

Research Article

JUDICIAL TRANSPARENCY: TOWARDS SUSTAINABLE DEVELOPMENT IN POST-SOVIET CIVIL SOCIETY¹

Oksana Khotynska-Nor²

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Summary: 1. Introduction. – 2. Society and Judiciary in Post-Soviet Countries: Functioning Features. – 3. Judicial Transparency as Response to Social Demand. – 4. Impact of Judicial Transparency on Civil Society Formation. – 5. Specificity of Judicial Transparency in Post-Soviet Countries. – 6. Conclusion

ABSTRACT

Background: *The processes of transition to democracy that post-Soviet countries underwent in the early 1990s predetermined different directions for their further development. The author presents and proves the hypothesis that in the context of post-Soviet civil society, judicial transparency arose as a response to a social demand at a certain historical moment of crisis of public authority. The idea of transparency in post-Soviet countries appeared only at a certain level of development of political institutions and public law, pointing out the democratic*

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2 Professor, Dr. Sc (Law), Head of the Department, Law School, Taras Shevchenko National University of Kyiv, Ukraine o.khotynskanor@knu.ua <https://orcid.org/0000-0002-4480-6677> Corresponding author, solely responsible for the manuscript preparing. **Competing interests:** Although the author serves at the same institution as the Editor-in-Chief of AJEE, which may cause a potential conflict or the perception of bias, the final decisions for the publication of this article, including the choice of peer reviewers, were handled by the editor and the editorial board members, who are not affiliated with the same institution. Disclaimer: The author declares that her opinion and views expressed in this manuscript are free of any impact of any organizations, including Supreme Court, when she is serving as a Member of the Consultative Board.

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transition of power. At the same time, its emergence established information asymmetry and the poor quality of state institutions of power.

Methods: *The need to ensure the transparency of judicial activity, in addition to the natural process of the democratic transition of power, is also driven in post-Soviet countries by two important factors. The first is that in the modern world, the judiciary is increasingly becoming involved in the process of law-making, which requires the transformation of existing ideas about the system of checks and balances. The second is related to a global tendency in the fight against corruption, which has been a key problem for the countries of this region for many years. Although it has become the de facto rule for developed democracies, transparency affects the development of the legal culture of populations in transitional democracies differently. It performs various functions, including educational, preventive, stimulating, communicative, protective, and others.*

Results and Conclusions: *The article pays special attention to the unique forms of communication between courts and the public that have arisen in post-Soviet countries with an unstable political situation. In studying them, the author highlights the transformation of transparency from a factor of the development of civil society into one of its results.*

Keywords: *civil society, legal culture, transparency, judiciary, post-Soviet countries, sustainable development, sustainable justice*

1 INTRODUCTION

In recent years, the reinterpretation of the role of a person in relations with the state has become the impetus for the emergence of a number of different concepts of civil society,³ determining the leading position of this notion in sociology and political science. Numbering more than a dozen, these concepts nonetheless provide a flexible structure, with the help of which it is possible to study the 'geometry of human relations'⁴ developing into relations with the state.

However, the formation of civil society, especially in the context of post-totalitarian countries, is impossible without an independent and effective judiciary acting as a legal instrument for the protection of human rights. Civil society and the judiciary are strongly interrelated as causal, mandatory components of the rule of law. This interrelation is especially inherent in post-Soviet countries, where all institutions of power, including the judiciary, have only relatively recently begun to develop in the direction of transparency, becoming accessible and comprehensible to people. It is important to understand that in post-Soviet countries, both the development of the judiciary as a precondition for a democratic state and the development of the processes of civil self-organisation of the society have the same source – changes in the social behaviour of people, which involve overcoming the stereotypes of mass legal consciousness (including the professional one) that interfere or distort people's social activity.⁵ However, the strength of the traditions of the 'Soviet' court and the slowly-changing consciousness of the 'Soviet' people exert their influence, predetermining the features of the development of both civil society and the judiciary in this region.

3 H Veltmeyer, 'Civil Society and Local Development' (2008) 9(2) *Interações* (Campo Grande).

4 M Edwards, 'Introduction: Civil Society and the Geometry of Human Relations', in *The Oxford Handbook of Civil Society* <<https://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780195398571.001.0001/oxfordhb-9780195398571-e-1>> accessed 4 February 2021.

