

Reform Forum Note

SPECIALISED COURTS OF UKRAINE AND EUROPEAN COUNTRIES: A COMPARATIVE LEGAL ANALYSIS

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Summary: 1. Introduction. – 2. Specialised Courts within the Methodological Framework and International Discussion. – 3. Specialised Courts as an Urgent Need for the State Development of Ukraine. – 4. The Experience of European Countries in the Context of Judicial Specialisation. – 5. Conclusions.

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ABSTRACT

Background: *The issue of judicial specialisation is one of the main concerns in the development of a judicial system. This study aims to analyse the function and legal basis of specialised courts among the member states of the European Union (EU) and in Ukraine.*

Methods: *In the article, the authors used the following special legal methods: conceptual-legal, comparative-legal, formal-legal, and others. For example, the comparative-legal method helped the authors compare the features of specialised court practice in other countries and allowed them to identify how different countries regulate this issue at the legislative level.*

Results and Conclusions: *This article argues that specialisation is driven by the need to improve the efficiency of justice and the need to apply in-depth specialist knowledge in a specific area of justice. Information and knowledge gained from the experience of different countries can be used as a basis for the implementation, adaptation, and development of relevant new provisions in Ukraine.*

Keywords: *judicial system; principle of specialisation; specialisation of courts; judicial reform; judges, European integration*

1 INTRODUCTION

In Ukraine, the need for change in the area of judicial reform still remains an urgent issue.⁶ Among the areas of judicial reform are the professional development of judges, the efficiency of justice, and the optimisation of the powers of courts in different jurisdictions. The implementation of change in these areas is not possible without the application of the principle of specialisation of judges.⁷ Court specialisation is commonly considered to be an important reform initiative to advance the development of a successful judicial system.⁸

Specialised courts are defined as tribunals of narrowly focused jurisdiction to which all cases that fall within that jurisdiction are routed.⁹ A court can be recognised as specialised if this court is designed to resolve a certain range of cases, acts on the basis of a codified act, has its own procedural form, and specialises in regulating a certain group of relations.

Indeed, a distinctive feature of specialised courts is that they have a narrow specialisation, a general subject of litigation, and high qualifications of judges in certain branches of law, aimed at reducing the number of judicial errors. Cases that are considered by specialised courts require a specialised approach. So, the purpose of creating specialised courts is to improve the efficiency of the judiciary.

Specialised courts play a special role in the judicial systems of the EU member states and Ukraine. They differ in their competence, structure, and procedures – in other words, in each country with judicial specialisation, specialised courts are represented by unique institutions.

6 V Timashov, 'Some issues of the judicial system in Ukraine on the way to further reform' (2016) 2 National Law Journal 66.

7 A Biletska, 'General characteristics of the implementation of the principle of specialization of judges' (2016) 1 L&S 16.

8 H Gramckow, B Walsh, 'Developing specialized court services international experiences and lessons learned' (2013) <<https://openknowledge.worldbank.org/handle/10986/16677>> accessed 9 February 2022.

9 M Zimmer, 'Overview of specialized courts' (2009) 2(1) International Journal for Court Administration 49.

One of the criteria for dividing specialised courts is specialisation in relation to the subjects acting as a party to the case. Thus, specialised courts consider cases against minors and military personnel, as well as land, administrative, tax, customs, commercial cases, etc. The judges of these courts, in addition to a legal education, usually have further training, for example, pedagogical training for the consideration of cases of minors. Another criterion for dividing specialised courts should be specialisation in relation to substantive relations that are the subject of the dispute. According to this criterion, labour, social, administrative, financial, military, administrative, and other courts can be distinguished – the legal relationship itself is important for subject specialisation.

