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## The effectiveness of justice as a component of the constitutional right to judicial protection of local self-government

### Ефективність правосуддя як складова конституційного права на судовий захист місцевого самоврядування

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Written by:

**Ruslan Panchyshyn<sup>1</sup>** <https://orcid.org/0000-0002-6840-9377>**Ihor Shumak<sup>2</sup>** <https://orcid.org/0000-0003-3799-7476>**Valentyna Yehorova<sup>3</sup>** <https://orcid.org/0000-0001-8485-430X>**Oleksiy Bogdanov<sup>4</sup>** <https://orcid.org/0009-0000-7350-1330>**Serhii Martyshchenko<sup>5</sup>** <https://orcid.org/0000-0002-8193-8329>

#### Abstract

The Ukrainian state, like any state that seeks to assert itself in the international arena and ensure the proper standard of living of the population, has throughout its existence paid and currently pays a lot of attention to the administration of justice. The very state of the administration of justice is an indicator of the state's interest in observing the rights and freedoms of a person, which in turn is the basis for recognizing such a state as a legal state, i.e. one where the laws that establish the basic rights of a person and the responsibility for their non-compliance both for another person and for the state as a whole. The existence of a legal state is impossible without the effective functioning of all institutions of civil society in it, in particular, local self-government, therefore, a special place among the issues of the administration of justice is occupied by the issue of justice within the limits of the protection of the rights of local self-government, in connection with which the topic of the mentioned study is extremely relevant. The goal of this study is to determine the state of the effectiveness of justice in protecting the rights of

#### Анотація

Українська держава, як і будь-яка держава, що прагне ствердитись на міжнародній арені та забезпечити належний рівень життя населення, протягом всього свого існування приділяла і наразі приділяє чимало уваги здійсненню правосуддя. Саме стан здійснення правосуддя є показником зацікавленості держави в дотриманні прав та свобод особи, що в свою чергу лежить в основі визнання такої держави правовою, тобто такою, де панують закони, що закріплюють основні права особи та відповідальність за їх недотримання як для іншої особи, так і для держави в цілому. Існування правової держави неможливе без ефективного функціонування в ній всіх інститутів громадянського суспільства, зокрема, місцевого самоврядування, тому особливе місце серед питань здійснення правосуддя займають саме питання правосуддя в межах захисту прав місцевого самоврядування, у зв'язку з чим тема зазначено дослідження є вкрай актуальною. Метою даного дослідження є визначення стану ефективності правосуддя щодо захисту прав місцевого самоврядування в Україні.

<sup>1</sup> Associate Professor of the Department of State and Legal and Branch Legal Disciplines Kyiv University of Law of the National Academy of Sciences of Ukraine.

<sup>2</sup> Ph. D., Associate Professor of the Department of Intellectual Property and Private Law, Faculty of Sociology and Law, National Technical University of Ukraine "Ihor Sikorsky Kyiv Polytechnic Institute" (Ukraine).

<sup>3</sup> Ph. D., Associate Professor of the Department of Intellectual Property and Private Law, Faculty of Sociology and Law, National Technical University of Ukraine "Ihor Sikorsky Kyiv Polytechnic Institute" (Ukraine).

<sup>4</sup> Graduate student of the Kyiv University of Law of the National Academy of Sciences of Ukraine.

<sup>5</sup> Graduate student of the Kyiv University of Law of the National Academy of Sciences of Ukraine.

local self-government in Ukraine. The authors used dialectical, formal-legal, axiological, logical-legal, hermeneutic methods, as well as the method of content analysis, generalization, modeling, comparison, analogy. The results of the study showed that there are deficiencies in the administration of justice within the framework of the protection of the rights of local self-government. These shortcomings include the politicization of the judiciary, the lack of competence of judges, the complexity of the judicial process and the lack of transparency of the judicial process.

**Keywords:** rule of law, justice, judiciary, local self-government body, right to legal protection.

## Introduction

Under the rule of law, as a modern form of activity of state power, we should understand the administrative and legal form of organization and activity of public authorities and society, the value of which is a person, his life, health, honor, dignity, inviolability and other rights and freedoms that are ensured due to the interconnected activities of all branches of government based on the rule of law (Vovk, 2020).