5 IL Petrukhina (ed), *Judiciary* (LLC 'TK Velbi' 2003).

It should be noted that studies on transparency in stable democracies and in post-Soviet space differ. Thus, in Western scientific works, one rarely finds a clear definition of judicial transparency (justice). As a rule, it means the ability to observe the trial and monitor court decisions.⁶ Transparency is seen as a necessary condition for independence, accountability, legitimacy of the judiciary, and development of democracy.⁷ At the same time, modern studies of this concept are already drawing attention to the issues of using artificial intelligence in the judicial process.⁸

For the studies on transparency in post-Soviet countries, as a cultural heritage of Soviet science, the desire for clarity of definitions traditionally remains strong. Therefore, it is associated with the principle of publicity (openness) of judicial proceedings, a concept historically formed in the Soviet space. It is specified as an obligatory condition (principle) of the judicial process in most of the Constitutions of post-Soviet countries.⁹ In addition, the development of views on the role of the judiciary in society has led to the use of such words as publicity, accessibility, and transparency.¹⁰ This was significantly influenced by international regulations, including the Universal Declaration of Human Rights (Art. 10),¹¹ the International Covenant on Civil and Political Rights (Art. 14),¹² and the Convention for the Protection of Human Rights and Fundamental Freedoms (Art. 6),¹³ as well as others where, in various interpretations, the right to a public hearing by an independent and impartial tribunal must be guaranteed.

The first direct mention of the term 'transparency' appeared in post-Soviet space only at the start of the 2000s in the context of the development of various configurations of communication between public authorities and civil society. The term, which was alien to the languages of post-Soviet countries, began to be widely used in political discourse and as a subject of scientific research. This was facilitated by globalisation, the emergence of access to foreign sources of information, the development of information technology, and the intensification of international cooperation. The involvement of various international organisations (for example, USAID and ABBA), which acted as donors of judicial reforms in post-Soviet countries, made it possible to focus on the world experience in constructing communication between government and society.

- 6 TS Ellis III, 'Sealing, Judicial Transparency and Judicial Independence' (2008) 53 *Vill. L. Rev.* 939; B Ahl, D Sprick, 'Towards judicial transparency in China: The new public access database for court decisions' (2018) 32(1) *China Information* 3-22; W Voermans, 'Judicial transparency furthering public accountability for new judiciaries' (2007) 3(1) *Utrecht Law Review* 148-159; TR Harrison, 'Cameras in the United States Supreme Court: Judicial Transparency & the Obligation Thereof' (2019) <<http://hdl.handle.net/1969.1/175466>> accessed 4 February 2022.
- 7 M Lasser, *On Judicial Transparency, Control, and Accountability n Judicial Deliberations: A Comparative Analysis of Transparency and Legitimacy* (Oxford University Press 2009) <<https://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780199575169.001.0001/acprof-9780199575169-chapter-10>> accessed 4 February 2021; K Hoch, 'Judicial transparency: communication, democracy and the United States federal judiciary' (2009) <https://escholarship.org/uc/item/44g491tk#article_abstract> accessed 4 February 2022; S Grimmelikhuijsen, 'The effects of judicial transparency on public trust: Evidence from a field experiment' (2015) 93 *Public Administration* 10.1111/padm.12149.
- 8 V Chiao, 'Fairness, accountability and transparency: Notes on algorithmic decision-making in criminal justice' (2019) 15 *International Journal of Law in Context* 126-139.
- 9 For example, such rules are contained in the Constitutions of Azerbaijan, Belarus, Georgia, Lithuania, Moldova, Tajikistan, Turkmenistan, Uzbekistan, and Ukraine.
- 10 See more about openness of justice in I Izarova, 'Sustainable Civil Justice Through Open Enforcement – The Ukrainian Experience Studying' (2020) 9(5) *Academic Journal of Interdisciplinary Research* 206-216.
- 11 The Universal Declaration of Human Rights, 10 December 1948 <<https://www.un.org/en/universal-declaration-human-rights/>> accessed 4 February 2022.
- 12 International Covenant on Civil and Political Rights, 16 December 1966 <http://www.un.org.ua/images/International_Covenant_on_Civil_and_Political_Rights_CCPR_eng1.pdf> accessed 4 February 2022.
- 13 Convention for the Protection of Human Rights and Fundamental Freedoms, 4 November 1950 <https://www.echr.coe.int/Documents/Convention_ENG.pdf> accessed 4 February 2022.

