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DOI: [https://doi.org/10.34625/issn.2183-2705\(32\)2022.ic-13](https://doi.org/10.34625/issn.2183-2705(32)2022.ic-13)

Secção I

Investigação Científica*

* Os artigos presentes nesta secção foram sujeitos a processo de revisão segundo o método *blind peer review*.

Features of regulatory regulation of state financing of maintenance of jury trial in Ukraine

Características da regulamentação sobre o financiamento estatal para a manutenção do Júri no sistema judicial da Ucrânia

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ABSTRACT: The article analyses the peculiarities of legal regulation of state funding of jury trial maintenance in Ukraine. It has been established that public funding of the judicial system in Ukraine is currently extremely limited, which is a consequence of the economic crisis in Ukraine due to the temporary annexation of the Autonomous Republic of Crimea, permanent military clashes in the east of Ukraine and the global pandemic coronavirus. Moreover, in economically developed countries, the level of state funding of the judicial system directly depends on the economic potential of the state and its stability in the global economic market. Therefore, it is necessary for Ukraine, first of all, to move towards improving its position within the global economic market and overcoming all manifestations of economic crisis. It has been established that jury trial is one of the key institutions of judicial power, the judiciary and have proved the urgency of further improvement of jury trial mechanisms, but only in the criminal proceedings, because in case of their adoption by the Supreme Council of Ukraine, jury trials will not have any legitimacy in civil proceedings. On the basis of the cited statistical data it was established that the monetary compensation for jury trial in Ukraine is minimal in comparison to the USA, Canada or France. The UK, on the contrary, does not provide for monetary compensation of jurors in its legislation; only travel and per diem compensation exist. The high level of jury monetary compensation depends first of all on the social and economic development of the country. Concludingly, the legislator's actions of the recent years are directed at the classical jury trial model, which exists in many countries of the world, with an appropriate level of financial assistance and an appropriate level of logistical support.

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KEYWORDS: criminal proceedings; civil proceedings; lay judges; financial support; remuneration proceedings; judicial system; State Judicial Administration of Ukraine.

RESUMO: O artigo analisa as peculiaridades da regulação legal do financiamento estatal da manutenção dos julgamentos com júri na Ucrânia. Além disso, em países economicamente desenvolvidos, o nível de financiamento estatal do sistema judicial depende diretamente do potencial econômico do Estado e de sua estabilidade no mercado econômico global. Portanto, é necessário que a Ucrânia, em primeiro lugar, avance para melhorar a sua posição no mercado econômico global e superar todas as manifestações de crise econômica. Ficou estabelecido que o júri é uma das principais instituições do poder judiciário, e há urgência de um maior aperfeiçoamento dos mecanismos de julgamento com júri, mas apenas no processo penal, pois no caso da sua adoção pelo Supremo Conselho da Ucrânia os julgamentos com júri não terão qualquer legitimidade em processos civis. Com base nos dados estatísticos citados, foi estabelecido que a compensação monetária para o julgamento do júri na Ucrânia é mínima em comparação com os EUA, Canadá ou França. O Reino Unido, pelo contrário, não prevê compensação monetária dos jurados em sua legislação; existem apenas despesas de viagem e diárias. O alto nível de compensação monetária do júri depende, em primeiro lugar, do desenvolvimento social e econômico do país. Concluindo, a atuação do legislador nos últimos anos está direcionada para o modelo clássico de júri, que existe em muitos países do mundo, com um nível adequado de assistência financeira e um nível adequado de apoio logístico.

PALAVRAS-CHAVE: processo penal; processo civil; juízes leigos; apoio financeiro; processo de remuneração; sistema judicial; Administração Judiciária Estatal da Ucrânia.

Introduction

Judiciary is one of the branches of government, whose main task is to protect the rights and freedoms of people and citizen, ensuring social stability and legality, and it must be exercised in accordance with the law and by legal means. One such tool is the jury trial which became relevant in Ukraine after the adoption of the Law of Ukraine "On the Judiciary and the Status of Judges"⁶. It was later amended by the Criminal Procedure Code of Ukraine and recently a jury trial in civil proceedings. The jury trial as an independent socio-political institution should occupy an important place in the system of general justice of Ukraine, because this legal institution has a high human rights capacity to guarantee respect for human rights and freedoms⁷. Such a court allows citizens to participate in the administration of justice in criminal and civil cases.

