to the Treatment of Prisoners of War of August 12, 1949, Protocol Additional to the Geneva Conventions of August 12, 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) of June 8, 1977, Protocol Additional to the Geneva Conventions of August 12, 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) of June 8, 1977.

It has been established that the international community adopted a number of legal acts containing standards for the application of the death penalty, the core idea of which is the prohibition of this type of punishment and that such a prohibition correlates with norms that guarantee the observance of the human rights of accused (convicted) persons. The peculiarities of the application of the death penalty during armed conflicts are emphasized. It has noted that the norms of international humanitarian law guarantee prisoners of war compliance with the judicial guarantees of accused persons, in particular: the right to a trial by a properly established court, the right to defense, the right to appeal, regardless of the degree of guilt and the expected degree of punishment for a crime committed during an armed conflict. In addition, IHL norms, as well as universal and regional international acts of a general and special nature, also contain a ban on the application of the death penalty to vulnerable categories of persons (women, minors).

***Keywords*: *guilty person, vulnerable categories, punishment, human rights, offense, death penalty, standards*.**

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Iryna VERBA©
PhD in Law
(Dnipropetrovsk State University of Internal Affairs, Dnipro city, Ukraine)

ACCESS TO JUSTICE: APPROACHES TO INTERPRETATION

Ірина Верба. ДОСТУП ДО ПРАВОСУДДЯ: ПІДХОДИ ДО ТЛУМАЧЕННЯ. Доступ до правосуддя – це концепція, що стосується доступу людей до судів і правової бази для вирішення спорів. Його можна тлумачити різними способами: від незалежності судової системи до кількості судів доступних громадськості або якості наданих юридичних послуг. Доступу до правосуддя можна сприяти через законодавство, освіту та громадську активність. Отже, поліпшення доступу до правосуддя в усьому світі є необхідним завданням. Доступ до правосуддя є юридичним терміном, і в цій статті детально досліджено визначення його поняття. Розглянуто такі категорії, як суд і доступ до суду. У статті досліджено визначення поняття доступу до правосуддя в загальному розумінні, а також розглянуто тенденції юридичної науки щодо визначення цього терміна. Вважається, що доступ до правосуддя є невід'ємною частиною права на справедливий суд. Єдиного підходу до розуміння права на доступ до правосуддя немає, і воно потребує системного вивчення. Конвенція про захист прав людини і основоположних свобод не дає визначення поняття доступ до правосуддя, але воно вважається важливою частиною статті 6 Конвенції (яка охоплює гарантії справедливого судового розгляду). Було виконано базовий дослівний аналіз пункту 1 статті 6 (французькою та англійською мовами), зосередившись на терміні «незалежний і безсторонній суд, встановлений законом». Було виявлено, що хоча слова французькою та англійською мовами ідентичні, вони мають різні конотації. Стаття 6 Конвенції з прав людини та окремі правові позиції Європейського суду з прав людини, а також наукові підходи були ретельно проаналізовані, щоб надати широке розуміння не лише судового розгляду, а й усіх дій, що ведуть до судового розгляду. Виконаний аналіз став основою для подальшого аналізу змісту поняття «право на доступ до правосуддя».

***Ключові слова*: *доступ до суду, елементи права на справедливий суд, доступ до правосуддя, справедливість судового розгляду, доступність правосуддя*.**

Relevance of the study. Every country that considers itself democratic and legal should consider the approximation and harmonisation of its national laws with international standards, including those related to access to justice. Ukraine, for example, is working towards full

© I. Verba, 2022
ORCID iD: https/orcid.org/0000-0003-4123-8560
k_zpd@dduvs.in.ua

membership in the European Union. In its report entitled «For Democracy through Law», the Venice Commission noted that every person should be able to challenge illegal decisions in independent and impartial courts [1]. There is no doubt that the state as a legal entity strives for access to justice, notes A. Luzhanskyi [2]. The quality of access to justice affects the protection and provision of other human and citizen rights under the rule of law. Therefore, it is imperative that the concept of an individual's right to access justice be fully explored and interpreted.

Recent publications review. Z. Afanasyeva, A. Gren, A. Zharovska, V. Luzhanskyi, N. Omarova and many other legal scholars studied the interpretation and understanding of the meaning of the term right to a fair trial. Only a tiny part of the works of O. Sakari, N. Mykhaylenko and V. Chernyshov are concerned with explaining the content of the fundamental concept of the right to access justice. Therefore, it can be stated that there are not enough studies on this topic.

The article's objective is to characterise approaches to interpreting the concept of «access to justice» to develop a comprehensive understanding of it.