As L. Samofalov et al., (2016) rightly noted, the essence of the rule of law is that legislative, executive, and judicial bodies are closely connected with the law. That is, under the condition of the functioning of each of the branches of government exclusively according to the legislation, which in turn proclaims the privilege of the rights and interests of the individual, it is possible to build a model state, which will be characterized by legal status.

According to Article 1 of the Constitution of Ukraine (Law 254к/96-ВР, 1996), Ukraine is a sovereign and independent, democratic, social, and legal state. By enshrining the specified article in the Basic Law, Ukraine confirmed its obligations to follow the vector of development of legal culture, legal awareness, proper state and local governance, as well as effective justice.

Simultaneously, issues of Ukrainian justice, in particular its effectiveness, are currently causing a lot of discussion and dissatisfaction both within the state itself and among its international partners. Thus, as of 2020, the Ukrainian state took third place among the states that signed the Convention for the Protection of Human Rights and Fundamental Freedoms and recognized the jurisdiction of the European Court of Human Rights (Council of Europe, 1950), in terms of the

Автори використали діалектичний, формально-юридичний, аксіологічний, логіко-юридичний, герменевтичний методи, а також метод змістового аналізу, узагальнення, моделювання, порівняння, аналогії.

Результати дослідження показали наявність недоліків у здійсненні правосуддя в рамках захисту прав місцевого самоврядування. Ці недоліки включають політизацію судової системи, недостатню компетентність суддів, складність судового процесу та відсутність прозорості судового процесу.

**Ключові слова:** правова держава, правосуддя, судочинство, орган місцевого самоврядування, право на судовий захист.

number of complaints filed to the specified international judicial institution, against Ukraine. At the same time, most of these complaints are based precisely on the expression of mistrust in the decisions of various instances made by national courts, i.e. they are direct evidence of shortcomings in the administration of Ukrainian justice (Zubov, 2020).

Thus, a significant part of public life in the state is covered by the content of local self-government activities, consequently, the spectrum of rights and interests arising in connection with such activities is quite wide, as a result of which judicial protection of such rights constitutes a significant part of the administration of justice in the state as a whole. At the same time, in the administration of justice within the limits of the constitutional right of judicial protection of local self-government, there are tangible features.

The specified features are due, in particular, to the fact that when justice is administered within the framework of the protection of the rights of local self-government, the rights of all members of the relevant territorial community are simultaneously protected, whose interests are represented in court by an authorized official or local self-government body in the relevant procedural role of the plaintiff or defendant.

Given the above, the object of this study is legal relations that arise during the administration of justice within the limits of the constitutional right to judicial protection of local self-government, tangible features are seen.

The tasks of this study are:

1. determination of the optimal approach for objective assessment of the state of the effectiveness of justice concerning the judicial protection of local self-government;
2. establishing the peculiarities of the administration of justice within the constitutional right of judicial protection of local self-government and their influence on its effectiveness.

### Theoretical Framework or Literature Review

The study of the indicated problems and the fulfillment of the tasks became possible thanks to the development of a significant theoretical and scientific base, among the creators of which the following should be singled out.

The understanding of the meaning of the rule of law and its relationship with the effectiveness of justice in matters of local self-government protection was facilitated by the works of scientist P. Vovk (2020), in which different domestic scientific approaches to the meaning of the concept of "rule of law" are compared, the analysis of which helped determine the final vision of the specified concept is within the scope of the research subject.

The joint work of L. Samofalov, O. Samofalov, and D. Shevchenko (2016) added to the understanding of the essence of existence and the need for the development of civil society since the mentioned work contains a description of the topical issues of its historical formation and modern features of its formation.

O. Zubov (2020) considered the issue of the development and efficiency of the judiciary in Ukraine by the requirements of international standards, which is especially important in the conditions of Ukraine's active course of European integration. The mentioned work was of considerable importance within the scope of this study, as it allowed us to compare the actual effectiveness of Ukrainian justice in comparison with its model desired by international law.

A remarkable role in the fulfillment of one of the tasks of this study was played by the opinion of L. Moskvych (2010), which was used as the basis for identifying the most optimal approach to determining the criteria for the effectiveness of justice, in contrast, in particular, to the opinion of M. Yasnyiuk (2020), which has a somewhat narrower vision of the specified criteria.