The functioning of specialised courts is a scientifically sound, legally conditioned requirement of the time. It meets the modern needs of society for effective and professional protection of rights, freedoms, and legally protected interests of persons and legal entities in a state governed by the rule of law. Specialised courts are formed at different stages of the construction and development of the judicial system, depending on the existing needs and public funding opportunities. The establishment of specialised courts is one of the means of improving the efficiency of the judicial system, unloading it, and ensuring adequate judicial administration.¹⁰ It should be noted that during the judicial reform, it is important for Ukraine to study the experience of the judicial branch of government in foreign countries.¹¹ Taking into account the European integration course of Ukraine, it is necessary to consider the experience of the member states of the EU when considering judicial specialisation.

2 SPECIALISED COURTS WITHIN THE METHODOLOGICAL FRAMEWORK AND INTERNATIONAL DISCUSSION

The problems of specialised courts in Ukraine have been studied by a number of scholars. E. Silantyeva notes that the discussion on the specialisation of the judicial system of Ukraine began in the initial stages of judicial reform in 1992, when its tasks were proclaimed, namely:

- 1) by effectively delineating the powers of the judiciary to guarantee their independence and independence from the legislative and executive branches of government;
- 2) to implement the democratic ideas of justice, developed by world science and practice;
- 3) to create such a system of legislation on the judiciary, which would ensure the independence of the judiciary;
- 4) gradually specialize courts;
- 5) bring them as close as possible to the population;
- 6) clearly define the competence of different levels of this system;
- 7) guarantee the right of a citizen to have his case considered by a competent, independent and impartial court.¹²

10 O Salenko, 'The principle of specialization in the national judicial system' (2018) 3 Bulletin of Criminal Proceedings 95.

11 I Lisna, 'Foreign experience in the functioning of judicial systems and the possibility of its use during judicial reform in Ukraine' (2018) 1 Relevant Problems of Law: Theory and Practice 125.

12 E Silantyeva, 'The principle of specialization in the judicial system of Ukraine at the new stage of judicial reform' (2011) 116 Legality Issues 5.

It was also proposed to create a separate system of administrative courts, as well as to reform the system of military proceedings. Gradually, step by step, these tasks were implemented.

L. Nesterchuk studied the principle of specialisation in the construction of the judicial system of Ukraine. In particular, under specialisation as a principle of judicial construction, he defines

the creation of judicial units that are hierarchically organized, with different competence, whose task is to resolve legal disputes in certain areas of substantive law (criminal, civil, administrative, commercial).¹³

The principle of specialisation of courts has been studied by other scholars. For example, O. Namyasenko studied the constitutional and legislative consolidation of judicial specialisation.¹⁴ O. Salenko analysed the principle of specialisation in the national judicial system.¹⁵ A. Biletska considered the general characteristics of the implementation of the principle of specialisation of judges.¹⁶ O. Rudenko noted that European countries are characterised by wide application of the principle of internal specialisation of judges by enshrining at the legislative level a provision on the mandatory establishment of branches (chambers) in the court structure to consider certain categories of cases or the possibility of such specialisation.¹⁷

The organisation and functioning of specialised courts have recently become the subject of special attention in Ukraine and abroad. The main task of this study was to make a comparative analysis of the function and legal basis of specialised courts among the member states of the EU and in Ukraine. That is why the article is devoted to the analysis of the practice of the member states of the EU and Ukraine in the field of legal regulation of the activities of specialised courts.

In order to analyse the problems of scientific research, a set of different general scientific techniques and methods were used in the work. In particular, the authors used analysis and synthesis, generalisation, modelling, and others. The method of systematic analysis and synthesis was used to identify the main features of specialised courts of Ukraine and the member states of the EU.

In addition, special legal methods were used in the article, such as conceptual-legal, comparative-legal, formal-legal, and others. The leading method in this research was the comparative-legal method. It helped the authors compare the features of the practice of other countries in the field of specialised courts, as well as identify how this issue is regulated in different countries at the legislative level. Information and knowledge gained from the experience of different countries can be used as a basis for the adoption, adaptation, and development of new relevant provisions in Ukraine.

The normative legal basis of the study consisted of the Constitution of Ukraine, Ukrainian legislation, and foreign legislation governing the functioning of specialised courts.

