



USING CITIZEN REPORT CARDS FOR ASSESSING CERTAIN ASPECTS OF JUDICIAL ACTIVITIES

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Summary

The article analyzes the legal acts of Ukraine dedicated to the issues of the functioning of the judiciary in terms of enhancing the credibility to the judiciary and public trust. The relationship of public expectations of citizens, the level of perception of the quality of the courts and the public guaranteed right to judicial protection is studied. It reveals the relevance, features and characteristics of one of the new methods of external evaluation of court performance – the method of Citizen Report Cards. The criteria and indicators that reflect the specific standards of the court performance are defined. Two planes of evaluation of the court are considered: generalizing evaluations and assessments for individual measurements. Attention is paid to the practical use of research results by using this method in the court administration.

Key words: evaluation of court performance, criteria and indicators of evaluation of court performance, Citizen Report Cards, method of Citizen Report Cards.

Аннотация

В статье анализируются нормативные правовые акты Украины, которые регулируют вопросы функционирования органов судебной власти в части повышения авторитета судебной власти и доверия общественности. Изучается взаимосвязь общественных ожиданий граждан, уровня восприятия качества работы судов населением и гарантированного права на судебную защиту. Раскрываются актуальность, особенности и характерные черты одного из новых методов внешнего оценивания качества работы суда – метода карточек гражданской отчетности. Обозначены критерии и показатели, отражающие определенные стандарты деятельности суда. Рассматриваются две плоскости оценивания качества работы суда: обобщающие оценки и оценки отдельных измерений качества. Обращается внимание на практическую значимость использования результатов исследования при помощи данного метода в администрировании суда.

Ключевые слова: система оценивания качества работы суда, критерии и показатели оценивания качества работы суда, карточки гражданской отчетности, методология карточек гражданской отчетности.

Formulation of the problem.

Reform of the judiciary, the court proceedings and the legal institutions in order to ensure practical implementation of the rule of law and the right to a fair trial by an independent and impartial court is one of the biggest challenges for Ukrainian authorities. The reform should ensure the functioning of the judiciary that meets public expectations concerning independent and fair trial and the European system of values and standards of human rights. With the emergence of the global information space and a move towards European standards information technology becomes very important in all areas of government, including the judicial branch. The study of public

expectations concerning the availability of the guaranteed right to judicial protection is essential for any contemporary study of the courts.

Relevance of the topic. The improvement of both the judicial system as a whole and its individual institutions is a subject of interest for both international (P. Albers, M. Dacoliias, S. Paul, S. Sehar and others) and Ukrainian scholars (S.V. Hlushchenko, V.V. Horodovenko, L.M. Moskvych, I.V. Nazarov, S.V. Prylutsky, O.V. Serdyuk and others).

So, **the purpose of the article** is to analyze the national legislation acts regulating the organization and functioning of the judiciary, and to study the surveys of public opinion on the level

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of satisfaction with various aspects of judicial activities among citizens.

The presentation of the main research material. On February 12, 2015 the Verkhovna Rada of Ukraine adopted the Law of Ukraine “On Ensuring the Right to a Fair Trial,” which effectively announced the beginning of judicial reform. The law made a number of changes to the legislation covering the organization and operation of the judicial system of Ukraine, including the Laws of Ukraine “On the Judicial System and Status of Judges,” “On the High Council of Justice,” the Criminal Procedure Code of Ukraine, the Economic Code of Ukraine, the Code of Administrative Procedure of Ukraine, the Code of Administrative Offences of Ukraine and others [1]. The law aims to facilitate access to justice, introducing transparent procedures for competitive selection of judges and the concept of qualification assessment of judges, stipulating higher accountability of judges and anticorruption mechanisms for rectifying the judiciary.