In any case, we must state that in post-Soviet space, judicial transparency was perceived as a tool that provides society with information about the functioning of the judiciary in a variety of its manifestations. Today, it seems quite logical in the context of the development of an information society and the extraordinary value of information.

But the main reason for borrowing this concept was the emerging need of the population of post-Soviet countries for information about the judiciary, judicial activity, and methods of judicial protection of their rights. The worsening crisis of public trust in the government, as a whole, forced the government to take measures targeted at interaction with society and the stabilisation of relations. Power that is trusted is more effective because it takes less effort to prove the expediency of its existence to society. The simultaneous activation of the civic position of society members, who seeking of taking part in state administration, required the relevant information. That is why we consider judicial transparency to be a form of communication with society through a mutual exchange of information. In post-Soviet countries, it arose at a certain historical moment of crisis for public authority. In contributing to the development of civil society, it has become its product.

It is the purpose of this study to prove the proposed thesis. To achieve this, we will first briefly outline the distinctive features of post-Soviet civil society and identify the factors that predetermined the emergence of the concept of judicial transparency in it. Next, we will demonstrate the impact of transparency on the development of post-Soviet civil society and give examples of non-standard solutions for the development of communication between the judiciary and post-Soviet civil society.

2 SOCIETY AND JUDICIARY IN POST-SOVIET COUNTRIES: FUNCTIONING FEATURES

As a society that began its formation in the Soviet Union, the society of post-Soviet countries in the early 1990s was distinguished by a high level of indifference to its legal area of life. This happened for several reasons:

- The totalitarian regime and the underlying ideology, which dominated in the USSR for a long time, formed the stereotype of a 'super-powerful state', in which there was no place for the manifestation of an individual.
- The destructurisation of society, its atomisation, was accompanied by the emergence of the mechanisms that ensured the functioning of the economic system, deprived of natural incentives, as well as the exercise of governmental power outside and in addition to legally established powers and procedures. Shadow economics and shadow politics have become such mechanisms. Since the latter determined everyday life to a greater extent than written laws, there was basically no ground for cultivating respect for the law as a civilised form of the idea of justice and an instrument of protection against arbitrariness.

The socio-political changes that took place in the countries of the former USSR with the attainment of independence led to the transformation of the judicial system into an independent judiciary and the extension of the jurisdiction of courts to all legal relations. Simultaneously with the development of a private form of ownership and the restriction of legislative and executive powers at the level of constitutions, these factors significantly influenced the change in the public consciousness. The proof of this was the rapid pace of the development of human rights and other public organisations and a sharp increase in the prestige of legal education, and the need for lawyers. Along with economic reforms in post-Soviet countries in the early 1990s, large-scale judicial reforms began, the purpose of

which was to ensure the independence of the judiciary. The need for its guarantees turned out to be an overly complex task of the transition to democracy.¹⁴

Yet, the stereotypes of Soviet thinking remained very stable for a long time. A sociological survey conducted in Ukraine in 2000 showed that most of the citizens of this country did not even make attempts to protect their civil rights and human dignity. When asked what they did if their rights were violated, almost 47% of the respondents said they did nothing, while 17% answered that in this case they 'used their ties', and only 15% of the respondents applied to the court for the protection of their rights.¹⁵ Thus, the judicial protection of rights was replaced in society by informal ties with officials who made the necessary decisions, including illegal ones, laying the foundation for the rapid development of corruption for many years to come.

The unpopularity of the judiciary was associated with a high level of distrust in its effectiveness and in the fairness of the decisions made, which, in principle, is a characteristic feature of transit societies in general and transit justice in particular.¹⁶ However, a no less compelling reason for this is the 'closed nature' of the judiciary for society, which was traditional for the Soviet period. The information vacuum that formed around judicial activity during the long period of the Soviet regime created a strong belief in the inaccessibility of justice, aggravating the corporate nature of the judicial system and its remoteness from people.

This naturally put on the agenda the introduction and development of technologies that may reduce this distance and improve communication between courts and society.