Yu. Kamardina and Yu. Koveino (2020), in their research, on the theoretical and legal foundations

of the protection of the rights of local self-government bodies justifiably focused attention on the special public-legal status of local self-government bodies, which should determine the peculiarities of their protection.

Instead, O. Baymuratov (1996) focused on the study of the interaction of local self-government bodies with other authorized subjects of law, within which he established the essence and significance of public interests underlying local self-government, therefore subject to discussion within the limits of the existence of its constitutional right to protection.

The works of O. Leonov (2019, 2020), which thoroughly consider the issues of approaches to understanding the protection of the rights of local self-government, characterize various criteria for their judicial protection, and also analyze international legal standards in the field of protection of local self-government, became a significant platform for achieving the set goals of the research, which in turn became the basis for modeling the further development vector of local self-government and the judiciary in the direction of increasing the level of efficiency of the latter.

Within the scope of the aforementioned, the work of O. Chernezhenko (2019) also contributed to this research, in which, in continuation of the study of international legal standards for the protection of local self-government, certain guarantees of local self-government, proclaimed by the European Charter of Local Self-Government (Council of Europe, 1985), which should be considered the basis for the formation of the European constitutional model, were considered local self-government, in particular for European integration.

The research of S. Panasyuk (2016) is aimed at studying the practical international experience of the judiciary on the protection of local self-government, which is embodied in the legal positions outlined in the decisions of the European Court of Human Rights, which provides a noteworthy opportunity to compare the national judicial practice with the international one to take into account the recommendations of the latter in activities of national Ukrainian judicial bodies.

The issues of practical protection of the rights of local self-government were raised in the writings of I. Ruschak (2013), considered these issues in terms of appeals against decisions, actions, or inaction of local self-government bodies in the administrative procedure.

Foreign scientists also left their mark in research. In particular, in the works of the Lithuanian scientist V. Kondratienė (2008), the theoretical and practical aspects of the legal regulation of local self-government systems and models in their relationship with the concepts established in European law are considered in detail.

Professor of the Polish University B. Dolnytski (2009), examining local self-government in Poland, investigated in detail the principal purpose of local self-government activities, the main of which he identified as meeting the needs of the community. This point of view was supported by P. Dzekanski and A. Olak (2014), as well as K. Pavlovska (2013). Thus, this approach is the most appropriate, as it reveals the major goal of building and developing local self-government.

Scientist and practitioner Karol Kiczka (2018) rightly noted the importance of the state guaranteeing the functioning of an impartial, independent, and effective judiciary in matters of organization and activities of local self-government.

Like Ukrainian scholars, the German scholar B. Schaffarzik (2002) paid a lot of attention to the European Charter of Local Self-Government, recognizing it as the primacy in matters of ensuring the protection of local self-government. Previous studies have shown that the effectiveness of justice in protecting the rights of local self-government is a complex and multifaceted issue that requires more detailed investigation. This motivated the authors of this article to conduct research.

### **Methodology**

An objective and thorough study of the chosen topic and, as a result, the fulfillment of the assigned tasks became possible thanks to the comprehensive use of a set of general scientific and special methods of scientific knowledge.

In particular, with the help of the dialectical method, a general vision and understanding of the peculiarities of the protection of the rights of local self-government was formed, which became possible thanks to the clarification of the properties and relationships that arise in the legal relations associated with such protection.

The formal legal method was used to determine the legal content of the main concepts within the scope of this study, the main of which is the concept of local self-government.

The specified method in combination with the method of content analysis, which consists of the possibility of comparing the provisions of various legal sources, helped to determine the essence of the specified concept through the comparison of its interpretations in various regulatory and legal acts.

Understanding the essence and meaning of local self-government and the importance of its protection was also served by the axiological method, which revealed the main value characteristics of the existence and proper functioning of local self-government in the state, through which many functions are performed in the interests of the entire society in the person of the relevant territorial community.

The method of system-structural analysis was used to determine the relationship between such concepts as local self-government, the right of local self-government, and the protection of local self-government.

Thanks to the method of generalization, it was possible to single out the relevant features and shortcomings of justice within the protection of local self-government, which, in turn, made it possible to follow the dynamics of the effectiveness of the judiciary.