The methodological foundations of the study of the nature, genesis and system, structure, and functions, as well as the functioning of specialised courts, have been studied by many scholars. The conclusions drawn in the work are based on the synthesis of methodological

13 L. Nesterchuk, 'The principle of specialization in the construction of the judicial system of Ukraine' (2017) 2 *Scientific Bulletin of Kharkiv State University* 162.

14 *Ibid.*, 15.

15 *Ibid.*, 11.

16 *Ibid.*, 7.

17 O Rudenko, 'Peculiarities of realization of principles of construction of judicial system in the organization of activity of local general courts in Ukraine' (2020) 3 *Legal Scientific Electronic Journal* 504.

approaches and theoretical solutions proposed in the works of Ukrainian scholars in particular. Despite the broad theoretical development of this problem, the study of the activities of specialised courts in a comparative aspect still requires further analysis.

3 A SPECIALISED COURTS AS AN URGENT NEED FOR THE STATE DEVELOPMENT OF UKRAINE

A specialised court is a state judicial body that administers justice, resolves disputes, and considers specific categories of cases that have their own specific subject matter and procedure for considering cases, subject to jurisdiction, in civil, administrative and criminal proceedings, etc. It should be noted that the current stage of judicial reform, which was marked by significant changes in the judicial system of Ukraine, as well as the creation of a specialised anti-corruption court, needs further changes not only for the state development of Ukraine but also due to its international obligations.¹⁸

In accordance with Art. 125 of the Constitution of Ukraine¹⁹ and Art. 17 of the Law of Ukraine 'On the Judiciary and the Status of Judges',²⁰ the basic principles of building the judicial system of Ukraine are the principles of territoriality, instance, and specialisation. In this regard, it should be noted that the principle of specialisation is fundamental to the organisation of any of the specialised courts since, on this principle, courts of general jurisdiction specialise in civil, criminal, economic, and administrative cases, as well as cases of administrative offences, corruption offences, and offences in the field on intellectual property.²¹ Based on this, the implementation of this principle allows for the legal regulation of social relations of certain types.

It should be noted that the new Law of Ukraine 'On the Judiciary and the Status of Judges' was adopted in 2016.²² In this respect, it is interesting to analyse the recently established High Court on Intellectual Property and the High Anti-Corruption Court. Today, there is no single position on the establishment of the High Court on Intellectual Property. On the one hand, it is noted that the number of lawsuits that could be classified as intellectual property cases is small, which also confirms the inexpediency of creating a separate court. This further emphasises the 'artificiality' of creating higher specialised courts, which further confuses consumers of judicial services – ordinary citizens.²³ On the other hand, scholars point out that specialised intellectual property courts are a practice followed by many foreign countries (the United Kingdom, Germany, Switzerland, Finland, etc.) and are a well-established approach to intellectual property justice organisations when considering the specifics of the objects.

18 L Nesterchuk, 'The principle of specialization', 15

19 Law of Ukraine 'The Constitution of Ukraine' (1996) <<https://zakon.rada.gov.ua/laws/show/254k/96-vr>> accessed 22 December 2021.

20 Law of Ukraine 'On the Judiciary and the Status of Judges' (2016) <<https://zakon.rada.gov.ua/laws/show/1402-19#Text>> accessed 22 December 2021.

21 SI Glodan, 'The state and problems of corruption in Ukraine' (2019) <<https://pzmrujust.gov.ua/yurydychni-konsultatsii/464-stan-i-problemy-koruptsii-v-ukraini>> accessed 22 December 2021.

22 Law of Ukraine 'On the Judiciary and the Status of Judges' (2016) <<https://zakon.rada.gov.ua/laws/show/1402-19#Text>> accessed 22 December 2021.

23 Supreme Court of Ukraine 'Opinion of the Supreme Court of Ukraine on the draft Law of Ukraine 'On the Judiciary and the Status of Judges' (2016) <<https://www.viaduk.net/clients/vsu/vsu.nsf/b58056fd9c7f6dc4c225745700474565/2dbe64236e27ca66c225804200312dd2?OpenDocument>> accessed 22 December 2021.