Proper functioning of the judiciary in Ukraine is impossible without public confidence in the judicial process and decisions, without public support on the way towards more effective communication between the state and society. Citizens’ trust in the judiciary depends on the perceived quality of the courts, trial impartiality, and a guarantee of the full right to judicial protection. Generally, courts in a democratic society are expected to meet expectations in the most efficient way, taking into account the interests of the person.

Thus, it becomes particularly relevant to seek out forms and methods of evaluating the public’s perception of the courts, as well as ways of cooperation between the judiciary and the society to facilitate active public participation and thereby increase confidence in the judiciary.

Note that a number of regulations on the organization and operation of the judiciary stipulate the need to increase the authority of, and public confidence in, the judiciary. For example, Decree 276/2015 of the President of Ukraine of May 20, 2015, approves Strategy for Reforming the Judiciary Structure, Judiciary Proceedings and Related Legal Institutions for 2015–2020, according to which one of the objectives is to increase

the degree of public confidence in the judiciary and related legal institutions [2]. Reform of the judiciary structure, judiciary proceedings and related legal institutions aims, among other things, to improve the efficiency and optimize the powers of courts of various jurisdictions, and to ensure transparency and openness of justice. The document introduces tools and methodologies for the assessment of the judicial system in accordance with Council of Europe standards as a way of implementing these provisions.

The Judiciary Development Strategy for 2013–2015, approved by the Council of Judges of Ukraine, called for the creation of a national system of judicial quality and efficiency standards to ensure proper evaluation of court performance and planning [3].

The work to develop a judicial evaluation system was initiated by a decision of the Council of Judges of Ukraine in 2008. In the same year, with the support of USAID Project “Ukraine: Rule of Law,” a pilot survey using Citizen Report Cards was first launched, and later continued in cooperation with the Council of Judges of Ukraine and the State Judicial Administration. The result was a comprehensive study of citizens’ perception of various aspects of court quality, from access to the courtroom to the qualification of judges and court staff.

The method of Citizen Report Cards is a tool that allows one to determine the quality of court performance through subjective assessments of trials by persons who are direct participants. In addition, it is actually a form of public monitoring of the quality of the judicial system.

The effectiveness and usefulness of Citizen Report Cards was confirmed during the first phase of surveys in Ukrainian courts, carried out in 2008–2009 by NGOs with the assistance of USAID Project “Ukraine: Rule of Law,” and improved over the course of the second, third and fourth stages (2009–2015).

The methodology of surveying participants of court proceedings is fully consistent with the objectives of the new Strategy for Judicial System Development in Ukraine in 2015–2020 approved by the Board of Judges of Ukraine on December 11, 2014 [4]. Among other things, the Strategy for Judicial Development calls for the creation of a set of comprehensive

and interrelated comparable quantitative and qualitative performance criteria for all judges, courts and judicial administrative bodies to supervise and assess their performance.

According to the Strategy, under the new court performance management system, the approved methodology should be used to conduct surveys on the degree of citizens’ satisfaction among direct participants in the proceedings, enabling citizens to aid the judiciary in assessing its own efficiency.

Regular surveys of citizens regarding the quality of courts are to be introduced in 2019, so that the judicial authorities and courts can use the findings on citizens’ satisfaction for assessing and improving the management efficiency of courts and judges.

The essence of the methodology is the use of criteria (quality standards) and indicators – empirical measurements that show how closely a specific court approaches certain quality standards that describe a perfect court, one which fully implements the basic legal values of a democratic society [5, p. 301].

The system for assessing the quality of the courts was developed based on international experience and recommendations of the European Commission for the Efficiency of Justice. The European Commission for the Efficiency of Justice has repeatedly emphasized the importance and necessity of monitoring the efficiency and quality of justice and the lack of such systems in most countries [6].

As part of the above project, together with representatives of the courts we identified the aspects of courts that could be appraised by the public, developing the tools (Citizen Report Cards), which included questions regarding citizens’ perceptions of courts.

The key elements of these questionnaires are evaluation criteria (“quality measurements”) and indicators.