Discussion. The right to access justice is an integral part of fundamental human rights and freedoms, and how it is understood has important implications for how it is protected and enforced. The article examines the Convention on the Protection of Human Rights and Fundamental Freedoms, the European Court of Human Rights practice and modern and scientific views, with a purpose definition of the concept of rights and access to justice.

Clause 1 of Article 6 of the Convention on the Protection of Human Rights and Fundamental Freedoms states that everyone has the right to a fair and public trial within a reasonable time by an independent and impartial court established by law [3]. The Convention is an international normative framework for access to justice, and its other provisions reveal other critical aspects of this concept.

Article 6 of the European Convention on Human Rights does not define the concept of the right to access justice. Most European Union countries, like Ukraine, do not represent the concept of access to justice in their legislation. The only country that defines access to justice in its laws is the Republic of Moldova, in the constitution's text. Article 20 of the Constitution of Moldova states that every person has the right to have his case heard by a competent court if his rights, freedoms and legitimate interests have been violated and that no law can limit a person's access to justice [4].

Article 6 of the Convention on the Right of Access to Public Information provides that everyone has the right to a fair, public trial within a reasonable time by an independent and impartial court. The words following this phrase refer only to the public, open hearings and trials, and the judgment announcement without implying court access. In a literal and direct interpretation, it can be concluded that part 1 of Art. 6 provides for the presence of already opened court proceedings. Paragraph 1 of Article 6 guarantees only a fair trial and nothing more [5].

Article 6 of the Convention on Human Rights mentions only three specific rights: a fair, public trial by an independent court within a reasonable time. Article 6 of the Convention does not define an absolute right to go to court, but it contains guidelines for a fair trial. The article assumes a judicial process and then creates a request based on that assumption: the right to a fair trial. The report does not give anyone access to the court but outlines the guiding principles of a fair trial [6, p. 18-25].

Article 6 of the Convention on Human Rights guarantees everyone the right to a fair trial. The European Court of Human Rights (ECtHR or European Court) carefully examined these guarantees in its decision in Holder v. the United Kingdom. The decision considered the right to access justice as a fundamental part of every person's ability to go to court to resolve issues regarding their rights and obligations.

The Court reviewed the words in paragraph 1 of Article 6 of the Convention in the original languages (English and French). Both languages are authentic texts.

The word «cause» has many meanings in French, including a case before a court, a group of interests, and the support or advantage of those interests. Contestation refers to a battle, a fight, or a disagreement.

An independent and fair court is created by law. It is a separate entity, unrelated to other terms, and exists before litigation. A lawsuit, as a rule, exists before court cases and is an independent concept. The English translation speaks of a separate and fair court established by law. The phrase in defining his civil rights and responsibilities does not only refer to pending

legal proceedings. Still, it can also mean any time a person's rights and obligations are involved. It can be in court or a separate tribunal [7, p. 32].

The words in the French text of the Convention have a broader meaning than the English words used in the English text. The terms in the French text cover not only legal proceedings including pre-trial actions. Part 1 of Article 6 of the Convention covers related rights, although different [7, p. 28].

The European Court considers that Article 6 of the Convention on Human Rights, which details the guarantees that each party has during the process, not only protects the publicity and fairness of the trial but instead it protects the right of access to a court, which is only part of the general right to appeal to the court. Article 6 of the Convention adds guarantees regarding the composition and activity of the court, as well as the conduct of court proceedings. These safeguards combine to ensure that the person being tried receives a fair trial [7, p. 36].

To scientifically investigate the definition of the concept of access to justice, it is necessary to study doctrinal approaches, conventional norms, and norms of national legislation.

Paragraph 1 of Article 6 of the Convention provides that everyone has the right to a fair trial. This is fully equal to (or is) the right of access to justice, which means that every person has the opportunity to go to court regarding his civil rights and liberties and to have his case heard by a neutral and independent judge within a reasonable time [8]. The case must meet all the requirements in Article 6 of the Convention since a fair trial cannot be held if the judge is biased or if the problem is not public.

V. Komarov and N. Sakara examine the general right to a fair trial in broad and narrow senses, considering access to justice.

According to our understanding, the right to a fair trial is not the same as the right to access justice. The right to a fair trial has many aspects, while access to justice is only one.

V. Komarov and N. Sakara analyse a narrow approach to understanding the right to a fair trial, considering only the element of the possibility of access to the judicial system without legal or economic obstacles. It is part of the larger concept of the right to a fair trial.

N. Sakara notes that access to justice is necessary for a fair and efficient judicial system. This means that there should be no restrictions on who can enter the courtroom and that procedures should be followed. The author believes everyone should access the courthouse [9, p. 47].

I. Zharovska notes that to determine the essence of access to justice, it is necessary to ensure the availability of justice both at the national and international levels. She suggests that it includes many measures and tools that allow a person or other organisation to freely turn to the justice authorities and seek the protection of their rights [10].