⁶ LAW OF UKRAINE No 1402-VIII 'On the Judiciary and the Status of Judges' (2016). Available from: <https://zakon.rada.gov.ua/laws/show/1402-19#Text>.

⁷ YAROSHENKO, O.M., VAPNYARCHUK, N.M., LOZOVOI, S.V., YAKOVLEVA, G.O., and YAKOVLYEV, O.A. General-compulsory medical insurance: World experience. Journal of Advanced Research in Law and Economics, 2018, vol. 9, n. 5, pp. 1829-1838.

In recent years, there has been a debate about the necessity and expediency of a jury trial in Ukraine. There are those who are convinced of the unconditional importance of improving the legal regulation of the jury trial and those who are opposed to the admission to justice of persons who do not have special legal skills and knowledge to administer justice in Ukraine. The latest developments due to the development of two bills (Law of Ukraine No 3843 "On the jury trial"⁸). This bill speak of the special urgency of further improving the mechanisms of the jury trial, but only in part of criminal proceedings, because if they are adopted by the Verkhovna Rada of Ukraine - the jury will not have legitimacy in civil.

At the same time, the above-mentioned regulations do not solve the main problem of the jury trial, which has existed since the beginning - the problem of financial support of the jury trial of Ukraine. This determines the interest of the citizens of Ukraine in making important decisions to protect human rights and freedoms. Despite the fact that the issue of state financial support is defined at the level of a separate resolution of the Cabinet of Ministers of Ukraine, it is the insufficiency of the monetary remuneration established by law that provokes the population's lack of interest in the administration of justice. These and other indisputable facts indicate the relevance of such a study.

Goals and objectives of the study

The aim of the study is a comprehensive analysis of the legal regulation of state funding for the maintenance of the jury in Ukraine. To achieve this goal, the following tasks were identified:

- to define the concept of a jury trial and its separation from the jury,
- to analyze the main provisions of the Law of Ukraine "On the Judiciary and the Status of Judges"⁹ in the jury trial;
- to find out the current state of financial support of the jury,
- to consider key bills concerning the further improvement of the jury in Ukraine;
- to analyze the features of the jury trial in terms of funding in the practice of foreign countries in the world with statistics. provide specific and reasonable

⁸ LAW OF UKRAINE No. 3843 'On the jury trial: draft law of Ukraine' (2020). Available from: <http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=69465>.

⁹ Ibid 6.

proposals for improving the legal regulation of state funding for the maintenance of the jury in Ukraine.

The study actively used a number of general and special legal methods of modern research, and among the main ones are the following: comparative law method was used in the analysis of the main features of legal regulation of juries in Ukraine and other countries, including the USA, Canada, Great Britain, France. Method of analysis and synthesis - as general scientific methods. Statistical method used to present the main indicators of the State Budget of Ukraine for 2021 in terms of financing the needs of the State Judicial Administration, calculation for the last three years of the average hourly wage of jurors in Ukraine, daily approximate calculation of wages (remuneration) of jurors¹⁰.

Analysis of recent research and publications indicates the interest of both legal professionals and modern economists in the relevance of funding for a jury trial: W. Nor and A. Voinarovych¹¹, Yu.V. Lysyuk¹², M.M. Olashyn and S.S. Hapiak¹³, I.O. Roshchyna¹⁴, L.R. Shuvalska¹⁵, A.V. Grubinko and N.M. Yarchuk¹⁶, S.O. Ivanitsky¹⁷, V.P. Hans¹⁸, T. V. Kniazieva¹⁹ and others who conducted research and analyzed the jury trial in Ukraine and abroad. Also, they identified promising ways to improve and further develop the institution of a friendly court in Ukraine.

¹⁰ The amount of expenditures provided for in the draft State Budget for 2021 for the judiciary is far from real needs (2020). Available from: <<https://dsa.court.gov.ua/dsa/press-centr/news/1035483/>>.