3 JUDICIAL TRANSPARENCY AS RESPONSE TO SOCIAL DEMAND

The idea of transparency in post-Soviet countries emerged only at a certain level of the development of political institutions and public law, pointing to the democratic transition of power. At the same time, its emergence fixed a certain lack of institutional quality, information asymmetry, and poor quality of state institutions of power.¹⁷ This exacerbated the risks of destabilising social development and predetermined the need for open and accessible information about the activity of government bodies. In such a situation, transparency emerged as a slogan, formulating the social request as briefly as possible.¹⁸

This has become particularly evident in relation to the judiciary, since historically in this region, it was not customary to comment on court decisions, and public speeches of judges were recognised as inappropriate. Access to judicial information for citizens was very restricted, and the media did not have the necessary skills to cover judicial issues. At the same time, unlike in developed democracies, where transparency was seen as a

14 A Mihr, 'Transitional Justice and the Quality of Democracy', (2013) 7(2) *International Journal of Conflict and Violence* 298-313.

15 'Development of civil society in independent Ukraine' <http://political-studies.com/?page_id=186> accessed 4 February 2022.

16 O Khotynska-Nor, L Moskvych, A Mamychyev, Y Vasilyev, S Kuzina, 'Role of Confidence and Supply Chain Strategy during Legitimization of Justice in Countries of Transitional Period' (2019) 8(6) *International Journal of Supply Chain Management* 533-543.

17 G Akerlof, 'The Market for Lemons: Quality Uncertainty and the Market Mechanism' (1970) 84 *Quarterly Journal of Economics* 485-500; M Spence, *Market Signaling* (Harvard University Press 1974); S Grossman, J Stiglitz, 'On the Impossibility of Informationally Efficient Markets' (1980) 70 *American Economic Review* 393-408.

18 O Afanasyeva, "'Open State" in the conceptual system of social science' (2014) 1 *Issues of state and municipal management* 171-187.

necessary condition for the independence of the court,¹⁹ in post-Soviet countries, it was teetering on the brink of a threat to this independence due to a lack of the guarantees of judges' immunity envisaged by the legislation. Nevertheless, in post-Soviet society, owing to a change in political rhetoric, the famous phrase 'Justice must not only be done, it must be seen to be done'²⁰ began to be cultivated.

The need to ensure the transparency of judicial activity in post-Soviet countries, in addition to the natural process of democratic transition of power, is also dictated by two meaningful factors. The first is that in the modern world, the judiciary is increasingly being involved in the process of law-making, which requires the transformation of existing ideas about the system of checks and balances. Thus, a 'soft accountability' model is being formed, which allows the court to take into account the various interests and needs of a changing social environment, as well as to be sensitive to the values and demands of society.²¹ The second is associated with a global tendency in the fight against corruption. Corruption in the judiciary of post-Soviet countries has perhaps been the most important problem for many years. It covers different levels of courts and pursues different goals: ranging from the banal desire to speed up or, alternately, drag out the trial to the delivery of an illegal decision.

Many works²² are devoted to the problems of corruption in the judiciary. In recent studies of this systemic phenomenon, the following types of corruption have been distinguished: (1) bribery; (2) unreasonable political influence on the outcome or political interference in the litigation; (3) extortion; (4) misuse of public funds and resources.²³

Judicial transparency, based on the right of the public to information about the judicial activity, their results, judicial officials, their income levels, etc., is one of the generally recognised methods of combating corruption in the courts. Art. 10 of the UN Convention against corruption emphasises the duty of the states to take such measures 'as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate'²⁴ At the same time, in para. 13 of Opinion No. 21 (2018) of the Consultative Council of European Judges to the attention of the Committee of Ministers of the Council of Europe 'Preventing corruption among judges' clearly states that

A lack of transparency caused by preventing access to information relating to the judicial system facilitates corrupt behaviour, and is therefore often an important trigger for corruption. There is clear evidence that a judicial system with a (traditionally) high degree of transparency and integrity presents the best safeguard against corruption.²⁵

19 T Ellis III (n 6).

20 *R v Sussex Justices, Ex parte McCarthy* ([1924] 1 KB 256, [1923] All ER 233) <https://issuu.com/jjs-ror/docs/1924_rvsussexjustices> accessed 4 February 2022.