N. Gren believes that access to court is an essential and permanent part of a fair trial, in accordance with Article 6 of the Convention. He assumes that access to court is a legal, physical, economic, and procedural possibility of going to court without prior special permission, taking specific actions, using pre-trial dispute resolution methods, or other costs [11].

A. Luzhansky states that access to justice exists when a person has easy access to the court, without interference, and can receive a decision in his case that the authorities will implement. Then the person can appeal the decision or demand its implementation if necessary. Access to justice is determined by a person's ability to use all legal means of protection provided for by both national and international legislation during the trial [12, p. 7].

Scientists and researchers analyse different scientific approaches to understanding the meaning of the term access to justice. Thus, they demonstrated that there is a tendency to conflate the terms access to court and access to justice. However, some have clearly stated that these terms are not identical.

A.T. Mykhaylenko believes that access to justice and availability of justice should also be used differently. Access refers to allowing individuals to use the justice system to protect their freedoms and interests. Thus, access to justice is one of the fundamental principles of the justice system; that is, everyone can use the institution without any obstacles, free of charge and on equal terms [13].

To explore the idea of going to court, it is also necessary to define what a court is.

Article 6 of the Convention on the Protection of Human Rights and Fundamental Freedoms states that a fair trial can only be ensured by an independent, impartial, legal court [3].

The court is a state organisation that administers justice in the interests of citizens.

N. Chernyshova believes the court is a unique state body with features other bodies do not.

The court differs from other state bodies in that it decides cases that any other instance cannot consider and the way of thinking cases in the court must comply with a strict procedure [14].

The European Court of Human Rights applies the Convention in all its decisions, fully and comprehensively revealing the concept of the court. The European Court has a much broader understanding of what a court is. In a sense, a court considers an entity that resolves disputes by issuing a final, binding act. This entity may not be part of a government or judicial body, but it must have significant judicial powers created by the parties involved in the dispute themselves.

According to the decision in Ringeisen v. Austria, registration organisations were considered de facto courts. According to the decision in Campbell and Fell v. The United Kingdom, the Board of Penitentiaries was considered a court. Both decisions are essential for the concept of the court.

In Schramek v. Austria, the European Court clearly stated that a court is a body responsible for administering justice, applying the rules of law and acting by the rule of law. The court decides everything within its competence.

The European Court considers that, in addition to independence from any influence, the court must also meet the standards of independence from the parties involved in the case, and the members of the court must have a sufficiently long mandate consistent with the integrity of the judicial process. In another case, « Le Comte Van Leeuwen and De Maier v. Belgium», the European Court emphasised these requirements.

The legal definition of the right of access to the court provides for bodies that carry out judicial actions by ongoing proceedings to ensure justice. The content of the idea of a court in this definition is an object/place that solves problems and has the capacity and authority to do so.

Paragraph 1 of Article 6 of the Convention of the European Union states that every court must be established by law. In the case of Zand v. Austria, the European Court of Human Rights interpreted this phrase. They noted that the court should not only have legal grounds for existence but also act according to specific standards.

Article 6 of the Convention refers to the achievement of justice, although it does not clearly define this term. The article is separate from the right to a fair trial and has a complex interpretation by the European Court of Human Rights. Further research on this article is needed.

Conclusions. Ukraine, for example, is working towards full membership in the European Union. In turn, the Venice Commission stated that every person should be able to challenge illegal decisions in independent and impartial courts. Therefore, Ukraine needs to work on defining access to justice in laws and ensuring access to justice in practice. Access to justice is an essential human right, and we must continue to study it in law and language, in various national systems and international standards.

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ABSTRACT

Access to justice is a legal term, and this article explores its definition in detail. It looks at categories such as the court, statutory court, and access to the court. The paper examines the purpose of access to justice in general and separately and also considers trends in legal science regarding the meaning of this term. Access to justice is integral to the right to a fair trial. There is no single approach to understanding the right to access justice, and it needs a systematic study. The Convention does not define access to justice, but it is considered an essential part of Article 6 of the Convention (which covers guarantees of a fair trial). The author has carried out a fundamental verbatim analysis of Article 6 paragraph 1 (in French and English), focusing on the term «independent and impartial tribunal established by law». It was found that although the words are identical in French and English, they have different connotations. Article 6 of the Human Rights Convention and individual legal positions of the European Court of Human Rights, as well as scholarly approaches, have been thoroughly analysed to provide a broad understanding of the trial and all the actions leading up to the trial. This analysis became the basis for determining the meaning of the expression «right to access to justice», as the author did.

Keywords**:** *access to court, elements of the right to a fair trial, access to justice, fairness of the problem, accessibility of justice*.