Using the logical-legal method, several proposals were formulated to improve the efficiency of justice in matters of local self-government protection, in particular, it was proposed to regulate the criteria for evaluating the effectiveness of justice at the normative level and to raise the level of qualifications of judges considering cases involving local self-government, etc.

The modeling method was used to provide examples of real-life situations involving local self-government bodies, which can be seen from the judicial practice placed in the Unified State Register of Court Decisions. The specified method allowed us to assume the occurrence of possible negative consequences in the absence of a timely and proper response to the deficiencies in justice regarding the protection of the rights of local self-government.

The comparison method was widely used, in particular, to find out the optimal approach to determining the criteria for judicial efficiency. Consequently, thanks to the comparison of various concepts currently offered by the theory of law to the specified criteria, it became possible to choose the exact scientific understanding that

best meets the research goal and allows the most complete assessment of the effectiveness of the judiciary in protecting the rights of local self-government.

The method of analogy made it possible to take into account in this research on the protection of the rights of local self-government the use of the provisions contained in the legislative framework and judicial practice, in particular of the Constitutional Court of Ukraine, regarding the protection of the right to judicial protection of a person.

The hermeneutic method served as a basis for identifying and studying the meaning of specific procedural and legal conflicts in the protection of the rights of local self-government, which exist in the theoretical plane and are manifested in practice, as well as negatively affect the effectiveness of justice within the scope of the study.

## Results and Discussion

*Regarding the first task of the research*, it is significant to note that efficiency as a characteristic of justice is a relative and evaluative concept, which gives rise to the presence in theory and practice of different approaches to its understanding and definition and, as a result, different evaluation criteria.

In particular, the scientific research of L. Moskvych (2010) seems interesting within the scope of the mentioned issue, as a result of which the scientist concluded the expediency of distinguishing four main groups of efficiency criteria:

1. those that reflect the standards of the organization of the judicial system;
2. criteria that make it possible to assess the quality of the work of the judicial system and are related to the achievement of the positive goals of justice;
3. those that reflect the standards of professionalism of judges and court employees;
4. criteria for assessing the level of legitimacy of the court institution in society (p. 32).

Thus, in the opinion of the specified scientist, the first category of efficiency criteria should include the following criteria: accessibility of the judicial system, independence of the court, specialization of the judicial system, and unity of judicial practice. To the second group, she assigned the criteria of fairness, impartiality, and timeliness of

the trial. The third category of efficiency criteria is represented by the professionalism of judges and court staff, and the fourth by the legitimacy of the court and its authority as a court (Moskvych, 2010).

This vision of the approach to evaluating the effectiveness of the judicial activity, in contrast to many others, that are included in the theoretical base of the study of justice, is quite apt, since it does not give preference to quantitative indicators, as can be seen from the study of Yasyniuk M.M. (2020), who, although he mentions the presence of qualitative indicators of justice, in particular, noting that the effectiveness of the judicial system is not limited to statistical data, although they reproduce individual qualitative indicators, but focuses on the quantitative expressions of that or other phenomenon in the judicial sphere, which characterizes the effectiveness of justice in general.

As a rule, justice in the state as a whole is evaluated for effectiveness, however, the study of the administration of justice in certain spheres of social life is characterized by the presence of certain features that are not reflected in the general vision of the state of justice, but are important for its further improvement, since the gradual identification and elimination of shortcomings individual court proceedings will lead to an increase in the general level of justice efficiency within the entire state.

Therefore, the determination of the most optimal approach to establishing the criteria for evaluating the effectiveness of justice is mandatory *for the fulfillment of the second task of the research*, within which it is worth noting the following.

As already mentioned above, a significant part of public life in the state is covered by the content of local self-government activities.

In European law, local self-government is the right and ability of local self-government bodies to manage and manage the main part of state affairs under the competence established by law, taking full responsibility for this and being guided by the interests of local self-government (Kondratiené, 2008).

All tasks of local self-government have the character of social tasks in the sense that they serve to meet the collective needs of the entire society (Dolnytski, 2009).

International legal norms position local self-government as an influential and permanent element of the organizational structure of a modern state, whose place in the system of government bodies is primarily determined by the national legislator (Kiczka, 2018).

