

Legal Guarantees and Judicial Protection of Human Rights in the Post-Soviet States and the Countries of the North Atlantic Alliance in the 21st Century

Liudmyla Mikhnevych¹, Nadiria Ilnytska²,
Kateryna Ilikchiieva³ & Yuliia Ryzhuk⁴

Abstract

The purpose is to generalize the main issues of legal protection of the population both in the states of the former Soviet Union and North Atlantic Treaty Organization (NATO) from the viewpoint of the effectiveness of the functioning of legal guarantees and judicial systems in these countries. The research reflects the shortcomings in the judicial systems of countries, in particular, as the United States of America, Spain, Italy, Moldova, Kyrgyzstan, Tajikistan, which allows identifying the main practical issues faced by ordinary citizens who are forced to use their right to judicial protection. The authors state that the duration of the judgment enforcement is a common problem in the aspect of non-enforcement of court decisions both in the states of the former Soviet Union and NATO. The publication examines the peculiarities of the judgment enforcement in the European space and the issue of criminal liability for non-enforcement of judgments.

Keywords: Human and Civil Rights and Freedoms, Activities of Judicial Institutions, Non-enforcement of a Judgment, Ombudsman Institution, Complaints to the Ombudsman.

Introduction

It is a well-known that the 21st century is characterized not only by the establishment of the fundamental human and civil rights and freedoms both at the

¹Department of Constitutional and Criminal Law, Kyiv National Economic University named after Vadym Hetman, 03057, 54/1 Peremohy Ave., Kyiv, Ukraine. liudmyla.mikhnevych2@ukr.net

²Department of Business and Corporate Law, Kyiv National Economic University named after Vadym Hetman, 03057, 54/1 Peremohy Ave., Kyiv, Ukraine. nadiria.ilnytska@protonmail.com

³Department of Constitutional and Criminal Law, Kyiv National Economic University named after Vadym Hetman, 03057, 54/1 Peremohy Ave., Kyiv, Ukraine. kateryna.ilikchiieva@hotmail.com

⁴Department of Constitutional and Criminal Law, Kyiv National Economic University named after Vadym Hetman, 03057, 54/1 Peremohy Ave., Kyiv, Ukraine. yuliia.ryzhuk@proton.me

international (in international treaties) and national levels (in the Constitutions of individual states), but also by state control over their observance. Effective legal protection of the population in modern realities is possible only if there is comprehensive functioning of all legal guarantees of the human and civil rights and freedoms. Correct understanding of the mechanism of legal protection of the population is important, first of all, from the aspect of preventing violations of the fundamental rights and freedoms provided for in the normative legal acts. It is worth stating that, first of foremost, the mechanism of legal protection of the population can be considered effective if there are favorable factors in the state for a fair trial in case of disputes. The research of A. Prysiazhenko (2016) is devoted to the relationship between the right to legal assistance and the right to professional legal assistance. The Ukrainian researcher analyzes the influence of state institutions on the quality of legal aid, but the authors are convinced that in terms of the research topic, the rights considered by A. Prysiazhenko (2016) constitute only part of those that should be paid attention to.

V.V. Novitsky (2018) examined the topic of implementing guarantees of rights and freedoms in practice in the European Union (EU) with a view to the possibility of using positive experience in this area for Ukraine. A.T. Dilmurodovich and A.G. Abdullaev (2022) touched on the specifics of the human and civil rights and freedoms and their legal guarantees in the Republic of Uzbekistan. A. Arnul (2011) studied the issues of effective justice in the EU from both theoretical and practical point of view. G. Borkowski and O. Sovgyria (2019) published a scientific paper, in which judicial reforms in Ukraine and Poland were examined and compared. The context of research by J.S. Mora (2009) was the activity of the judicial system in Spain. The researcher publicized both the advantages and disadvantages of the Spanish justice system. It is worth noting that the European Commission for the Efficiency of Justice prepared a manual that addressed the issues of efficiency and quality of judicial systems in the European space (European judicial systems..., 2018; Demianenko & Priadko, 2022).