21 W Voermans (n 6).

22 E Buscaglia, 'Judicial Corruption in Developing Countries: Its Causes and Economic Consequences' (1999) UC Berkeley: Berkeley Program in Law and Economics <<https://escholarship.org/uc/item/48r8474j>> accessed 4 February 2022; S Gloppen, 'Courts, Corruption and Judicial Independence', in T Soreide, A Williams (eds), *Corruption, Grabbing and Development: Real World Challenges* (Edward Elgar Publishing 2014); G Brooks, 'Judicial Corruption: Magistrates, Judges and Prosecutors', in *Criminal Justice and Corruption* (Palgrave Macmillan 2019).

23 International Bar Association, 'The Basel Institute on Governance. Judicial Integrity Initiative: Judicial Systems and Corruption' (2016) <https://www.baselgovernance.org/sites/default/files/2019-01/the_judicial_integrity_initiative_may_2016_full.pdf> accessed 4 February 2022.

24 United Nations Convention against Corruption (2004) <https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf> accessed 4 February 2022.

25 Opinion No 21 (2018) of the Consultative Council of European Judges to the attention of the Committee of Ministers of the Council of Europe 'Preventing corruption among judges' <<https://www.coe.int/en/web/ccje/ccje-opinions-and-magna-carta>> accessed 4 February 2022.

Thus, the development of judicial transparency in post-Soviet countries was not only a response to a social demand that arose at a certain stage of their historical development but also an example of one of the most consistent global trends in the fight against corruption in the judiciary.

4 IMPACT OF JUDICIAL TRANSPARENCY ON CIVIL SOCIETY FORMATION

The recognition of transparency as one of the main conditions for judicial activity in the current conditions of the formation of civil society predetermines its broad understanding as a tool that provides society with information about the functioning of the judiciary and its various institutions and establishments. As a kind of toolkit, judicial transparency, in this case, has an informative function. This is especially critical for the study of the influence on the formation of civic consciousness in post-Soviet countries. However, this is not the only function of transparency that is important. There are other functions, which, in our opinion, should be specified:

- Educational (owing to information about the judicial activity, citizens become aware of their rights and obligations, as well as methods and mechanisms for rights protection).
- Preventive (provides for identification of the facts of human rights violations in the judicial system, contributes to the elimination and prevention of crisis phenomena in it, such as corruption, pressure on judges, low qualification of personnel).
- Stimulating (encourages changes in the public consciousness, development of civil activity, and the legal culture of society).
- Communicative (provides an open dialogue between the judiciary and society).
- Protective (protects the judiciary from unreasonable criticism and political pressure – the more society is aware of the work and effectiveness of the judiciary, the less the political authorities have the opportunity to implement groundless reforms of the judiciary for their own benefit).
- Creation and provision of opportunities for society to influence the development of the judiciary and its reforming process.
- Ensuring civil control over the activity of the judiciary and its accountability to society.

Thus, the basis of judicial transparency should be the information component. Therefore, transparency characterises the influence of information on the mechanisms of social organisation and state of awareness (full, sufficient, and reliable knowledge) about various aspects of judicial activity, on the one hand, and the right of citizens to access information, on the other.

Considering judicial transparency as a factor in the formation of civic consciousness in post-Soviet countries, mass information, in our opinion, is the most significant and meaningful in terms of influencing people in this region, specifically the information:

- About the organisation of the judicial system in the country. These are the principles of the organisation of the court system, the territorial and subject jurisdiction of courts, the differentiation of judicial specialisation profiles, and the hierarchy of judicial institutions and their powers.
- About judicial procedures. This group includes information about the procedure for applying to a court, the procedure for filing appeals against court decisions,

court composition and procedure for its formation, litigation practice in cases that are the most common in a certain period of development of society, and court decisions.

- About judges. This type of information includes information about access to the judicial profession, information about candidates for judicial positions and careers of judges, about the rights and obligations of a judge, and information on holding them accountable. This should also include the availability of information about the level of income and property of judges and members of their families.
- About high-profile lawsuits, their progress, and outcomes.
- About judicial reform. Such information should convey details about the goals of reforming the judiciary, the necessary planned measures and timeframes, and the expected outcomes.

Transparency may be viewed as a principle of interaction between the judiciary and civil society, consisting of the following components:

- The mode of operation of the judiciary, providing: the opportunity for any interested person to obtain information about judicial activity by any means provided for by the law; the opportunity to observe the development of the judicial system, creating conditions for civil society actors to effectively monitor and influence this process.
- The provision of the information by authorities, including directly by the representatives of the judiciary, on their own initiative or at the request of the society members about various aspects of judicial activity. This process may be both targeted and addressed to a mass audience.
- The ability of society to evaluate and use information about judicial activity at its own discretion, which involves analysis and critical assessment of the information about the functioning of the judiciary. As a result of these processes, the initial information is being transformed into the derivative one; that is, public opinion is being formed.