We agree with the expediency of establishing specialised courts for intellectual property matters. We share the opinion of Yu. Kanaryk and V. Petliuk, who note that the availability of technical education for judges of the High Court on Intellectual Property would be appropriate since, in almost all patent courts of foreign countries, such a requirement for judges exists, which saves a lot of money and time.²⁴ For example, in Germany, the judiciary of the Federal Patent Court includes so-called 'technical judges' who have a technical and legal education. Judges of the patent courts of the United Kingdom and Switzerland must also have two educations: technical and legal.

The territorial remoteness of the High Court on Intellectual Property remains a problematic issue (all cases will be considered in Kyiv, which will affect access to justice for citizens, especially in this category of cases).²⁵

On 5 September 2019, the High Anti-Corruption Court of Ukraine began its work. During the five years since its creation, Ukrainian society has maintained a steady demand for the fight against corruption. The task of the High Anti-Corruption Court is to administer justice in accordance with the principles and procedures of justice provided by law in order to protect individuals, society, and the state from corruption and related criminal offences and judicial control over the pre-trial investigation of these criminal offences, observance of the rights, freedoms, and interests of persons in criminal proceedings, as well as resolving the issue of recognising unfounded assets and their recovery into state revenue in cases provided by law and in civil proceedings.²⁶

However, today, there is no single position on the establishment of the High Anti-Corruption Court of Ukraine. For example, S. Shevchenko and N. Sidorenko note that the Supreme Anti-Corruption Court of Ukraine is by nature a specialised judicial institution, which was created to consider a special list of cases that increases the efficiency of justice in these categories of cases.²⁷

Many scholars point out that there are some expert comments on the feasibility of establishing a High Anti-Corruption Court. Negative feedback on the establishment of the High Anti-Corruption Court is heard in particular from representatives of the High Qualifications Commission of Judges and the High Council of Justice. Opponents of the creation of a separate anti-corruption court highlight the following main shortcomings: 1) the small number of cases under investigation by the National Anti-Corruption Bureau of Ukraine, which makes it inappropriate to create a separate court; 2) to some extent, the inconsistency of Art. 125 of the Constitution of Ukraine, which stipulates that the judicial system in Ukraine is built on the principles of territoriality and specialisation, and the creation of emergency and special courts is not allowed; 3) the absence of a separate procedural law for anti-corruption proceedings suggests that such a Court is not specialised in understanding the concept of external specialisation; 4) the need for high budgetary and time costs for the establishment of a new judicial body and its maintenance, compared to the creation of separate chambers in the current courts.²⁸

24 Yu Kanaryk, V Petliuk, 'Relevant issues of establishing a High court on intellectual property issues' (2017) 5 *Legal Scientific Electronic Journal* 68.

25 Yu Kanaryk, M Bank, 'Jurisdiction of the court on intellectual property issues' (2018) 6 *Young Scientist* 186.

26 S Prylutskiy, O Strieltsova, I Nurullaiev 'Judicial Specialisation Through the Prism of the Principle of a "Natural Court": A Comparative Analysis' 2022 1(13) *Access to Justice in Eastern Europe* 113.

27 S Shevchenko, N Sidorenko, 'The essence of the concept of political corruption and its danger in Ukraine' in *Discussion Issues of Application of Anti-Corruption Legislation: Materials International. Scientific-Practical Conf. (DDUVS, 2019)*.