¹¹ NOR, W., and VOINAROVYCH, A.V. Procedural opportunities of defense counsel in case of bail in Criminal Proceedings. *Law Ukraine: Legal Journal*, 2019, vol 12, pp. 167-169.

¹² LYSYUK, Yu. V. The examining magistrate as a guarantor of people's rights in court proceedings. *Law and Public Administration*, 2014, vol. 1, n. 2, pp. 119-122.

¹³ OLASHYN, M.M., and HAPIAK, S.S. Criminal processual aspects take off information from electronic information system. *Herald of LUTE. Legal Sciences*, 2018, vol. 7, pp. 233-242.

¹⁴ ROSHCYNA, I.O. Judicial power and people's rights in Ukraine. *Journal of Legal Science*, 2017, vol. 10, n. 76, pp. 4-11.

¹⁵ SHUVALSKA, L.R. Features of legal status jury as a subject of criminal kind judiciary of Ukraine. *European Perspectives*, 2015, vol. 6, pp. 179-186.

¹⁶ GRUBINKO, A.V., and YARCHUK, N.M. Problems and prospects of introducing jury trials in the ukrainian justice system: foreign experience and domestic practice. *Juridical Scientific Electronic Journal*, 2014, vol. 1, pp. 11-15.

¹⁷ IVANITSKY, S.O. The social and demographic face of the Ukrainian bar. *Journal of Criminal Justice*, 2019, vol. 3, pp. 144-151.

¹⁸ HANS, V.P. *Business on trial: The civil jury and corporate responsibility*. Yale University Press, 2000. Retrieved from: <https://psycnet.apa.org/record/2000-05294-000>.

¹⁹ KNIAZIEVA, T.V., SHEVCHENKO, A.V., SHEVCHENKO, A.V., YAROSHENKO, O.M., INSHYN, M.I., and YAKOVLYEV, O.A. Current trends in the formation and development of insurance marketing in Ukraine. *Risk Management and Insurance Review*, 2021, vol. 24, n. 3, pp. 279-292. doi:10.1111/rmir.12185.

In particular, O.O. Ovsyannikova²⁰ identifies three key proposals for improving the regulation of juries in Ukraine, namely:

- first, the peculiarities of the conception of "jury" and its legal status are determined by the legislation of Ukraine, but there is still a problem of detailing and clarifying these provisions;

- secondly, the legislature by considering and adopting new bills sufficiently encourages and initiates the further development of the jury in Ukraine. Creating an opportunity to eventually achieve the same level of justice by this institution in our country as in most countries that make significant contributions. in international practice;

- thirdly, in general, jury trials operate in fifty-three countries, each of which has a personal dynamic of development of this institution. At the same time, it is necessary that international practice has an unconditional and significant impact on the institution under study, due to which new bills, regulations should be adopted that improve and regulate the role and presence of jurors in court and during sentencing.

M.I. Karpenko²¹ notes that the institution of a jury trial is new to modern legislation, but for the effective implementation of this innovation it is necessary to develop a new model of criminal justice. Thus, the jury trial must be introduced into the criminal proceedings of Ukraine, taking into account the peculiarities of the national legal system. When creating such an institute, the achievements of domestic science in the field of procedural law, organizational and financial capabilities of the state should taken into account. That is why, in our opinion, the legislator, enshrining this institution in the Constitution of Ukraine, provides for the possibility of creating a jury trial at a time when economic and political relations in the country are not just stabilized, but move to a higher stage of development.

²⁰ OVSIANNIKOVA, O.O. Court impartiality as an element of judicial fairness. *Knowledge of European Law*, 2020, vol. 2, pp. 90-96.

²¹ KARPENKO, M. I., and BANDUROVICH, A. V. Jury trial in Ukraine. *Juridical Science*, 2013, vol. 6, pp. 53-59. Retrieved from: http://nbuv.gov.ua/UJRN/jnn_2013_6_9.