The purpose is to generalize the main issues of legal protection of the population both in the states of the former Soviet Union and in the states of the North Atlantic Treaty Organization (NATO) from the viewpoint of the effectiveness of the functioning of legal guarantees and judicial systems in these countries. The following tasks was set:

– to define the concept of “legal protection of the population” and the fundamental human and civil rights and freedoms interconnected with this category;

- to highlight the advantages and disadvantages of the functioning of judicial systems both in the states of the post-Soviet space and in the states of the NATO;
- to consider the issue of the effectiveness of the judgment enforcement in the countries covered by the research;
- to analyze the activities of ombudsmen for the common problems related to the observance of human rights, as well as to consider the content of citizens' complaints related to the violation of their rights.

Materials and Methods

The study of legal protection of the population in the states of the former Soviet Union and the NATO in the 21st century comprised three stages: preparatory, main and final. At the preparatory stage is theoretical material related to the research topic in the form of publications, reports and scientific reviews. The main stage is beginning with the definition of the “legal protection” concept, the identification of guiding legal guarantees designed to implement this concept in practice. The final stage is consideration of the activities of the judicial systems both in the states of the NATO and the Soviet Union in terms of the effectiveness of the courts in protecting the fundamental human and civil rights and freedoms. It is logical to understand that effective legal protection of the population by judicial institutions in the states under study is possible only if there is high-quality functioning of the judgment enforcement system, since the value of a legally rendered judgment without actual enforcement nullifies the activities of the judicial system in principle.

In general, attention is focused on the identification of practical issues of the activities of specific legal institutions (the judicial system, the judgment enforcement system, the activities of the ombudsman), which are called not only to provide legal protection of the population, but also to implement the human and civil rights and freedoms provided for by regulations. The “effectiveness of the judicial system is of primary importance for the legal protection of the population in modern realities” and “the practical activities of individual legal institutions both in the territory of the former Soviet Union and the NATO are characterized by both positive and negative moments” hypotheses formed by the authors at the beginning of the research found their confirmation in the paper with relevant arguments.

Results

The “legal protection” concept is a set of legal principles and norms that provide for the basic human and civil rights. That is why, it is necessary not to

underestimate the importance of legal principles as guiding ideas and principles that are of fundamental importance for the proper functioning of the system of regulations in any state. It should also be noted that the 20th century was characterized by the provision of basic human and civil rights and freedoms both at the international level and at the level of the constitutions of individual countries. Therefore, the 21st century is called upon to develop a system of legal instruments that will effectively implement the observance of legally stipulated rights and freedoms in practice.

Research and monitoring by civil society in Moldova show that excessive political influence seriously undermines the independence of justice in this state. Recently, the Parliament of Moldova adopted a number of laws that only strengthened the political leverage of the authorities on the judiciary and selectively blocked the appointment of some judges due to their political loyalty. Supervisory bodies such as the Supreme Council of Magistrates have also failed to prosecute corrupt officials or create a culture of judicial integrity and incorruptibility. The best way out of the situation in Moldova would be for the government of this country to adopt a series of legislative changes to minimize political interference in the judicial process and the process of selection and promotion of officials in the justice sector, as well as to ensure consistent compliance with the principle of the rule of law in accordance with their international obligations (Moldova: Joint Stakeholder..., 2021).

The main issue of the Kyrgyzstani judicial system is high corruption risks, as stated in the report on the diagnosis of the Kyrgyzstani judicial system (Kyrgyz Republic: judicial..., 2011). To overcome this issue in this country, it is proposed to increase the salaries of judges. As for the judicial system of the Republic of Tajikistan, it is worth noting that there are almost no acquittals in the judicial statistics of criminal cases, which calls into question the impartiality of the judiciary in this country (Navrotska, 2019; Neithercheck nor..., 2020).

If we consider the European judicial system as a whole, we can and should highlight a number of positive aspects of its functioning. In particular, states that implemented a system of automated e-mail or SMS notification indicating the time and date of court proceedings should be considered progressive. And the last thing that can characterize the modern European judicial system is the spread of voluntary use of alternative dispute resolution methods (The 2019 EU..., 2019).

Nevertheless, at the level of individual states, it is still possible to observe issues with the functioning of judicial institutions (e.g., Italy and Spain). It is considered that the main issues in the Italian judiciary are excessively long trials and the influence of corruption and organized crime on political and economic

life, which have important consequences for judicial activity (Attacks on Justice..., 2000; Taran et al., 2023). It is a well-known fact that the mafia, which is organized crime, is widespread in Italy. Despite the fact that the authorities of this state, including the judiciary, took a wide range of measures aimed at preventing the negative influence of the mafia on the general public safety level, judicial officials report that the fight against this negative phenomenon is currently ongoing, and even, unfortunately, it is possible to state the development of the mafia due to the emergence of new forms of organization of such criminal activity and the establishment of mafia connections at the international level (Kubarieva & Pertsev, 2022). Spanish researcher J. Urias (2020) stated that according to the table of the EU justice indicators for 2019, Spain is among the four countries of the EU with the worst perception of the independence of the courts among its citizens.

