U.D.C. 342.56

S.V. Stepanov, Candidate of Juridical Sciences, Senior Lecturer
Odessa National Economic University
Department of Law
Preobrazhenska st., 8, Odessa, 65082, Ukraine

NOVELS OF JUDICIAL REFORM OF UKRAINE

Summary

The article analyzes the amendments of the Law of Ukraine on February 12, 2015 "On ensuring the right to a fair trial", in particular, a number of innovations aimed at increasing the independence of the judiciary and its economic and political independence. The positive and negative aspects of certain provisions of the Act and the need for further improvement of the judicial system of Ukraine are singled out.

Key words: the court, the judicial system, judicial reform, judicial proceedings.

Formulation of the problem. Ukraine as a modern democratic state from the beginning of its independence has vector construct modern European rule of law, public policy which is based on the rule of law, an efficient mechanism of separation of powers under Art. 6 of the Constitution of Ukraine at the legislative, executive and judicial power indissolubility of the independence of each. This process actively began in 1992, but before public authorities still face many unresolved problems associated with the efficient organization of state power, elimination of abuse of power, preventing the appropriation of power by one person or body, the construction of a sustainable system of interaction between the branches of government to enhance the power and authority providing real safeguards to protect the rights of citizens, businesses and society as a whole.

The purpose of this article is to study the stories of judicial reform in 2015 and identify opportunities negative impact of the legislative and executive branches of government on the objectivity and independence of the judiciary in Ukraine.

Analysis of recent research and publications. Research on improving justice, independence and procedure of formation of the judicial branch performed such scholars as K.Kolisnyk, R.Kubiyda, Mykola Melnyk, N.Syza, O.Terletskyy.

Presenting main material. K.S. Kolisnyk notes that the system of checks and balances is valid in the case when the competence of the state authorities includes both exclusive powers and shared, through which built the mechanism of interaction and interdependence of all branches of government [1].

Each element of the mechanism of the state should work as a reliable clock: legislature - make regulations that are able to adjust the existing relations in the country and ensure harmonious interaction of executive bodies, executive bodies - to adjust the existing productive relations, and for violations of the rules -prypynyaty Offences and apply branch of the judiciary.

You must also pay attention to the need for transparency of all organs, simplify procedures for complaints against officers and officials, enforcement of the terms of the proceedings, the reasonableness of litigation and real enforcement of state executive service acts with the winners of the subject of the claim. This is due to the lack of reliable, transparent regulatory relations have questions about guaranteeing protection of the rights of individuals and business entities by state. Any person requires final solution each issue are important for life or entities. That is why all sectoral reforms must be taken after discussions with professionals of the area who will find the best way to address the shortcomings of the existing order. It is necessary to hold conferences, open discussion with scientific societies on judiciary reforms in the judiciary, the executive service in the executive policies and so on.

As for judicial reform is, it should be noted that in recent years the attention of the legislator to existing problems of justice greatly increased. Active reforming the judiciary began in 2001 (the so-called "small judicial reform"), which was another and, obviously, not the final step in reforming the judiciary and justice. Much has been and judicial reform of 2010. The next stage of reform held by the Law of Ukraine "On

ensuring the right to a fair trial" of 12 February 2015, which amended a number of laws.

Experts from the analysis of judicial reform critical of its estimate, assuming that if the formation of the judicial corps will be on criteria of political loyalty, as it was during the reign of V. Yanukovych, the judicial reform will give absolutely nothing - we will see a change in people, but not the system [2].

In this connection is seen appropriate to examine certain provisions of the said Act, which came into force only March 28, 2015 and while objectively manifested itself in action, and determine their impact on the improvement of the courts in Ukraine.

1. The importance of conservation of branches of commercial courts is a very positive aspect of the new law.

Despite the fact that the President of Ukraine and Prime Minister have repeatedly stated their elimination of the transmission of cases to courts of general jurisdiction.

Around this issue unfolds tough debate since independence of Ukraine. With all the charges applicable to their economic courts no complaints of a global nature, also in the context of globalization of economic relations, the analysis of European legislation and the development of specialized commercial courts is clear the need, support and strengthen local economic courts as the courts of the future.

Despite the difficult conditions of existence, commercial courts have proven professional, efficient and viable. Dispute resolution proceedings are held in full compliance with applicable law. Therefore, leaving the system of commercial courts in the judicial system of Ukraine is worthy of approval.

2. Expanding the powers of the President of Ukraine. In p.p.1 3 of Article 19 of the studied Law provides that the President shall have the authority establishment, reorganization and liquidation of courts on the basis of the proposals of the State Judicial Administration of Ukraine.

The reasons for the creation or elimination of a particular court is to change this law court system, the need to improve access to justice, the need to optimize the state budget or change the administrative-territorial system.

Attention is drawn to the fact that the situation on the Elimination courts without amending the Constitution of Ukraine can not be sold, and if the changes will lead to significant manipulation of the heads of courts and their complete subordination to the President of Ukraine, which is unacceptable.