Legal security for the existence of jury trials

In democratic states governed by the rule of law around the world, judicial protection is one of the main forms of protection of human and civil rights and freedoms, which resolves disputes and conflicts between the parties. The main goal of establishing truth and achieving justice²². To begin with, let's consider the general theoretical information concerning the administration of justice by a jury in Ukraine. In accordance with Part 4 of Art. 124 of the Constitution of Ukraine - the people are directly involved in the administration of justice through a jury. According to Art. 127 of the Constitution of Ukraine "justice is administered by judges. In cases specified by law, justice is administered by a jury. " Paragraph 3 st. 129 of the Constitution of Ukraine stipulates that "judicial proceedings are conducted by a single judge, a panel of judges or a jury"²³.

Thus, the Basic Law of Ukraine confirms the unconditional importance of the existence of a jury. Marchak V.Ya. noted that the jury trial - "is one of the institutions of the judiciary and the entire system of public authorities, which embodies the principle of direct participation of the people in the administration of justice." The link between human rights and the jury emphasizes the advantages of this form of justice over the traditional procedure of criminal proceedings, and points to the humanistic nature of this form of justice. The jury institute in Ukraine is a form of democracy. The Constitution of Ukraine enshrines the existence of "people's power". That is, people have the right to participate in the management of public affairs, including the administration of justice. Therefore, it means there is a symbiosis between the judiciary and the society²⁴.

It is known that jurors all over the world are persons who, in cases specified by law, may be involved in the administration of justice and resolve criminal, civil and other cases. In addition, the institution of jurors and lay judges is the embodiment of people's participation in the administration of justice, and

²² HOROBETS, N., LYTVYN, N., STARYNSKYI, M., KARPUSHOVA, E., and KAMENSKA, N. Settlement of Administrative Disputes with the Participation of a Judge: Foreign Experience and Implementation in Ukraine. *Journal of Legal, Ethical and Regulatory Issues*, 2021, vol. 24, n. 1, pp. 2-7.

²³ Constitution of Ukraine. 1996. <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96%D0%B2%D1%80#Text> accessed 15 August 2022.

²⁴ MARCHAK, V.Ya. *Some problems of forming a judicial corps in the context of judicial reform in Ukraine*. Chernivtsi: Technodruk, 2019.

therefore - the importance of such legal institutions is a guarantee and confirmation of the rule of law in which the people are a key source of power.

Slovska I.E., is convinced that the attitude of practitioners and procedural scholars to the jury is ambiguous, because it has shortcomings such as: their tendency to make decisions based on emotions rather than law and their unprofessional jury and their lack of basic legal education can interfere with a fair decision in the case, in particular the possible acquittal of the perpetrator. Also has significant advantages such as: court is an element of the system of checks and balances in the functioning of the judiciary, including its presence is an expression of humanization criminal proceedings aimed at protecting the citizen from the arbitrariness of state bodies²⁵.

S.V. Overchuk, notes that:

“the effectiveness of the jury directly depends on the quality of the persons who implement it. The jury is a kind of social “slice” of society, which reflects all its shortcomings and advantages and which is directly dependent on the state of legal culture of citizens. This does not exclude the possibility of joining the jury of people with low moral qualities. The need to select the best members of society who can make a fair decision requires the establishment of a number of restrictions on the participation of citizens as jurors. Another way is to increase the general cultural level of the entire population of the country, which will adjust the percentage of jurors whose lives correspond to the laws of nature”²⁶.

As for the very legislative definition of the term “jury trial”, there is no such definition by laws. But it is necessary to pay attention to the Draft Law of Ukraine dated 14.07.2020 No 3843 “On Jury”²⁷, which in some way regulates the regulation of the jury, and the Draft Law of Ukraine On Amendments to the Law of Ukraine “On the Judiciary and the Status of Judges”²⁸ in connection with the adoption of the Law of Ukraine “On Jurors” from 14.07.2020 No 3845 (Draft Law No. 3845) submitted by the Cabinet of Ministers of Ukraine. Thus, the draft law stipulates that “a jury trial is a form of direct realization of the natural right of the people to administer justice enshrined in the Constitution of Ukraine. The jury carries out proceedings in the court of first instance in criminal proceedings in

²⁵ MYKOLA, I., TETIANA, K., RUSLAN, K., IHOR, D., and VOLODYMYR, P. European standards for the protection of social rights of labor migrants. *Journal of Legal, Ethical and Regulatory Issues*, 2019, vol. 22, n. 6, pp. 1-8.