J.O. Newman (2020) notes that two major issues currently facing the USA judicial system are excessive delays and costs. The thorough consideration of the case provided for by the procedural regulations aims at delivering justice, but at the same time, such consideration creates a cumbersome process, when it takes a long time to consider cases in the court of first instance for a very long time, and the available appeal mechanism only prolongs the judicial case consideration. Delays and the accompanying increase in costs keep many citizens from turning to the federal court system: in such cases, plaintiffs use arbitration services or abandon their lawsuits. Therefore, an unacceptably high proportion of the population has arisen in the USA, who not only does not have the opportunity to receive compensation for court costs, but also are actually deprived of even the right to a fair trial of their legitimate complaints. In support of his thoughts, J.O. Newman (2020) offers the following statistics. In 1995, the average time from the filing of a civil suit to a judgment was eighteen months, which increased to twenty-six months in 2018 (Newman, 2020).

All post-Soviet states criminal liability for non-enforcement of a judgment (Berezanska & Drok, 2022). Moreover, in most states, this crime is formulated similarly to Article 382 “Non-enforcement of a judgment” of the Criminal Code of Ukraine (2001). For example, in such states as Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Latvia, the Russian Federation, Tajikistan, Turkmenistan, the objective side of this type of crime is formulated similarly to Ukrainian criminal legislation on non-enforcement or obstruction. However, unfortunately, criminal liability for non-compliance with a judgment is not widespread in the European space (Kotsur, 2022).

The role of the ombudsman institute in the modern world is to increase the efficiency and transparency of state administration and to advance to a higher level of human rights protection. The ombudsman institute should be considered

as a mechanism for the civil rights protection, which promotes democracy, the realization of civil rights, the rule of law, public administration reforms and the fight against inefficient public administration (Trykhlil, 2019).

The position of the European Ombudsman (Ombudsman of the European Union) was introduced in 1993. The European Ombudsman can open inquiries in response to complaints from citizens or on their own initiative. Most of the complaints that are considered by the European Ombudsman concern the transparency of the activities of state bodies. In terms of percentage, the number of such complaints ranges from 20% to 30%. The most common transparency issues are the refusal of institutions to provide access to documents and/or information. It should be taken into account that the Charter of Fundamental Rights of the European Union guarantees citizens the right of access to public documents. In 2014, the European Ombudsman dealt with a significant number of complaints regarding ethical issues, such as conflicts of interest and the practice of “revolving doors” within the EU institution. The term “revolving door” refers to the transition of public sector employees to work in the private sector closely related to the previous activities, or vice versa. The European Ombudsman has repeatedly emphasized that the EU administration must adhere to the “golden standards” when it comes to ethical behavior (Karasayev et al., 2023).

As for the post-Soviet states, the ombudsman institute functions in all states, except for the Republic of Belarus and the Republic of Turkmenistan. The specifics of the ombudsman's activities in these states will be discussed further. Thus, in particular, the ombudsman in the Republic of Azerbaijan considers appeals, including statements, proposals and complaints of citizens, participates in the restoration of their rights, conducts independent monitoring to study the state of human rights (Safihanli, 2007). The ombudsman institute in Georgia is characterized by broad human rights protection activities and called not only to monitor the proper observance of the fundamental human and civil rights and freedoms, but also to introduce relevant bills with the aim of increasing the guarantee of such human and civil rights and freedoms in Georgia (Report of the..., 2020).

The peculiarity of the ombudsman institute in the Republic of Estonia is peculiar in the fact that the ombudsman's functions in this country are performed by the Chancellor of Justice. The main tasks of the Chancellor of Justice include monitoring compliance with the Constitution of the Republic and legislative acts of state power and local government bodies, as well as checking the activities of institutions performing public functions in order to ensure constitutional rights and freedoms (Constitution..., 1992); Chancellor of Law, 2016).