Part 1 of Article 140 of the Constitution of Ukraine declares that local self-government is the right of a territorial community – residents of a village or a voluntary association of residents of several villages, towns, and cities into a rural community - to independently resolve issues of local importance within the limits of the Constitution and laws of Ukraine (Law 254к/96-BP, 1996).

In turn, under part 3 of Article 140 of the specified normative legal act of the highest force, local self-government is carried out by the territorial community per the procedure established by law, both directly and through local self-government bodies: village, settlement, city councils and their executive bodies (Law 254к/96-BP, 1996).

Thus, local self-government can be considered in two main aspects: as the right of a person to participate in solving issues of local importance (conditionally – the right to local self-government) and as the right of persons or bodies authorized by the relevant territorial community to perform the functions of local self-government.

Article 145 of the Basic Law stipulates that the rights of local self-government are protected in court (Law 254к/96-BP, 1996). Hence, taking into account the above conditional division of the right of local self-government according to the interpretation of its content, the judicial protection of the specified right can also be considered from two sides: the judicial protection of the right of a person to participate in local self-government and the judicial protection of the exercise of local self-government itself.

The current legislation of Ukraine provides for several forms of individual participation in local self-government, among which direct and indirect methods are distinguished. Direct participation in the organization and activities of local self-government bodies by being elected to an elected local voting body (active method) or voting in local elections as a voter (passive participation) is a direct way of exercising a person's right to local self-government.

This form of relationship with local self-government in the political sense involves the honorable participation of individuals in the performance of specific management tasks, the so-called personal self-government (Dzekanski, & Olak, 2014).

In contrast to direct methods aimed at participation in local self-government within a wide range of issues of local importance, indirect methods are represented by various forms of participation in solving those issues that arise in each specific situation and can be expressed in the organization or participation in public initiatives, thematic forums and meetings, general meetings, rallies, surveys, preparation and submission of appeals, proposals, petitions, etc.

Each of the specified rights-opportunities is subject to judicial protection of the constitutional right of local self-government, which takes place according to the rules of administrative proceedings, since in any case, it is of a public-law nature, while the most regulated is the judicial proceedings regarding direct ways of implementing the right of local self-government, which includes, in particular, the election process.

The peculiarity of the administration of justice within the protection of the specified component of the right of local self-government is that at the same time the protection of electoral rights guaranteed by separate provisions, in particular, of the Constitution of Ukraine, which in turn can be regarded as a positive indicator for the effectiveness of justice, as it testifies to the economic efficiency of the judicial process.

The effectiveness of justice within the limits of the specified disputes is also positively affected by the presence of legally defined features of the consideration of the specified category of cases regarding the jurisdiction of the court competent to resolve the specified dispute, the terms of submitting a statement to the court about the violation of the right to vote (in the case of contesting local elections, also the right to local self-government), terms of their consideration by the court, as well as other procedural issues regarding the announcement and delivery of the court decision, notification of the parties, etc. (Law 2747-IV, 2005).

The consideration of disputes related to the second component of the law of local self-government – the direct implementation by officials and local self-government bodies of the

functions provided by law to resolve issues of local importance – has a more extensive impact on the effectiveness of justice as a whole.

Nonetheless, there is no definition of the concept of "protection of the rights of local self-government bodies" in the national municipal legislation, so it is appropriate to consider the specified legal category in the context of the concept of "protection of the rights of local self-government" (Kamardina, & Koveyno, 2020).

An analysis of the current legislation of Ukraine, in particular the provisions of the Law of Ukraine "On Local Self-Government in Ukraine" (Law 280/97-BP, 1997), makes it possible to conclude a significant range of own and delegated powers possessed by local self-government in Ukraine. Therefore, the rights of local self-government are manifested in each of the spheres of public life when authorized bodies or persons exercise the relevant powers and are accompanied by certain sectoral rights of local self-government depending on the sphere of performance of its functions, while cases of violation of the specified rights, the restoration of which requires judicial intervention, are not included.

Judicial protection of the rights of local self-government involves taking into account particular specific interests that are systematically and permanently produced in the field of local self-government at the level of the relevant territorial community by its residents-members. As M. Baymuratov (1996) rightly noted, these interests appear in the form of three interconnected groups of public interests: the interests of the territory on which the territorial community functions, the interests of the territorial community itself, and the interests of a specific resident-member of the territorial community.