²⁶ OVERCHUK, S.V. Establishment of the institute of jurors in the conditions of entry into force of the Criminal Procedure Code of Ukraine. *Journal of the National University “Ostroh Academy”*, 2012, vol. 2, n. 6. Retrieved from: <http://lj.oa.edu.ua/articles/2012/n2/12osvpu.pdf>. accessed 15 August 2022.

²⁷ Ibid 7.

²⁸ Ibid 6.

accordance with the criminal procedure legislation. The jury consists of one professional judge and a jury. A professional judge of a jury is the procedural presiding judge in a court session and does not take part in the decisions made by the jury on the merits of accusing a person of committing an act under the Criminal Code of Ukraine” (The Verkhovna Rada of Ukraine, 2020).

Based on the above mentioned draft law, the Ukrainian model of jury trial will be consistent with that of the leading countries of the world. Also, this draft law also contains provisions on: increasing the number of requirements and restrictions on a juror, a candidate for a jury, including restrictions on being a juror to a person who has been subject to an administrative penalty for committing a corruption offense during the last year; if he is a close relative or family member of a member of the jury conducting the proceedings, etc.

In addition, this project establishes the procedure for swearing in an oath, its removal, the procedure for meeting and voting, additional guarantees and material and financial support. Thus, by considering and approving such a project, the legislature sufficiently encourages and initiates the further development of the jury in Ukraine, creating an opportunity to eventually achieve the same level of justice by this institution as in most countries that make significant contributions to international practice²⁹. The very definition of "jurors" is legally defined and enshrined in Part 1 of Art. 63 of the Law of Ukraine "On the Judiciary and the Status of Judges", which states that "a juror is a person who in cases specified by procedural law, and with his consent decides cases in court with a judge or is involved in the administration of justice"³⁰.

In Part 1 of Art. 65 of the Law stipulates that “a juror may be a citizen of Ukraine who has reached the age of thirty and permanently resides in the territory under the jurisdiction of the relevant district court, unless otherwise provided by law”³¹. I. Yu. Tatulich notes that the participation of jurors in the administration of justice is also correlated with such an important principle as equality of arms before the law and the court. The jury trial is a clear indicator of the principle of democracy, in which human rights and freedoms are the highest value of the

²⁹ Ibid 7.

³⁰ Ibid 6.

³¹ Ibid 6.

state. The jury also helps to implement a competitive form of justice, on the basis of which civil proceedings are carried out³².

It should be noted that Art. 68 of the Law provides the main guarantees of the jury. Thus, “juries are guaranteed the independence and integrity of judges established by law for the duration of their duties in the administration of justice. Upon a reasoned request by a jury, security measures may be taken against him after the completion of these duties”. In fact, the Law of Ukraine “On the Judiciary and the Status of Judges” regulates in sufficient detail the participation and guarantees of juries in the administration of justice.

At the same time, the text of the Draft Strategy for the Development of the Judiciary and Constitutional Judiciary for 2021-2023 has recently appeared online, which must also be approved by the Decree of the President of Ukraine, which mentions only the introduction of a jury trial³³ that decides the guilt (guilt) of a person in committing crimes for which the law provides for life imprisonment.

Also jury trial establishm procedural safeguards for the impartiality of jurors and a transitional period for the implementation of this institution of direct participation of citizens in the administration of justice.

Prospects for the widespread introduction of jury trials

Thus, it can be said that the draft of the updated strategy states almost nothing about the participation of jurors in civil proceedings. At the same time, both scholars and practitioners comment on the prospects for widespread introduction of the jury trial in the domestic judicial system. We propose to consider some of them. The positive aspects of the introduction of the jury are that the participation of the people in the administration of justice increases public confidence in the judicial system of Ukraine. Statistics also support this argument. According to a survey conducted by GfK Ukraine on behalf of the USAID Fair Justice Project, the level of trust in the judiciary is 10%³⁴.