In Lithuania, the system of the Commissioner for Human Rights comprises five Controllers of the Seimas and auxiliary workers, such as advisers and consultants, who are part of a single Controller apparatus. One of the main tasks of the Committee of the Controllers of the Seimas is the examination of all draft laws passing through the Seimas from the viewpoint of human rights protection. Also, the task of Controllers in Lithuania is considered not only to solve personal issues, but also to inform the parliament about the issues that prevent people from living with dignity in their own state. Controllers submit the entire spectrum of such issues to the parliament so that new projects and amendments to the laws appear, and that in the end, the situation changes not for one person, but also for several thousand citizens of Lithuania, or even millions. The practice of the Controllers of the Seimas includes examples when one issues concerned the interests of 15-20 thousand people. There were even cases that concerned the life of entire regions (local governments), economic sectors (energy) and social groups (life of prisoners) (Lithuania: Controllers of..., 2016).

Moldova also has the institute of the Commissioner for Human Rights (People's Advocate). The most common complaints of citizens, which are considered by the People's Advocate in Moldova, are related to the conditions of detention in places of deprivation of liberty, torture, the right to life, the right to information, the actions of the administration of detention facilities, parole or the application of amnesty, review of a criminal case, transfer to another penitentiary institution (Report on Respect..., 2017). Thus, was considered and reflected the practical issues that exist in the functioning of judicial systems, judgment enforcement systems and the activities of ombudsmen both in the states of the post-Soviet space and in the states of the NATO.

Discussion

In the aspect of “legal protection”, the right to judicial protection, which by its legal nature is a legal guarantee, is of decisive importance. It is interesting that neither at the general United Nations (UN) level, nor at the regional and national levels, human rights regimes distinguish the right to legal aid as a civil or political right. However, this right is derived from the right to a proper trial in civil disputes and criminal proceedings. Article 14 (1) of the International Covenant on Civil and Political Rights (1973) establishes that everyone has the right to a fair and public hearing within a reasonable time by an independent, impartial and lawfully established tribunal in civil actions and criminal charges. This pact was ratified by 120 of the 192 UN member states and implemented at the level of regional treaties and national human rights regimes. Article XVIII of the American Declaration of the Rights and Duties of Man (1948) provides that every

person has the right to enjoy basic civil rights, including the right to go to court to ensure that their legal rights are respected. In Canada, the Canadian Charter of Rights and Freedoms (1982) gives individuals the right to life, liberty and security, as well as the right not to be deprived thereof except in accordance with principles of fundamental justice. In Azerbaijan, the approval of basic human and civil rights and freedoms in the Constitution provides that in some cases legal aid shall be provided free of charge at the expense of the state (Constitutional Law of..., 2001).

Another important regulation in this research is the regulation of the EU that introduces the unification of the judgment enforcement system in the European space – the Regulation (EU) No. 1215/2012 of the European Parliament and of the Council “On jurisdiction and the recognition and enforcement of judgments in civil and commercial matters” (2012). The peculiarity of the judgment enforcement system is that the judgment rendered in one state of the EU is automatically recognized in every other state. In this way, the party in whose favor the judgment was delivered can apply directly to the executive authorities of another member state of the EU. For example, if a citizen is owed money, they can obtain the judgment enforcement in the state where the debtor has assets without any intermediary procedure (“*exequatur*”). The creditor is obliged to provide the enforcement body with a certificate issued by the court that delivered the relevant judgment and a direct copy of the judgment. The debtor has the right to appeal to the court with an application for refusal of enforcement on certain grounds, in particular, if such enforcement would be contrary to the state policy of a country that is an EU member (Mutual recognition of..., 2019).

Thus, a brochure was prepared under the auspices of the European Parliament, which contained relevant tables that testified to the effectiveness or ineffectiveness of the activities of judicial institutions in the EU. In this source, it is noted that, in general, the European judicial system is characterized by easy access, sufficient resources, effective assessment tools and appropriate standards of practice. Almost all EU member states provide access to certain online information about the national judicial system, ensure the functioning of web portals with certain online forms that simplify judicial proceedings. It is also necessary to take into account that the availability of legal aid and the size of the court fee significantly affect access to justice, particularly, for the poor and socially vulnerable population groups (Tatsiy & Serohina, 2018). European justice systems are characterized by the use of electronic means during the judicial process, which is generally evaluated positively, because such use facilitates access to justice, speeds up the handling of cases and reduces court costs. It is worth noting that each of the EU member states has its own standards on how to

inform the litigants about the progress of their case, the court schedule or possible delays (Rudenko et al., 2021).