28 K Rostovska, 'Problematic issues of creating anti-corruption courts in Ukraine' (2017) 2 *Legal Position* 159.

The expediency of establishing this body remains questionable because if we analyse the international experience of anti-corruption courts, none of them met expectations and did not become part of the country's anti-corruption system that would be decisive in the fight against corruption within the state. As for the experience of European countries in creating such courts, they operate in only three countries: Bulgaria, Slovakia, and Croatia. However, no leading country has created or envisaged the creation of such a body, so the question of the expediency of establishing such a court on the territory of Ukraine remains open.²⁹ Although the courts of Ukraine practice the specialisation of courts for juvenile delinquency, it would also be appropriate to create specialised courts based on subjective criteria.³⁰

4 THE EXPERIENCE OF EUROPEAN COUNTRIES IN THE CONTEXT OF JUDICIAL SPECIALISATION

In contrast to Ukraine, there are countries in the EU that do not have any specialised first instance courts,³¹ such as Andorra, Bosnia, Herzegovina, and the Czech Republic. The countries with fewer than five specialised courts are Denmark, Estonia, Ireland, the Netherlands, Lithuania, Malta, Moldova, Montenegro, Macedonia, Romania, Slovakia, Slovenia, Austria, and Norway. Among the countries that have a relatively high number of specialised courts, the most numerous specialised courts are also different in nature. For instance, most of the specialised courts in Belgium are the justices of the peace, Croatia has misdemeanour courts, and several countries have a whole range of 'specialised' jurisdictions. Cyprus has specialised criminal courts, family courts, military courts, rent control tribunals, and industrial dispute tribunal; Finland has administrative courts, market courts, labour courts, and insurance courts; Spain has labour courts, administrative courts, juvenile courts, commercial courts, family courts, mortgage courts, warship courts, and violence against women courts; Switzerland has the *tribunal des baux et loyer*, the *tribunal de prud'hommes*, administrative courts, social courts, minor courts, economic courts, a specialised federal criminal court, and a specialised federal administrative court.³²

In Germany, in accordance with Art. 95 of the Basic Law of Germany,³³ the justice system is represented by five areas: general, labour, social, administrative, financial, which have their own independent court system and their own high court. These are the Federal Supreme Court, Federal Labor Court, Federal Social Court, Federal Administrative Court, and Federal Financial Court. Germany also has disciplinary, military, and patent courts.

The jurisdiction of the administrative justice is represented by the Federal Administrative Court, which includes the consideration of claims of citizens against state bodies and employees on the observance of civil rights, disputes between civil servants and the administration on issues of their rights, and disputes between administrative-territorial

29 B Prokopiv, 'The specifics of the functioning of the High Anti-Corruption Court in Ukraine: international experience and Ukrainian realities' (2018) 3 *Relevant Problems of Jurisprudence* 103.

30 *Ibid.*, 17.

31 A Uzelac, 'Mixed blessing of judicial specialisation: The devil is in the detail' (2014) 4 *RLJ* 147.

32 *Ibid.*

33 Constitution of the Federal Republic of Germany (1949) <<https://www.bmi.bund.de/EN/topics/constitution/constitutional-issues/constitutional-issues.html#:~:text=The%20current%20version%20of%20the,the%20Federal%20Republic%20of%20Germany.&text=The%20Basic%20Law%20was%20adopted,the%20state%20until%20German%20reunification>> accessed 9 February 2022. See also <<https://www.bverwg.de/en/das-gericht>> accessed 9 February 2022.

units, as well as complaints on issues related to the issuance or refusal to issue a permit for holding mass events, etc. Administrative courts are thus called upon to resolve disputes of a public law nature and to protect citizens in relations with bodies and institutions of state power.

They are organised in a three-step system. Each land has only one second instance court; however, in some cases, the two lands may create a joint second instance court. Land administrative courts include courts of first instance and second instance. The supreme body in this area is the Federal Administrative Court, which mainly serves as a cassation instance. The bulk of cases is considered by courts of second instance. In addition to those named in the land, there are so-called specialised administrative courts, for example, the Patent Court, which is represented by the Patent Office of the Federal Republic of Germany.

There is also financial justice represented by the Federal Financial Court, which is the highest court, and the lower courts. They are in charge of disputes over taxes and fees. Labor Justice, represented by the Federal Labor Court and the Land Labor Courts, deals with disputes arising in the field of labour relations, i.e., between employers and employees, as well as between trade unions and employers. Labour courts have collegia consisting of one professional and several (two or four) honorary judges. The competence of social courts, consisting of land social courts and the Federal Social Court, includes a set of issues related to social benefits, pensions, unemployment insurance, etc. All these bodies are independent in relation to each other and to other bodies.