³² TATULICH, I.Y. Legal status of jurors in civil proceedings. *Entrepreneurship, Economy and Law*, 2019, vol. 12, pp. 67–72. Retrieved from: <http://pgp-journal.kiev.ua/archive/2019/12/14.pdf> accessed 15 August 2022.

³³ Project "STRATEGY for the development of justice and constitutional justice for 2021-2023" 2021. Retrieved from: <<https://dejure.foundation/library/analiz-stratehii-sudovoi-reformy-vidofisu-prezydenta>> accessed 15 August 2022.

³⁴ All-Ukrainian survey of citizens (2016). Attitude to democratic changes in the political and social spheres, judicial reform and the process of cleansing the government in Ukraine. USAID Fair

Therefore, the gradual approval of the participation of jurors can increase the level of trust in justice. The participation of the people in the administration of justice can be considered a criterion for assessing the legitimacy of the judiciary. Researcher S.Ya. Fursa, noted that it is necessary to develop appropriate criteria for the selection of cases, when deciding on the introduction of a jury trial. According to the scientist, these should include: first, the amount of the claim from which the court fee will be paid, which will be determined taking into account the participation of the jury, for example, in cases where the value of the claim reaches more than UAH 1,000,000 (31 000 EUR); secondly, participation in jury trials should take into account the complexity and importance of the case³⁵.

A.O. Falkovski pointed to such negative aspects of the existence of a jury in civil proceedings as: the tendency of juries to make decisions based on emotions rather than the rule of law; professional incompetence; the possibility of influence on the jury by the media, the judge, other participants in the process outside the courtroom or deliberation room³⁶.

In terms of our study, it should be noted that according to the Draft Law of Ukraine No 3843 "On Jury", which, although it applies only to criminal proceedings, but contains interesting Final and Transitional Provisions, where paragraph 3 states "Part four of Article 293 of the Civil Code procedural code of Ukraine to be excluded"³⁷. Thus, in the case of the adoption of this bill, the participation of jurors in the proceedings in civil proceedings will be questioned. Therefore, cases in which their participation is possible will be excluded. Although, perhaps authors will return to the institution of lay judges, or even abandon the administration of justice by the people in this form. It is worth noting that the draft laws mentioned in the study in the event of their adoption by the Verkhovna Rada of Ukraine will finally be reminiscent of the classic model of a jury trial.

Justice Project. Retrieved from: <http://www.fair.org.ua/content/library_doc/fair_gfk_ukr.pdf> accessed 15 August 2022.

³⁵ FURSA, S. Ya. *Civil process of Ukraine. Problems and prospects: scientific and educational*. Kiev: KNT, 2006, p. 448.

³⁶ FALKOVSKY, A.A. Introduction of the jury institute in civil proceedings as a component of judicial reform in Ukraine. *Constitutional State*, 2017, vol. 26, pp. 113–119. <http://nbuv.gov.ua/UJRN/Prav_2017_26_21> accessed 15 August 2022.

³⁷ Ibid 7.

Therefore, according to T.M. Tertyshnyk such a model is reflected in separating the issue of guilt (this issue is decided by a jury in the verdict) from the issue of punishment (this issue is decided by the judge in the verdict), which limits the possibilities of abuse, corruption and arbitrariness. Collegiality of the verdict and the number of judges and broad rights to remove them, which significantly limits the possibility of pressure and corruption. Division of the judiciary into two relatively independent institutions (jury and professional judge), which mutually control each other (it creates additional levers of checks and balances against arbitrariness and possible manifestations of corruption and reduces the possibility of judicial error). Intensification of careful direct examination of evidence in court and adversarial proceedings, which is facilitated, in particular, by the fact that before the trial the jury is not familiar with the criminal case³⁸.