Thus, judicial transparency ensures the formation of ideas and views on judicial activity in post-Soviet society, which contributes to fostering its legal culture. Accordingly, the development of judicial transparency affects the evolution of the civil consciousness of the society as a condition for civil society formation.

5 SPECIFICITY OF JUDICIAL TRANSPARENCY IN POST-SOVIET COUNTRIES

The influence of judicial transparency on the formation of civil society in post-Soviet countries led to the emergence of various institutions both in the environment of judicial activity and in society itself. In developing national legislation and implementing international regulations, the authorities began to gradually take measures targeted at openness, information accessibility, and the comprehensibility of activity of courts for the citizens. The introduction of press secretaries in courts, the creation of open registries of court cases and bases of court decisions, the functioning of official websites of courts or web portals of the judiciary, the gradual IT penetration into the judicial process, the interaction of judges with the media, and many other things have become typical for all post-Soviet countries without exception.

On the part of society, public organisations monitoring the most important areas of judicial activity have emerged: the transparency of the judiciary formation, the fairness

of trials, and holding judges accountable. In some countries, such as Ukraine, their role has become so significant that it has contributed to the emergence of hybrid forms of cooperation between the judiciary and society at the state level. In 2016, a law was passed in Ukraine²⁶ that served as the basis for the creation of the Public Integrity Council at the body responsible for the selection of candidates for judges (the High Qualifications Commission of Judges of Ukraine). Its active participation in the evaluation of judges and judicial candidates has become a unique experience of direct public influence on the procedures for the formation of personnel in the judiciary.²⁷ However, this is not the only form that has become a hallmark of judicial transparency as a factor in the formation of civil society in post-Soviet countries. Before turning to the description of these other forms, we shall make a short digression and return to the historical insight.

The subsequent processes of the transition to democracy experienced by post-Soviet countries in the early 1990s predetermined a different direction for their further development. Part of the region (Central Asia, Azerbaijan, Belarus, and to a large extent, Russia) pursued the process of political regime concentration and a silent alliance between courts and authorities. The Baltic States initially expressed their desire to become members of the European Union and tried to get rid of the Soviet legacy as quickly as possible by resorting to lustration procedures. Some countries (Armenia, Georgia, Moldova, Ukraine, and Kyrgyzstan) have taken the path of long-term political instability,²⁸ reforms, and revolutions, which in one way or another were reflected in the formation of civil society and the evolution of the judiciary.

The countries that have experienced outbreaks of civic activity (revolutions) are distinguished by non-standard approaches to the development of judicial transparency. It suggests that judicial transparency, forms of its manifestation, and methods of development depend on political stability and political regime in the country. Obviously, this is because societies that have called the legitimacy of power into question, in general, try to overcome crises, including the crisis of communication, through innovative methods. These include, in addition to the example mentioned above, the institution of a judge-speaker (Ukraine, Georgia), borrowed from the practice of Western European countries, in particular Germany, Holland, and Sweden. This is a judge specially trained in communication skills and able to professionally comment on the judgements of his/her colleagues, translating it from legal language into public language. The peculiarity of this institution is that the initiator of its implementation was the judicial community itself.²⁹ The national legislation contains neither direct nor indirect indications about the mandatory existence of such a figure. Thus, not only the authorities or members of the public but also judges shall initiate new forms of communication with society. They are driven by the desire to avoid unfounded accusations against them, which is possible if they provide timely and relevant information about themselves and their activities. The lack (insufficiency) of this information gives rise to myths (speculation), impeding

26 Law of Ukraine 'On Judiciary and Status of Judges' of 2 June 2016 <<https://zakon.rada.gov.ua/laws/show/1402-19/ed20160602>> accessed 4 February 2022.

27 See more about this Law in I Izarova, 'Independent judiciary: experience of current reforms in Ukraine as regards appointment of judges', in K Gajda-Roszczyńska, D Szumilo-Kulczycka (eds) *Judicial Management Versus Independence of Judiciary* (Walters Kluwer 2018) 242-263.