The situation arose in Moldova: bailiffs often use their official position to demand illegal compensation from the creditor for the proper and effective enforcement of the rendered judgment. It is worth noting that since 2010, a mixed enforcement system has been used in Kazakhstan: the functions of judgment enforcement are entrusted to both private and state bailiffs in this country. The situation in Ukraine is similar. Quite often, a significant obstacle to the judgment enforcement is the lack of clarity and completeness of judgments (Antoshkin & Antoshkina, 2022; Barannyk & Kachula, 2023). The low quality of the content of judgments is related both to the shortcomings of the procedural legislation regulating the content of the judgment and to the inexperience of most judges in this matter. The experts consider that the obstacles that create additional difficulties for the timely delivery of a judgment that has entered into legal force include the lack of unified databases on real estate (Kyrgyzstan), on acts of civil status, etc. A serious disadvantage that complicates the enforcement of rendered judgments is the failure of courts to take measures to secure a claim and other preliminary security measures (Russian Federation). This often leads to the fact that at the time of judgment enforcement, the losing party manages to “hide” its assets, which leads to the actual impossibility of enforcing the judgment.

In the aspect of this research, it is impossible to ignore the report of the Ombudsman of Georgia for 2020 (the last relevant report of the Human Rights Commissioner in this state). This report reflects the actual state of observance in Georgia of such fundamental human rights as the right to life, the right to freedom and security, the right to a fair trial, the right to respect for personal life, observance of gender equality, freedom of religion and belief, the right to freedom of peaceful assembly and on a natural environment safe for life and health, etc. (Report of the..., 2020). The Report of the People's Advocate of the Republic of Moldova in this paper addresses the consideration of citizens' statements related to access to justice. The content of such statements concerns, in particular, the public nature of the hearings, the presumption of innocence, the irreversible nature of the law, the principle of competition, the right to appeal, prolongation of the terms of consideration of court cases, the right to compensation for the damage caused, the binding nature of judgments, non-enforcement of judgments. A wide range of complaints by citizens of Moldova to the People's Advocate are those related to social protection and assistance. In particular, these are issues related to the transfer of pension, requirements for the provision of material or financial assistance, requests for assistance in finding a job. The People's Advocate

considers cases related to the right to information, in particular, the right to receive information and its distribution (Report on Respect..., 2017).

The American researcher J. O. Newman (2020) singled out the following issues of the functioning of the judicial system in the USA:

- too slow consideration of cases by federal courts;
- the cost of legal services that ordinary citizens are forced to pay is too high;
- resolution of too few cases by the Supreme Court;
- the likely increase in the number of cases in federal courts threatens a variety of adverse consequences, not the least of which is the loss of character of the federal court system.

As for the shortcomings of the criminal justice system in the USA, it is worth to note the paper of J. Maslow (2022). In this aspect, the American researcher outlines the issue of mandatory minimum punishment, i.e., the minimum punishment that the court must impose for a specific crime, disregarding the special circumstances in the case. Interestingly, more than half of federal inmates are incarcerated under these mandatory provisions. J. Maslow (2022) also raises such an issue as the treatment of minors and notes that juveniles in the US are often tried as adults and are denied the right to parole.

The Spanish researcher J. Urias (2020) stated that social surveys show a trend that only continues to grow: the perception of the bias of the judiciary is spreading dangerously in Spanish society. According to J. Urias (2020), the reasons for such a negative perception of the judiciary lie in three elements: the political situation in the country; deficiencies in the regulatory and legal regulation of the judiciary in the state; actual behavior of the judges themselves. Moldovan researchers M. Rata and C. Tarna (2019), who state that, unfortunately, manipulation of the judicial system by persons in positions of power is characteristic of Moldova, both to protect political allies and to punish their political opponents, including by delaying or speeding up trials and inconsistent punishment for similar crimes.

As for the activities of the ombudsman institute, it is first of all worth to mention the scientific paper of B. Wieslander (1994). The tasks of the ombudsman were to supervise the judicial activities and the activities of other authorities, to consider the complaints of citizens, as well as to prosecute government officials and ministers who behaved illegally. The peculiarity of the position of the ombudsman at that time was that the position was independent from the executive power, which was guaranteed by the election of the ombudsman by the legislative body, accountability and control by the latter (Borysova et al., 2019).