E.Yu. Lukash, who directly studied the jury trial in foreign countries, namely Canada, England, USA, Denmark, Sweden, Austria, Belgium, Norway, France, etc., noted that “the classical model of this court does not involve mixing roles of professional and people's judges”. Jurors decide the guilt or innocence of a person, i.e. decide the issue of fact, while the issue of law is within the competence of professional judges (USA, England, Canada, Sweden). Along with this model, there is another - with a separate-joint panel, when after the jury's verdict and the final decision is made jointly with professional judges (Belgium, Austria, Norway, Germany). World legal practice knows two models of jury trial: Anglo-American and European.

The first presupposes that jurors decide the following issues: whether the crime took place or not, whether the accused took part in the actions in which he is accused or not and whether he is guilty or not. Jurors do not fall within the scope of the law, as their main task is to render a verdict: guilty or not guilty. On its basis the professional judge passes sentence. The second model regulates the participation of jurors, who investigate all case materials and together with the judge (or panel of courts) resolve issues of fact (guilt or innocence and legal

³⁸ TERTYSHNYK, V.M. Jury: the essence of the idea and its mimicry in reforming the criminal justice system of Ukraine. *Law and Society*, 2012, vol. 3, pp. 221–224.

issues (classification of crime, choice of punishment). Countries such as France, Belgium, France, Italy, Sweden uses just such a model of jury trial³⁹.

Having clarified the general theoretical information concerning the jury trial in Ukraine and other countries of the world, it is possible to directly analyze the component of financial and material support. After all, this is an extremely important aspect for the proper functioning of the jury trial. According to V. Malyarenko, funding today is one of the main key problems, because the jury trial is complicated, cumbersome and unproductive. It does not apply to the whole number of cases, but only some of it, and is used only in the courts of first instance. However, it requires great efforts of the state to prepare the legal framework and attract additional funds⁴⁰.

Really have to pay a lot if Ukraine wants to have a real jury court. According to E.Yu. Lukash, all these changes for the best jury are related to what is needed:

- re-equipment of judges' premises for material support of proper functioning of juries in convenient conditions. Each court in which the jury administers justice must be equipped with at least one room in which they will discuss the case or make decisions;

- it is necessary to create certain structural subdivisions or special bodies, namely in local self-government bodies and courts in the powers of which will be the organization of selection of persons who meet the requirements specified in Art. 65 of the Law "On the Judiciary and the Status of Judges", i.e. by checking the data on jurors and conducting special tests or filling out questionnaires in order to obtain more detailed information.⁴¹

S. Moskalenko claims that courts and court staff are not properly funded (low salaries of court staff, outdated premises, etc.). So, with today's funding of the courts, there will simply not be enough money for the jury. In foreign judicial practice, there was a situation when court employees collected money to at least partially compensate twelve persons deprived of livelihood due to their many days

³⁹ LUKASH, E.Y. Peculiarities of the functioning of the jury institute in Ukraine. *A Young Scientist*, 2018, vol. 11, n. 2, pp. 881-884.

⁴⁰ MALYARENKO, V. Positives and negatives of the jury trial. *Law of Ukraine*, 2000, vol. 3, pp. 3-12.

⁴¹ Ibid 30.

of participation in the jury process⁴². V.I. Teremetsky notes that the problem is the funding of such an institution, as it may consider allocating significant funds to special commissions that will compile a list of jurors. The effective functioning of any institution depends on the level of its material and financial support. Therefore, whichever model of judicial organization Ukraine chooses without such support, it will not be effective enough⁴³. From the above, it can be concluded that in conditions of political instability and crisis in Ukraine, the main expenditures from the state budget are not aimed at financing the development of the jury, because even the courts themselves have not received a significant amount, and therefore have special needs for additional funding.

Regarding the repeatedly mentioned Draft Law "On the Jury", in Art. 30 states that "jurors are paid a monetary remuneration for their time in office, calculated from the salary of a local court judge, taking into account the daily actual time worked in the manner prescribed by the State Judicial Administration of Ukraine. Jurors are reimbursed for travel and rental expenses, as well as per diems. These payments are made at the expense of the State Budget of Ukraine by the territorial departments of the State Judicial Administration of Ukraine"⁴⁴. Thus, the calculation of monetary remuneration remains the same. The main bylaw, as follows from the provisions of the Law of Ukraine "On the Judiciary and the Status of Judges" is the Order of the State Judicial Administration of Ukraine No 198⁴⁵.