Measurements show certain quality standards in the operation of courts, aimed to elicit citizens’ expectations regarding the judicial activities in a democratic society.

In evaluating the degree of citizens’ satisfaction with courts, the following criteria and indicators were used:

– physical accessibility of the court (how easy it is to find the courthouse, how



convenient to get to the courthouse by public transport, whether citizens with disabilities can easily access the court, etc.);

- convenience and comfort of being in court (a sufficient number of comfortable waiting seats, legible paperwork, cleanliness and tidiness of the premises, sufficient lighting, etc.);

- completeness and clarity of information (convenient location of information boards, adequacy of available information on the locations of courtrooms, availability of sample documents, availability of necessary information at the court's webpage);

- adequateness of trial periods (timely case meetings, timely receipt of trial agendas and reports, the validity of delays/postponements in the case, etc.);

- impressions of court staff (quality of court staff in preparing paperwork, professionalism, knowledge, whether the court staff displayed kindness, respect, helpfulness, etc.);

- impressions of judges (judges' correctness and politeness toward trial participants, the degree of preparedness to review a particular case, compliance with trial procedures, independence and impartiality).

The study used two planes of evaluation of the court: generalizing evaluations and assessments for individual measurements. The general assessments showed the subjective perceptions of court quality based on the respondents' answers to direct questions about their court experiences on a standard five-point scale assessment. The second level of analysis was based on the resulting quality measurements.

Thus, court visitors (direct trial participants) evaluated aspects of a particular court, which could be generalized to evaluate the court not only by objective statistical indicators, but also from a subjective standpoint (through the eyes of people who came to the court to protect their rights).

The Citizen Report Card method utilizes traditional sociological surveys, but has its own distinct features.

The first is the sample of respondents. In contrast to traditional sociological poll methodology, the CRC method requires close cooperation between those who ensure the functioning of the court (i.e., the judges), court staff, judiciary authorities, and members of the judicial

proceedings. In other words, these surveys apply only to those with direct experience of resolving a matter in court.

Another feature of the CRC method is the presentation of findings. The obtained findings on court performance (measurements and evaluation indicators) can be analyzed through generalized assessments. An important methodological aspect of the analysis of a court is comparing its various aspects with those of a perfect court. That is, if each of the quality measurements has the maximum value (five points), such a court would be considered perfect based on to the quality of its performance. However, in practice it is virtually impossible to achieve such a result. Therefore, in studying court performance it makes more sense to proceed based on actual maximum scores of quality measurements as defined by the total of all courts surveyed, whereby the court with the highest (maximum) score is considered perfect.

The final feature of the CRC method regards feedback. Citizens' assessments are their subjective perceptions of how comfortable they felt in court, how complete and clear were the information they received there, how satisfied they were with trial speed, how clearly they understood the judgment, and other issues that actually form the citizens' opinions on courts. One practical benefit of the CRC method is that it enables to use the obtained findings in the administration of specific courts and the judiciary as a whole, creating the conditions where courts can more fully and adequately take citizens' opinions into account, and, despite inadequate funding, poor judiciary administration, contradictory legislation, and, most importantly, the current pressure on the judiciary, make the court more open and useful to people, increasing their confidence in courts as reliable and effective government institutions.

Research using the method of Citizen Report Cards has certain essential features. First of all, it is the simplicity and ease of completing the questionnaire. Respondents have to put evaluation points for certain aspects of the court performance that reflect its activities and can be evaluated by visitors.

Second, it is efficiency in conducting the survey. To form an idea of the strengths and weaknesses of a court performance (in terms of its visitors) quantitative sample may be

relatively not big (till 200 respondents). This will get reliable data at very short period of time, of course, considered the quality characteristics of the respondents (socio-demographic and procedural).

Thirdly, ease of data processing. The data are calculated using any sociological data processing application or using EXCEL program. Results can be given as a percentage and in the average.