H. Gammeltoft-Hansen (2009) once wrote that in 1919 the Swedish ombudsman became a model for the creation of a corresponding position in Finland. However, the number of ombudsmen in the world based on the ombudsman model of Sweden or Finland is quite low. After the Second World War, the ombudsman institute was established in Norway. At first, their functions were limited to the supervision of the activities of the state's armed forces, and only in 1962, the scope of the ombudsman's activities expanded to the control of the administrative apparatus of Norway. T. Arjola-Sarja (2010) notes that the purpose of the existence of the position of ombudsman in a certain state is to facilitate the implementation of the activities of state bodies properly, to ensure accountability, efficiency and transparency in public administration. Any person who believes that their rights have been violated by the action or inaction of a local or central authority or any state authority may file a complaint with the ombudsman. T. Arjola-Sarja (2010) made an interesting observation that the ombudsman's supervision of the activities of state bodies is often of such a nature that it cannot be the subject of judicial proceedings. N. Diamandouros (2006) considered the practical issues of the ombudsman and noted that when "legality" is understood broadly through the prism of the concept of law, which includes the rights of the community, legal principles and fundamental rights, the chance of coincidence of legality and such management that violates human rights is, unfortunately, quite large.

The Azerbaijani researcher A. Safihanli (2007) writes that the ombudsman in the Republic has built close bilateral relations with various authorities, such as the courts, the prosecutor's office and the police. Analytical work was carried out on the part of the ombudsman to identify the compliance of internal legislation with the Constitution, international treaties and international obligations, and proposals were put forward for its improvement. The Ombudsman in Azerbaijan also observes the rights of prisoners, guided by Article 1.4. Constitutional Law of the Republic of Azerbaijan No. 246-2KG "On the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan" (2001), taking into account the appeals of prisoners and their families, the ombudsman repeatedly appealed to the Commission on Pardons of the President of the Republic. Legal education and advocacy of human rights are one of the main areas of activities of the ombudsman in the Republic of Azerbaijan (Safihanli, 2007). Ombudsman's activities in the Republic of Azerbaijan also take into account the existence of a conflict with Armenia. Thus, in January 2022, the Ombudsman of the Republic appealed to international organizations in connection with the military provocation caused by Armenia (Azerbaijani Ombudsman appeals..., 2022).

In conclusion, attention was drawn to some incompleteness of the above sources in terms of the topic of publication, namely: all the sources considered were limited to studying the topic in one region or state. Also, any of scientific source was not found that would provide an understanding of the concept of “legal protection of the population” and its components, allowing this issue to serve as the basis for further discussions in legal doctrine. It was emphasized that the comparative legal aspect of the legal protection of the population both in the countries of the post-Soviet space and in the states of the NATO was also not the subject of legal research.

Conclusions

The research carried out in the publication enabled identifying practical issues of legal protection of the population both in the states of the former Soviet Union and in the states of the NATO. It is noteworthy that a number of issues with the functioning of the judicial system were identified even in the country, which is considered to have the most democratic values, the USA. In general, the issues of the activities of judicial bodies in the states under study differ. So, for example, the biggest issue for the states of the NATO remains the issue of the terms of consideration of a court case, while the issues that remain unresolved in the states of the former Soviet Union include the issues of judicial corruption and political pressure on judicial institutions.

As for non-enforcement of judgments, the issue of the judgment enforcement duration remains relevant both for the states of the NATO and for the countries of the post-Soviet space. The judgment enforcement system in the EU member states is characterized by a certain feature. It is characterized by the so-called “automatic” enforcement of a judgment rendered in one state of the EU in each another country of this political entity. The tendency of the former Soviet Union states to enshrine criminal liability for non-compliance with a judgment in regulations is positive, while such a tendency, in general, is not observed in the states of the NATO.

As for the activities of the ombudsman as a legal institute established to ensure compliance with the human and civil rights and freedoms, the functions and tasks of the human rights commissioners in the states under study are of a common nature. Firstly, the ombudsman institute is called to ensure that the legislative acts adopted by the parliaments of the respective states do not violate human rights and freedoms, and secondly, human rights commissioners effectively consider complaints from citizens in the case of practical non-compliance with their rights and freedoms. In general, both in the states of the former Soviet Union and in the states of the NATO in the 21st century, the

guarantees of ensuring the legal protection of the population require improvement, and most of all, state legal instruments.