Thus, the Constitution of Ukraine provides for direct judicial protection of the rights of the territorial community (the rights of local self-government) and not only judicial protection of local self-government bodies (Leonov, 2019).

It is significant that the importance of protecting the rights of local self-government is emphasized not only at the level of the Basic Law of the state, but is also reflected in international legal regulation, in particular in Article 11 of the European Charter of Local Self-Government, 1985, which aims to protect local self-government as an institution (Schaffarzik, 2002).

It should be noted that Ukraine, being a member of the Council of Europe and a signatory of the Charter, which, by the way, it ratified (Law 452/97-BP, 1997), undertook to implement it in full and without reservations (Panasyuk, 2016, p 67).

Thus, local self-government is an essential basis of any democratic government and makes an extraordinary contribution to the development of democracy, effective administration, and decentralization of power, consequently, the state must protect it as an institution, and therefore it must be special constitutional protection (Chernezhenko, 2019).

It is worth noting that in the practice of the Constitutional Court of Ukraine, there are no decisions regarding the application of Article 145 of the Constitution of Ukraine, nevertheless, decisions were made regarding the interpretation of the general right to personal protection (Decision 9-zp, 1997), which may be applied in terms of the fact that local self-government protects the rights of a whole group of persons at once, each of whom has the right to protection.

Instead, the effectiveness of justice in protecting the constitutional right of local self-government should be evaluated within the scope of consideration of real disputes involving local self-government, in which local self-government bodies can act as both plaintiff and defendant.

Thus, an official or a local self-government body has the right, which corresponds to the corresponding duty, to carry out public self-government following the requirements of the law. At the same time, individual entities often prevent such management, in particular by trying to persuade the self-governing entity to perform its functions contrary to the law by applying to the court.

At the same time, within the scope of the implementation of such justice, a paradox arises, which consists in the fact that the interests of one person - a specific representative of a territorial community (or group of people) are opposed by the interests of the entire territorial community, which is represented by an authorized body of local self-government or an official, and, in such in court proceedings, the concretely established right of one person is countered by the theoretical collective right of local self-government to unhindered implementation of public administration in the manner established by law. Moreover, taking into account that the local self-government body is a subject of power, which

only performs the functions provided by law, does not have any personal interest, and does not bear personal losses, justice is often meticulous about such a body and gives priority to specific individual rights, regulating it the fact that the local self-government body will not suffer if it deviates relatively from the rule of law to satisfy the interests of the individual. However, at the same time, the court does not take into account the above-mentioned right of local self-government in terms of the right to proper public administration, which violates the rights of the entire territorial community to resolve the relevant personal issues of a specific person who is a party to a court case.

Another problem of the judiciary, which negatively impacts the efficiency of justice, lies in the area of its resource personnel support, namely, it concerns the professionalism of judges. This statement in no way calls into question their qualification, however, a large number of social legal relations in which the right of local self-government is implemented cover various spheres of public life, which are regulated by a significant array of normative legal acts and are accompanied by significant features of the procedures for the implementation of the functions of local self-government in practice, in which it is not easy for judges to deal with the case in a relatively short time, taking into account the workload of other cases. Thus, the sphere of activity of local self-government includes, in particular, the fields of education, construction, trade, land resources, registration and management of real property rights, registration of place of residence, etc., within which many separate procedures for granting licenses, permits, approvals, other social and administrative services, etc., within which controversial issues arise that require intervention to protect the relevant law of judicial institutions.

Concurrently, the modern legislation of Ukraine, to a certain extent, does not take into account the peculiarities of the functioning and methods of decision-making by local self-government bodies (Ruschak, 2013), just as the judicial system does not have a detailed division by sphere of social relations by jurisdiction, in connection with than judges (as a rule of courts of administrative direction, since the local self-government in most cases appears in the case as a subject of authority in matters of its performance of public-authority management) has to independently investigate the intricacies of certain legal relations to make a legal, and fair decision. In this case, cases of the court making

an unsatisfactory decision related to the lack of sufficient knowledge of the judge about the performance of certain functions by the local self-government and their features may not be an exception, which in turn indicates insufficient effectiveness of justice in matters of protection of local self-government.