In France,³⁴ along with the courts of general jurisdiction, there is a fairly large number of courts that can be called specialised. They function in the field of both civil and criminal law. In the literature, it is possible to find their other name – tribunals. Most civil courts are not professional judges, but judges elected or appointed from the areas where disputes arise, that is, those who understand the essence of the issue more deeply. France has *conseils des prud'hommes*, commercial courts, minor courts, social courts, and *tribunaux paritaires des baux ruraux*. Special jurisdictions include councils of law courts (labour disputes), various criminal courts (for example, in juvenile cases), maritime, military, and administrative courts. Commercial courts belong to the same category (there are 191 of them on the territory of mainland France), consisting of three members, elected by the merchants themselves.

They are composed of professional judges in the field of commerce, elected by merchants from among those who have been in business for at least five years. Usually, commercial courts are created in cities as needed and are named after that city. The competence of merchant courts covers three types of disputes: arising from obligations, from transactions between entrepreneurs, merchants, and bankers; between members of partnerships; from trade transactions between any persons; cases related to the liquidation of enterprises, etc.

Labor disputes are resolved by conciliatory conflict councils (*conseils des prud'hommes*). They handle labour disputes between employees and employers. They are formed on a parity basis from elected members (two from employers and two from employees), and if necessary, to overcome the equality of votes, a judge of a tribunal of a minor instance joins them. Specialised courts in Sweden, with the exception of a special branch of administrative justice, do not represent any special bodies but in fact are the same general civil court in a special composition (this applies, for example, to the courts for land ownership and environmental courts). Standing apart is the country's only Labor Court

34 About the judiciary in France see more in < <http://www.justice.gouv.fr/organisation-de-la-justice-10031/> accessed 9 February 2022.

with 17 members (three of them are labour market experts, the rest are representatives of entrepreneurs and trade unions). Administrative justice has a similar structure to civil courts: 23 district administrative courts, four administrative courts of appeal, and the Supreme Administrative Court.

One of the specialised courts in Denmark,³⁵ which carries an important burden for the country, is the Maritime and Commercial Court in Copenhagen, whose decisions are appealed by the Supreme Court. At the same time, there is no separate administrative justice in this country: it is replaced by control tribunals and commissions functioning within ministries but not subordinate to a specific minister. Thus, in sum, it should be noted that the key advantage of specialised courts is the specialisation of judges, which allows for more detailed study of the substantive and procedural features of the consideration of certain categories of cases.

At the EU level, there is no common standard for establishing requirements for the specialisation of courts in the member states. Moreover, in some EU countries, there is no specialisation of courts at all. Taking into account Ukraine's European integration aspirations, it is important to bring the standards of Ukraine's judicial system into line with the principles of exercising judicial power established at the EU level.³⁶

However, in the judicial systems of the EU member states, there are certain trends in the specialisation of courts, which include: the expansion of judicial specialisation, which provides professional consideration of certain categories of cases in a complex legal relationship; expansion of the competence of the courts of first instance to consider minor categories of cases that constitute a separate part of the judicial system with the use of simplified and shortened court procedures; narrowing the competence of military courts with the transfer of all cases with the participation of servicemen to general courts and with the gradual liquidation of military courts; the establishment by the state of judicial and extrajudicial control over military proceedings in states, where it still exists; for higher courts (courts of appeal, courts of cassation) it is more typical to see internal judicial specialisation, which is implemented through the formation of appropriate specialised judicial panels; specialised courts of first instance join the system of courts of general jurisdiction at the highest level of the judicial system by reviewing decisions of a specialised lower court in a court of first instance, an appellate court or a court of cassation of general jurisdiction.³⁷

It should be noted that the work of specialised courts may be associated with the need to apply other social regulators in addition to the law and the use of non-legal knowledge in the field of psychology, pedagogy, information technology, economics, accounting, and so on. Therefore, as judges of specialised courts, citizens who have not only legal education and work experience in the legal profession but also special knowledge, create optimal conditions for the consideration of cases for participants in the trial, in particular minors, as well as persons with a special status, such as military personnel, employees, employers, etc., taking into account the peculiarities of legal relations in specific areas, which can be expressed in the creation of special procedures for considering cases correspond to the specifics of certain social relations, reduction of miscarriages of justice, and uniform enforcement among specialised courts.