References

- American Declaration of the Rights and Duties of Man. (1948). Retrieved from: <http://www.cidh.oas.org/Basicos/English/Basic2.american%20Declarati on.htm>
- Antoshkin, V., & Antoshkina, L. (2022). Conceptual provisions for preserving economic security in the conditions of war and martial law. *University Economic Bulletin*, 55, 77-83.
- Arjola-Sarja, T. (2010). *The Ombudsman as an advocate for good administration*. Retrieved from: <https://cutt.ly/kVq5Kb6>.
- Arnul, A. (2011). The principle of effective judicial protection in EU law: An unruly horse? *European Law Review*, 1, 51-72.
- Attacks on Justice 2000 – Italy. (2000). Retrieved from: <https://www.icj.org/italy-attacks-on-justice-2000-italy/>
- Azerbaijani Ombudsman appeals to international organizations in connection with the provocation committed by Armenia. (2022). Retrieved from: <https://en.trend.az/azerbaijan/politics/3539706.html>
- Barannyk, L., & Kachula, S. (2023). Compulsory health insurance as an element of the population's social security system. *University Economic Bulletin*, 56, 155-162.
- Berezanska, I., & Drok, P. (2022). Stages of establishment and development of world and national standardization of Ukraine. *Society. Document. Communication*, 17, 10-33.
- Borkowski, G. & Sovgyria, O. (2019). Current judicial reform in Ukraine and in Poland: constitutional and European legal aspect in the context of independent judiciary. *Access to Justice in Eastern Europe*, 2(3), 5-35.
- Borysova, V. I., Ivanova, K. Y., Iurevych, I. V. & Ovcharenko, O. M. (2019). Judicial protection of civil rights in Ukraine: National experience through the prism of European standards. *Journal of Advanced Research in Law and Economics*, 10(1), 66-84.
- Canadian Charter of Rights and Freedoms. (1982). Retrieved from: <https://laws-lois.justice.gc.ca/eng/const/page-12.html>.
- Chancellor of Law. (2016). Retrieved from: <https://www.eesti.ee/ru/estonskaa-respublika/kancler-prava>
- Constitution (Basic Law) of the Republic of Estonia. (1992). Retrieved from: <https://www.riigiteataja.ee/en/eli/521052015001/consolide>.

- Constitutional Law of the Republic of Azerbaijan No. 246-2KG “On the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan”. (2001). Retrieved from: <https://www.legalacts.az/ru/document/5768/16681>
- Criminal Code of Ukraine. (2001). Retrieved from: <https://zakon.rada.gov.ua/laws/show/2341-14?lang=en>.
- Demianenko, B., & Priadko, T. (2022). Features of the right-wing populism in Hungary: political and social determinants. *ScientiaEtSocietas*, 2, 126–132.
- Diamandouros, N. (2006). *The Ombudsman Institution and quality of democracy: Lecture held on the inauguration of the Graduate School in Political Science*. Siena: University of Siena Academic.
- Dilmurodovich, A. T. & Abdullaev, A. G. (2022). Human rights, freedoms and their legal guarantees in the Republic of Uzbekistan. *International Scientific Research Journal*, 3(4), 1-5.
- European judicial systems: Efficiency and quality of justice. (2018). Retrieved from: <https://rm.coe.int/rapport-avec-couv-18-09-2018-en/16808def9c>.
- Gammeltoft-Hansen, H. (2009). The Introduction and Development of the Swedish Justitie Ombudsman in Denmark. In: *Stockholm 2009 Conference Papers, Back to Roots: Tracing the Swedish Origin of Ombudsman Institutions* (pp. 8-19). Stockholm: EMTF Association of Energy and Ecological Technologies.
- International Covenant on Civil and Political Rights. (1973). Retrieved from: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.
- Karasayev, G. M., Zhaxygeldinov, Z. N., Naimanbayev, B. R., Auanasova, A. M. & Khalidullin, G. Kh. (2023). History of European Union - Kazakhstan Relations (1991-2001). *Cuadernos Europeos de Deusto*, (68), 183-197.
- Kotsur, L. (2022). State construction of independent Ukraine in the light of regulatory laws: 30 years of experience. *Society. Document. Communication*, 15, 55-81.
- Kubarieva, O., & Pertsev, R. (2022). Principles of access to justice and guarantees of its implementation in criminal proceedings. *Scientific Journal of the National Academy of Internal Affairs*, 27(4), 40-51.
- Kyrgyz Republic: Judicial system diagnostic: measuring progress and identifying needs. (2011). Retrieved from: <https://cutt.ly/VVqBPrr>.
- Lithuania: Controllers of the Seimas. (2016). Retrieve from: http://euroombudsman.org/ombudsmen_activities/litva-kontrolery-sejma.

