases? So far, the attention has been focused on area-specific rather than general approaches. Not surprisingly, in this issue, interesting studies on various aspects of justice development may be found – constitutional justice, criminal justice, digital justice, and even environmental justice, which attracts special attention from our authors.

The independence of justice is a crucial issue that enables a person to achieve a fair and impartial trial. The absence of independence inevitably leads to negative consequences, in particular, improper functioning of justice, delegitimising of judicial power, and loss of trust, which is one of the essential elements of judicial power.³

Nowadays, in Poland and Ukraine, society has faced an unprecedented crisis of constitutional justice, which, of course, attracts attention and stimulates research into ways to stabilise the balance of power. Consequently, in this issue, there are two contributions related to constitutional justice. In *Olena Boryslavska and Miroslaw Granat's* article, issues of independence of constitutional justice are studied in-depth, and the common problems that Ukraine and Poland faced in the process of developing constitutional courts are uncovered. It is noteworthy that in their conclusions, the authors try to prove that the other 'side of the coin' of the constitutional justice body's independence is its authority, leading to the situation in which it depends not on itself but also on political elites. More about this may be found in this article.

1 F Wilmot-Smith, *Equal Justice: Fair Legal Systems in an Unfair World* (HUP 2019).

2 H Ahrens, H Fischer, V Gómez, M Nowak (eds), 'Equal Access to Justice for All and Goal 16 of the Sustainable Development' (2019) 22 *Studies on Effective Multilateralism for Sustainable Development* Volume 396.

3 For more, see: I Kondratova, T Korotenko 'Towards Modern Challenges in Financing the Judiciary: Between Independence and Autonomy' (2020) 2/3 (7) *Access to Justice in Eastern Europe* 134-147; R Kuibida, 'Constitutional Court Strikes the Anti-Corruption System in Ukraine' (2020) 4 (8) *Access to Justice in Eastern Europe* 283.

The second contribution relates to a constitutional complaint, another similar issue. In the note by *Hryhorii Berchenko, Andriy Maryniv and Serhii Fedchyshyn*, the effectiveness of a constitutional complaint as a human rights mechanism is examined. The authors shed light on the problems and perspectives of this institute's development in Ukraine. In their conclusion, the necessity of updating the law is substantiated. In particular, they proposed to revise provisions on the interim provisional and protective measure, the implementation of the decisions of the CCU, their actions in time, and specific mechanisms for the restoration of individual rights.

A very interesting article worthy of our audience's attention is the research of *Bohdan Karnaukh*, who compares the standards of proof in common law states, such as the US, and civil law states, such as Ukraine. The example of O. J. Simpson's case, as well as others, gives us a good understanding of the differences between proofs and their assessment in civil and criminal cases. In his conclusion, the author sketches some perspectives on the implementation of rationality in Ukrainian evidence law.

In the next article by *Nazar Bobechko, Alona Voinarovych and Volodymyr Fihurskyi*, the newly discovered and exceptional circumstances in criminal procedure are analysed in comparison with the law of Germany, Poland, France, and other European states. The models of these circumstances are investigated, and features of proceedings and the concept, tasks, and structure are analysed. The authors conclude that these circumstances should be applied to eliminate the violations made during the criminal litigation but not during review, appeal, or cassation proceedings.

The next article relates to comparative historical and legal research and is devoted to juvenile justice in Ukraine and Poland in the last century. The most interesting issue of this article is its methodology, which is an essential part of every research article. *Denys Shygal and Aysel Omarova* propose ways of overcoming the discrepancy between theory and practice, recreating the sequence of actions of a comparative historian, which leads them solutions about the big data perspectives and traditional comparative historical and legal research, which we fully support. Generally, the methodology of legal research is a conservative rather than innovative field, but despite this, particular attention should be paid to how the results were achieved and what the arguments are.

One more historical research article is included in this issue due to its interesting and innovative approaches to the assessment of the notion of justice within the general ideas of criminal law and crimes. 'The winner is never to be sued' or 'Success is never blamed' like the very popular sayings announced. Nevertheless, we should clearly understand what justice means and that it performs equally for all. In *Alexandra Letková and Anna Schneiderová's* article, one may find a very interesting reflection on the trial of Jozef Tiso at the National Court in Bratislava as a good example of the justice performing.

The use of AI in the judiciary is one of the main questions for present-day legislators. Some new technological solutions are investigated in the article by *Yulia Razmetaeva and Sergiy Razmetaev*, which reveals the threats and advantages of the digitalization of justice in Ukraine.

Nowadays, more and more specific cases are requiring different approaches and solutions that enable everyone to have equal access to justice. Particular attention in this issue is paid to access to justice in environmental cases,⁴ which is in the spotlight of a few contributions.

4 It is worth noting the particular attention that the ECtHR pays to environmental cases. See: OW Pedersen, 'The European Convention of Human Rights and Climate Change – Finally!' (Blog of the European Journal of International Law, 22 September 2020) <<https://www.ejiltalk.org/the-european-convention-of-human-rights-and-climate-change-finally/>> accessed 23 April 2021.

Environmental justice, as well as environmental disputes and environmental human rights, seem to have become a new reality of modern life. In *Anatoliy Getman's* contribution, the essential issues of this area of legal regulation are outlined.

The Reform Forum section of this issue includes a note concerning the perspective of access to justice for the protection of environmental rights in Ukraine. In the note of *Hanna Anisimova and Ievgeniia Kopytsia*, particular attention is drawn to national case-law and ECtHR case-law in environmental cases, which will be of interest to our audience.

Finally, I thank all the reviewers and managing editors who helped to improve the manuscripts, and the authors, who properly assessed all the activities involved in publishing their contributions. I would like to thank our Editorial Board members for their support and stress that their perceptive comments were incredibly helpful in shaping the final version of this issue.

Editor-in-Chief

Prof. Iryna Izarova

Institute of Law, Taras Shevchenko National University of Kyiv,
Ukraine

Managing Editor

Dr. Nataliia Horban,

Institute of Law, Taras Shevchenko National University of Kyiv,
Ukraine