35 More about national specialized courts see here < https://e-justice.europa.eu/content_specialised_courts-19-dk-en.do?member=1 > accessed 9 February 2022.

36 OV Shcherblyuk, 'Procedures of formation and liquidation of court in Ukraine: problems and prospects' (2020) 3(2) Scientific Bulletin of Public and Private Law 193.

37 G Butler, 'An interim post-mortem specialized courts in the EU judicial architecture after the civil service tribunal' (2020) 17(3) IOLR 589.

5 CONCLUSIONS

The presence of certain specialised courts, their systems, and their competence in each state are determined by historical, political, and social characteristics, financial capabilities, the degree of prevalence of cases of a particular category, and many other factors. As the judicial system evolves, the category of cases under consideration becomes more complex. This inevitably leads to the formation of specialisation, which mainly depends on the category of the case. Participation in legal relations regulated with the participation of the court, in which one of the parties is the institutions of power, both state bodies and local authorities, sets the trend for the formation of specialisation of judges and even the creation of specialised types of courts that have jurisdiction over cases of a certain category. Thus, specialisation is both the basis for building the judicial system of the state and an important means of its dynamic, progressive development.

The importance of specialisation in the administration of justice is significant. First, it is conditioned by the need to apply in-depth specialist knowledge in a specific area of justice. Second, specialisation is driven by the need to improve the efficiency of justice. This means that judicial specialisation will reduce the judicial burden and help to increase the competence and professionalism of judges. The division of courts into courts of general and special jurisdiction is based on a common criterion: the type of justice. But this does not exclude a more detailed differentiation in relation to the category of cases on the scale of the same type of justice. In the practice of modern states, there is both the fragmentation of the judicial system into many different types of courts and the existence of general courts with the presence of specialisation of judges to resolve a certain category of cases.

The deep penetration of the principle of specialisation into the judicial system of Ukraine has led to the formation of such a significant number of specialised courts. Currently, courts of general jurisdiction of Ukraine specialise in civil, criminal, commercial, and administrative cases, as well as cases of administrative offences. In the judicial system, there are also higher specialised courts as courts of first and appellate instance to hear certain categories of cases. The higher specialised courts are the High Court on Intellectual Property and the High Anti-Corruption Court. Higher specialised courts hear cases that fall within their jurisdiction.

Ukraine should take an experience from Germany, the United Kingdom, and Switzerland in the sphere of functioning of the High Court on Intellectual Property. Their judges must have two educations – technical and legal. The disadvantages of creating a High Anti-Corruption Court are: 1) the small number of cases, which makes it impractical to create a separate court; 2) to some extent, the inconsistency of Art. 125 of the Constitution of Ukraine, which stipulates that the judicial system in Ukraine is built on the principles of territoriality and specialisation, and the creation of emergency and special courts is not allowed; 3) the absence of a separate procedural law for anti-corruption proceedings indicates that such a Court does not specialise in understanding the concept of external specialisation; 4) the need for high budgetary and time costs for the establishment of a new judicial body and its maintenance compared to the establishment of separate chambers in existing courts. As for the experience of European countries in creating such courts, they operate in only three countries: Bulgaria, Slovakia, and Croatia.

To conclude, it should be noted that the experience of creating specialised courts globally is huge at the moment. Correctly adapting and applying it to Ukrainian realities is the task of the state. The development of the judicial system in many of its aspects will definitely improve the administration of justice in Ukraine.

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