- Maslow, J. (2022). *15 biggest problems with the outdated criminal justice system*. Retrieved from: <https://www.legalscoops.com/5-biggest-problems-with-the-outdated-criminal-justice-system/>.
- Moldova: Joint stakeholder submission on selective justice for the Universal Periodic Review. (2021). Retrieved from: <https://freedomhouse.org/article/moldova-joint-stakeholder-submission-selective-justice-universal-periodic-review>.
- Mora, J. S. (2009). *A characterization of the judicial system in Spain: analysis with formalism indices*. Madrid: Applied Economics Studies Foundation.
- Mutual recognition of judgments. (2019). Retrieved from: https://commission.europa.eu/law/cross-border-cases/judicial-cooperation/types-judicial-cooperation/mutual-recognition-judgments_en.
- Navrotska, V. (2019). Dissenting opinion as one of guarantees of independence of members of judicial assembly and their equality in making decision in under criminal proceedings. *Social and Legal Studies*, 2(4), 94-103.
- Neither check nor balance: The judiciary in Tajikistan. (2020). Retrieved from: <https://www.icj.org/wp-content/uploads/2020/12/Neither-Check-nor-Balance-Tajikistan-MR-ENG.pdf>.
- Newman, J. O. (2020). The current challenge of federal court reform. *California Law Review*, 108 (3), 1-12.
- Novitsky, V. V. (2018). The guarantees of human rights and freedoms in the EU: The experience for Ukraine. *Journal of Advanced Research in Law and Economics*, 37, 2397-2402.
- Prysiashnenko, A. (2016). Specialization of legal categories “the right to legal assistance” and “the right to professional legal assistance”. *National Law Journal: Theory and Practice*, 12, 29-34.
- Rata, M. & Tarna, C. (2019). *Report on monitoring the selectivity of criminal justice*. Chisinau: Freedom House.
- Regulation (EU) No. 1215/2012 of the European Parliament and of the Council “On jurisdiction and the recognition and enforcement of judgments in civil and commercial matters”. (2012). Retrieved from: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32012R1215>.
- Report of the Public Defender of Georgia “On the situation of protection of human rights and freedoms in Georgia”. Retrieved from: (2020). <https://www.ombudsman.ge/res/docs/2021070814020446986.pdf>
- Report on Respect for Rights and Freedoms Person in the Republic of Moldova. (2017). Retrieved from:

<http://old.ombudsman.md/sites/default/files/document/attachments/dokladrus17redfinal.pdf>.

- Rudenko, M., Malinovska, I. & Kravtsov, S. (2021). Justice for judges in Ukraine: Looking for peace and strong judiciary institutions in a sustainable society. *European Journal of Sustainable Development*, 10(1), 339-348.
- Safihanli, A. (2007). *Supplementary human dimension meeting on the topic protection and strengthening of human rights: liability and effective remedies*. Retrieved from: <https://www.osce.org/files/f/documents/c/b/26087.pdf>
- Taran, O., Tarasenko, O., & Cherniavskiy, S. (2023). Some issues of judicial practice in proceedings on violations of the laws and customs of war. *Law Journal of the National Academy of Internal Affairs*, 13(2), 9-18.
- Tatsiy, V. & Serohina, S. (2018). Bicameralism: European Tendencies and Perspectives for Ukraine. *Baltic Journal of European Studies*, 8(1), 101-122.
- Trykhlid, K. (2019). Law-making activity in the case law of the constitutional court of Ukraine. *International and Comparative Law Review*, 19(2), 27-75.
- Urias, J. (2020). *Spain has a Problem with its Judiciary*. Retrieved from: <https://verfassungsblog.de/spain-has-a-problem-with-its-judiciary/>.
- Wieslander, B. (1994). *The Parliamentary Ombudsman in Sweden*. Stockholm: The Bank of Sweden Tercentenary Foundation.