Fourth, it is practical orientation. The information is used not as aggregate data concerning the whole judicial system; it can be used to administer a particular court. Based on the evaluation given by the study (average), court administration is developing measures to improve certain aspects of the judicial activities.

Conclusions. Thus, it should be noted that implementing the Citizen Report Card methodology as part of a systematic assessment of court quality will, among other things, help identify current public expectations of proceedings and thus establish a constructive dialogue between the judiciary and the public. Citizen Report Cards are a very effective tool for innovative assessment and monitoring of court performance, complying with both modern international standards and domestic laws.

Assessment of court quality is a positive method which aims to eliminate problematic aspects of the judiciary to make this institution work more efficiently, meeting the public demand for swift and fair justice. Citizen Report Cards encourage citizens to participate in the improvement of the court at the level of individual courthouses. This ensures feedback between the courts and the public, as the results obtained through CRC provide courts with relevant and current information on the quality of their work as perceived by citizens who directly seek protection of their rights and liberties. The study results can be used in administrating both a particular court and the justice system as a whole, which is a positive step towards improving the efficiency of the court and increasing public confidence in the judicial processes and decisions.

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ОСОБЕННОСТИ РАССМОТРЕНИЯ АПЕЛЛЯЦИОННОЙ ЖАЛОБЫ НА РЕШЕНИЯ СУДА ПЕРВОЙ ИНСТАНЦИИ, КОТОРЫЕ ПРИНЯТЫ В ПОРЯДКЕ СОКРАЩЕННОГО ПРОИЗВОДСТВА

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Summary

The article is sanctified to the features of consideration of petition of appeal on decreets that is accepted in the order of brief realization of the first instance. Features of consideration of petition of appeal are on decreets that is accepted in the order of brief realization of the first instance. In the article grounds are analyzed for petition of appeal on decreets that is accepted in the order of brief realization of the first instance, procedure of consideration is certain, displace attention on separate to the competence of persons that participate in business.

Key words: administrative rule-making, appellate realization, petition of appeal, brief realization.

Аннотация

Статья посвящена особенностям рассмотрения апелляционной жалобы на решения суда первой инстанции, которые приняты в порядке сокращенного производства. В статье проанализированы основания для апелляционной жалобы на решения суда первой инстанции, которые приняты в порядке сокращенного производства, определена процедура рассмотрения, обращено внимание на отдельные правомочности лиц, которые участвуют в деле.

Ключевые слова: административное судопроизводство, апелляционное производство, апелляционная жалоба, сокращенное производство.

Постановка проблемы. Административное судопроизводство осуществляется в соответствии с Кодексом административного судопроизводства Украины, который четко определяет основные принципы и порядок осуществления административного судопроизводства. Одной из форм рассмотрения административных дел является сокращенное производство. Особенности рассмотрения дела в сокращенном производстве предусмотрены частью 4 статьи 183-2 Кодекса административного судопроизводства Украины (далее – КАСУ), в соответствии с которой судья рассматривает дело в порядке сокращенного производства единолично, без проведения судебного заседания и вызова лиц, которые участвуют в деле.

Одной из дополнительных гарантий обеспечения права личности на судебную защиту и обеспечение законности и обоснованности судебных решений, которые не набрали

законной силы в административном судопроизводстве, является возможность их пересмотра в апелляционном производстве. Следует обратить внимание на то, что процедура рассмотрения административных дел в сокращенном производстве имеет свои особенности. Поэтому неслучайно, что пересмотр судебных решений административных судов первой инстанции, которые были приняты в сокращенном производстве, в апелляционном порядке имеет не только свои особенности, но и проблемы, которые возникают во время пересмотра решений судов.

Актуальность темы. Особенности апелляционного пересмотра судебных решений, принятых административными судами в сокращенном производстве, практически не освещались на страницах юридической литературы. Хотя отдельные положения были предметом рассмотрения ученых, в частности, В.Н. Бевзенка, Ю.В. Белоусова, С.С. Бичковой,