A solution to the specified problem can be the systematic holding of educational seminars or training for acting judges by specialists in the relevant field of local self-government on specific issues of the performance of their powers by local self-government bodies in each specific field to replenish the theoretical knowledge of judges obtained from the relevant regulatory and legal framework, and familiarization with the practical side of local self-government.

The variety of spheres in which local self-government is involved gives rise to a large number of different legal relations, which, unfortunately, can be interpreted and considered by judges in different ways, considering that one of the urgent problems of the judiciary, which negatively affects the effectiveness of justice, is the different interpretation of the rules jurisdictional subject matter jurisdiction of disputes regarding violation of the rights of local self-government.

Thus, the scope of powers of local self-government defined by law, although accompanied by a public-law component, is often related to the rights of individuals or legal entities of a civil-law nature. For example, disposal of real estate objects of a communal form of ownership (entering into a lease agreement, privatization, etc.) results in the emergence of housing or other property rights in a person, which are protected in civil proceedings under paragraph 1 of part 1 of article 19 of the Civil Procedure Code of Ukraine (Law 1618-IV, 2004). At once, the local self-government body in these legal relations remains a subject of power, which carries out public management, that is, it is a subject of administrative law, but given the subject of the dispute, such a dispute with the subject of power will not be resolved according to the rules of administrative jurisdiction.

However, in practice, not all disputes with the subject of authority can be easily and correctly distributed by jurisdiction, which in turn leads to a violation of jurisdiction, consideration by courts of different jurisdictions of disputes similar in substance, or, in general, simultaneous



consideration in several jurisdictions of the same and the same dispute.

For example, according to the provisions of the Law of Ukraine (Law 280/97-BP, 1997) "On Local Self-Government in Ukraine" (1997), in particular, according to clause 7 of part 1 of article 2, the authority to register the place of residence of individuals is delegated to local self-government bodies - the relevant executive bodies of the village, settlement or city council. At the same time, from the selective analysis of depersonalized decisions of the Unified State Register of Court Decisions, it can be seen that the registration of the place of residence by society in general, as well as by the court in particular, is still perceived as the basis for the emergence of housing rights for individuals, in connection with which the lion's share of cases regarding the implementation by the body registration of the place of residence of natural persons with relevant powers is interpreted as a matter related to residential rights and is considered according to the rules of civil procedural legislation.

In turn, the registration of the place of residence does not give rise to housing rights in a person, as well as any other rights of a civil law nature. Therefore, taking into account that the body of registration of the place of residence is a subject of authority, the action, decision, or inaction of which is contested within the administrative proceedings, as evidenced by clause 1 of part 1 of article 19 of the Code of Administrative Procedure of Ukraine (Law 2747-IV, 2005), it is the courts of administrative jurisdiction that have to consider disputes arising between a person and a local self-government body regarding issues of registration of place of residence.

This position is also reflected in judicial practice since the Unified State Register of Court Decisions is full of decisions of administrative courts of various instances, adopted within the limits of the specified type of the subject of the dispute. That is, two different judicial practices are formed based on similar disputes: within civil and administrative proceedings.

However, the wider the judicial practice, the more generalizations, clarifications, and reviews of it are, made by higher judicial authorities, the more comprehensive and detailed the legal regulation and regulation of the activities of local self-government, its subjects, and bodies, and therefore the more it is easier and faster not only to issue court decisions on specific issues of protection of local self-government but also to

make changes and additions to the current legislation or adopt new laws regarding local self-government more quickly (Leonov, 2020). Hence, the result of the activity of the courts should be, in particular, the presence in the legal circulation of only those legal acts that do not violate the rights of local self-government (Pavlovska, 2013).

Taking into account the above, the current state of judicial practice regarding the protection of local self-government is a vivid example of the presence of significant shortcomings in the administration of justice, which inhibits not only the development of the judiciary but also local self-government.