Everyone remembers the old days, when high-ranking officials at a certain impact on the interest of justice and received the necessary decisions.

You must accept the N.P. Syzoyu and O.M. Terletskym, which notes that the judiciary must be separated from the legislative and executive who should not have the means interference in the process of justice [3, 197; 4, 354].

This phenomenon needs vykorinyaty as confidence in the judiciary is not only not corrupt judges, but in the absence of influence from the government.

It is simplistic formulation and comments on the "liquidation of the courts on a proposal of the State Judicial Administration of Ukraine." Thus, the legislator does not have a clear form of such treatment, terms, conditions, etc., can not be considered justified.

3. With regard to disciplinary responsibility of judges Article 92 of the Law clarifies and expands the grounds for judicial disciplinary liability. List expanded to 14 specific grounds, including refusing citizens access to justice, unjustified delay or failure to take action by a judge to hear an application, complaint, any other violation of the law. In accordance with Clause 1 of Article 97 also expanded the list of disciplinary sanctions that may be applied to judges. These include:

1) warning;

2) reprimand - with deprivation of the right to receive additional payments to official salary of a judge for one month;

3) severe reprimand - with deprivation of the right to receive additional payments to official salary of a judge within three months;

4) temporary (one to six months) the removal of the administration of justice - with deprivation of the right to receive additional payments to official salary of a judge and mandatory assignment of judges to the National School of Judges of Ukraine for a course of training as defined body that disciplinary proceedings against judges and

further qualification evaluation to confirm the ability of judges to administer justice in the appropriate court;

5) transfer of judges to the lower court;

6) conclusion to send recommendations to the High Council of Justice for a decision on forwarding submissions on dismissal of judges based on violation of the oath.

Expanding the list seems reasonable, since the reform legislation in 2015 involved only two types of sanctions for judges, reprimand or dismissal.

4. Real open trials. An interesting novelty issued new provisions laid down in Article 11 of the Law on openness trial. It provides the opportunity to participate in the hearing not only the parties to the dispute, but to unauthorized persons, representatives of the media. In addition, any person may use vydeo- and separate audio recording without the permission of the court that should recognize appropriate.

5. "simplification" of self-government is realized in Article 125 of the Act, which reserves the meetings of judges Council of Judges of Ukraine, the Congress of Judges of Ukraine the status of the respective bodies.

Thus, judicial authorities are not simplified, but remained virtually unchanged (repealed only conference of high specialized courts) than, first performed by the recommendations of the Venice Commission with the reform of the justice system in Ukraine and, secondly, significantly simplifies the system self-government abolished the principle of appointment of delegates "from above".

Therefore, it seems proper cancellation conference courts, which dealt with issues of internal operation of the court, not related to the administration of justice.

6. Improving the Supreme Court of Ukraine. Particular attention should be paid to the expansion of the Supreme Court of Ukraine. After the judicial reform in 2010 the Supreme Court was denied the main part of their powers, resulting in lost value as the ultimate instance that can objectively influence the jurisprudence. Even the fate of the proceedings is placed completely in the hands of a high specialized court which made the decision to transfer the case to the Supreme Court of Ukraine.

A positive aspect of judicial reform in 2015 is the return of the Supreme Court the right to decide any case, and expansion of the grounds for review of judicial acts of lower courts.

It is recognized as a positive implementation of mechanisms that making impossible inherently different judicial acts on the same issues by different chambers of the Supreme Court, which was recently quite often.

Conclusions. It is appropriate to conclude that the Law of Ukraine "On ensuring the right to a fair trial" without a doubt, is a positive change. But he can not fully "work" without amending the Constitution and other laws. The said legal act requires thorough assessment and careful monitoring of the practical difficulties of its application and further deep reform of the judicial system for its smooth operation to protect the rights and interests of individuals and entities.

List of references

1. Колісник К. С. Роль системи стримок і противаг в контексті врівноваження влади та запровадження політичної реформи як подолання кризи влади в Україні [Електронний ресурс] / К. С. Колісник // Ключевые проблемы современной науки – 2010 : матеріали міжнар. наук.-практ. конф. – Режим доступу: http://www.rusnauka.com/12_KPSN_2010/Pravo/63101.doc.htm

2. Как новый закон изменит судебную систему и станет ли суд справедливым [Електронний ресурс]. – Режим доступу: http://www.segodnya.ua/politics/pnews/kak-novyy-zakon-izmenit-sudebnuyu-sistemu-i-stanet-li-sud-spravedlivym-603522.html

3. Сиза Н. П. Система елементів права на справедливий суд / Н. П. Сиза // Наук. вісник Ужгород. нац. ун-ту. Серія: Право. – № 20. – Ч. 1, т. 4. – С. 194-199.

4. Терлецький О. М. Окремі проблеми забезпечення об’єктивності та незалежності судочинства в Україні / О. М. Терлецький // Часопис Київ. ун-ту права. – 2013. – № 2. – С. 351-355.