28 A Mazmanyan, 'Judicialization of politics: The post-Soviet way' (2015) 13 *International Journal of Constitutional Law* 200-218 <<https://doi.org/10.1093/icon/mov003>> accessed 4 February 2022.

29 Judgment of the Council of Judges of Ukraine No 14 as of 12 March 2015 on Recommendations of the International Conference 'Strengthening Trust in the Judiciary by Improving Mutual Communication' <<http://rsu.court.gov.ua/rsu/rishennya/qqqdwd/>> accessed 4 February 2022; Basic Principles of Activities of Speaker-Judges / Supreme Court of Georgia <<http://www.supremecourt.ge/eng/public-relation-department/speaker-judges/regulations/>> accessed 4 February 2022.

free and independent thinking, which may lead to such consequences as dogmatism, ideologization, and the disorientation of society.

Among the variety of manifestations of judicial transparency existing in post-Soviet space, special attention is drawn to the initiatives distinguished by self-organisation and founded without any participation of the state. They are considered to be the classical elements of civil society.³⁰ The project called 'Open Court' (Ukraine) is quite unique, and not only for post-Soviet countries. Its emergence became possible in 2015 due to the legally guaranteed possibility of taking a photo, video, and audio recording in the courtroom without obtaining separate permission from the court. The specificity of this project is 'live' and public monitoring of trials, which involves video filming of court sessions in civil, criminal, and other cases. Video recordings of court sessions are posted on the project website, on the Open Court YouTube channel and are also distributed by social networks to the public. According to its creators, the project is targeted at creating in society a sense of total intolerance towards corruption, injustice, and disrespect in courts; support for the professionalism of judges, prosecutors, and lawyers and their encouragement to reject colleagues discrediting their profession; the introduction of a system for applying liability measures to judges, prosecutors and lawyers due to unprofessional performance (deethicalisation, procedural violations), including on the basis of a video dossier.³¹

We are convinced that the basis of the initiative described is the desire to change the professional consciousness of the subjects of judicial activity and civic awareness of the society towards the undoubted authority of the court and reference standards of justice. The tools that have been chosen for this are informational in nature, which means they are commensurate with the requirements and capabilities of a modern information society and are able to satisfy its needs, being decisive for their unmediated effectiveness.

Video recordings of court sessions are available to the public to admonish and deter judges, lawyers, and prosecutors from taking actions that might discredit their status, to encourage them to improve their professional level, and to properly prepare for participation in the case. At the same time, the demonstration of trials allows the observer to form his/her own unbiased opinion about its participants and protects them from unfounded criticism. In addition, it contributes to the formation of ideas about the standards of the profession of a judge, lawyer, and prosecutor, developing awareness and legal culture in the population.

The examples above of non-standard solutions in the development of communication between the judiciary and society in post-Soviet countries show the tendency of transparency to transform from a factor of the development of civil society into one of its results.

6 CONCLUSIONS

Different countries use different information strategies for the development of civil society (in particular, judicial transparency), the models of which depend on the political regime and political stability existing in the country. The Post-Soviet countries with an unstable political situation are distinguished by atypical forms of communication between courts and society, associated with the need to find non-standard solutions to overcome crisis situations. This takes both the courts and society beyond the limits

30 R Cooper, 'What is Civil Society? How is the term used and what is seen to be its role and value (internationally) in 2018?' (2018) K4D Helpdesk Report, Brighton, UK: Institute of Development Studies.

31 Project 'Open Court' <<http://open-court.org/about/>> accessed 4 February 2022.

of informational rights and obligations provided for by the law. Acting within the framework of the law, these two subjects produce new informal models of interaction, allowing the formation of the legal culture of the population as a necessary prerequisite for the formation of civil society.

We argue that in post-Soviet countries, the concept of judicial transparency arose as a response to a social demand at a certain historical moment of crisis in public authority. It also exemplifies one of the most consistent global tendencies in the fight against corruption in the judiciary. Given the peculiarities of the development of post-Soviet society and statehood, judicial transparency has acquired special forms and manifestations in this region and become its hallmark. It has become a determining factor in the formation of this type of public consciousness, predetermining the development of civil society. At the same time, civic activism has predetermined the tendency of judicial transparency to transform from a factor of the development of civil society into one of its results.

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