### Conclusions

*Completion of the first task* led to the formation of the opinion that equal attention to both quantitative and qualitative criteria of the effectiveness of justice will allow to provide it with a comprehensive assessment, taking into account the organizational and fundamental foundations of the judicial system, as a separate branch of government, represented by the relevant bodies-courts, normatively - the procedural basis of the specified system, which includes the assessment of the court decisions themselves, the timeliness of their adoption and compliance with the legislation, the resource provision of justice of a material and personnel nature, the level of trust in the judiciary, etc. Therefore, to objectively evaluate the effectiveness of justice in the state at the normative level, a generally recognized approach to the evaluation of justice must be developed, which will serve as an example of maintaining a balance between different, but equally important, aspects of justice, which are necessary for forming a judgment about its effectiveness, because exclusively aggregate analysis of indicators according to the above criteria will allow determining the actual state of the judicial branch of government in the state and, if necessary, to form a further plan of necessary and sufficient measures to increase the level of the revealed state of justice.

*Within the framework of the second task*, it became possible to conclude that, unfortunately, in practice, the effectiveness of justice in the protection of the rights of local self-government in such disputes cannot be considered exemplary for the following reasons:

- the right of local self-government to proper public administration by judicial authorities

is often identified exclusively with the rights and obligations of the relevant local self-government body, and not of the entire territorial community, the representative of which is such a body, especially when the latter acts in the procedural status of the defendant, which prevents the court from carrying out a fair consideration of the relevant case;

- uncertainty regarding the jurisdiction of the dispute leads to the consideration of the case by courts of different jurisdictions, which have opposite views on the dispute given its nature (protection of housing rights or protection against an unlawful decision of a local self-government body), which are expressed in completely different motivational parts of decisions when resolving similar disputes, which is a significant obstacle to the formation of a unified judicial practice;
- a significant range of powers of local self-government and their imperfect normative and legal regulation leads to complications for judges when considering relevant cases, due to their limited knowledge of material and procedural features of the functioning of local self-government.

Several steps can be taken to implement improvements in the evaluation of justice and the protection of local self-government rights. Here are some suggestions:

#### Development of a Generally Recognized Approach to Justice Evaluation:

Establish a working group or commission comprising legal experts, scholars, and representatives from the judiciary to collaboratively develop a generally recognized approach to justice evaluation.

The approach should encompass both quantitative and qualitative criteria, considering organizational and fundamental foundations of the judicial system. It should include criteria such as the assessment of court decisions, timeliness, compliance with legislation, resource provision, and public trust in the judiciary.

Ensure that the developed approach serves as a comprehensive and balanced model for evaluating justice, addressing various aspects crucial for an effective judicial system.

#### Implementation of Normative Changes:

Based on the developed approach, propose and implement normative changes in the legal system to formalize the criteria for justice evaluation.

Clearly define the roles, responsibilities, and jurisdiction of different courts to reduce uncertainty regarding dispute jurisdiction.

Address the identified issues related to the range of powers of local self-government through legislative amendments, providing clearer norms and guidelines for judges.

#### Capacity Building for Judges:

Provide training programs for judges to enhance their knowledge of the material and procedural features of local self-government.

Create specialized training modules to address the challenges identified in the study, such as the complexities arising from the imperfect normative and legal regulation of local self-government.

#### Promoting Consistency in Judicial Decisions:

Encourage communication and collaboration among different jurisdictions to promote a unified approach to similar disputes.

Establish mechanisms for judges to share experiences and best practices, fostering consistency in the motivational parts of decisions and contributing to the formation of a unified judicial practice.

#### Monitoring and Review:

Implement a monitoring and review mechanism to periodically assess the effectiveness of the reforms and the developed approach to justice evaluation.

Collect feedback from stakeholders, including legal practitioners, scholars, and representatives of local self-government bodies, to make continuous improvements.

#### Advocacy for Reform:

Use the findings of the study to advocate for broader reforms in the sphere of justice within the protection of local self-government.

Engage with policymakers, legislators, and relevant stakeholders to garner support for the necessary and sufficient measures identified in the study.

**Public Awareness and Trust-Building:**

Conduct public awareness campaigns to inform citizens about the reforms and improvements in the justice system.

Promote transparency in the judicial process to enhance public trust in the judiciary.

By implementing these recommendations, there can appear a systematic and comprehensive approach to improving the evaluation of justice and enhancing the protection of local self-government rights. This would contribute to the overall effectiveness of the judicial system and the fulfillment of constitutional rights.

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