In Art. 2 of this Procedure stipulates that the juror is paid a remuneration for the time they perform their duties in court, calculated based on the salary of a local court judge (using the appropriate regional coefficient) taking into account the actual time worked, In the manner prescribed by Article 135 of the Law of Ukraine dated 02.06.2016 No 1402-VIII "On the Judiciary and the Status of

⁴² MOSKALENKO, S. Expediency and prospects of establishing a jury trial in Ukraine. *Legal Journal*, 2007, vol. 7. Retrieved from: <<http://www.justinian.com.ua/article.php?id=2743>> accessed 15 August 2022.

⁴³ TEREMETSKY, V.I. Peculiarities of introduction of jury trial under the new Criminal Procedure Code of Ukraine. *Law Forum*, 2012, vol. 3, pp. 728–735.

⁴⁴ Ibid 7.

⁴⁵ Order of the State Judicial Administration of Ukraine No 198 'On approval of the Procedure for payment of remuneration and reimbursement of expenses, payment of per diems to the jury during the performance of his duties in court'. 2016. Retrieved from: <<https://zakon.rada.gov.ua/rada/show/v0198750-16#Text>> accessed 15 August 2022.

Judges", taking into account paragraph 24 of Section XII "Final and Transitional Provisions" of this law. The actual time worked includes:

- acquaintance of the juror with the materials of the court case in which they participate as a juror;
- participation of a jury in a court hearing;
- stay of the jury in the deliberation room;
- time for the jury to wait for the beginning of the court hearing, which is defined in the procedural document, in case of shifting the schedule of court hearings (from the time specified in the procedural document to the actual beginning of the court hearing). The basic unit for charging a jury is the number of hours worked. If the jury has spent less than an hour, this time is counted as one hour⁴⁶.

Analysis of foreign experiences of material support for jurors

According to the State Judicial Administration of Ukraine, the amount of remuneration depends on the planned number of working hours per month. According to the lowest coefficient: - in 2018 the average salary was 220 hryvnias per hour (6,5 Euro); - in 2019, the average salary was 320 hryvnias (10 Euro) per hour. According to the highest coefficient: - in 2018 the average salary was 250 hryvnias (8 euro) per hour; - in 2019, the average salary was 355 hryvnias (11 euro) per hour. The amount of remuneration paid to the jury during their performance of duties in court (with the participation of three main jurors and two spare) was: for 2016 - UAH 1,107,619 (37 000 EUR); for 2017 - UAH 5,046,183 (175 885 EUR); for 2018 - UAH 12,742,400 (381 417 EUR); for 2019 - UAH 19,942,100 (649 099 EUR). Thus, every year the payment of remuneration increases.

To understand the state of financial support of courts, we note that the total need of the State Judicial Administration of Ukraine for expenditures for this year is over 24 billion UAH. The State Budget of Ukraine for 2020 provides for expenditures in the amount of over UAH 15.6 billion (50 776 787 EUR) to the State Judicial Administration of Ukraine⁴⁷. Thus, the level of financial support for the needs of courts is only 60% (this is the lowest figure since 2011). In monetary

⁴⁶ Ibid 45.

⁴⁷ Ibid 10.

terms, underfunding reaches UAH 8 billion (239 463 601 EUR), including the deficit for salaries of judges and employees of local and appellate courts - more than UAH 6 billion (19 529 533 EUR) together with accruals (expenditures on the State Tax Administration, 2021). For example, we will consider the general funding of a jury trial in some countries of the world (table 1).

Table 1. Material support for jurors in the world

State	State
USA	The work of juries is paid. Jurors are paid \$ 40 a day. If the trial lasts more than 10 days, the jury is paid \$ 50 per day (small jury) and \$ 50 per day after 45 days on the grand jury. Jurors are also reimbursed for transportation and parking fees. Jurors also receive cash benefits that cover their meals and accommodation if they are required to stay overnight (The main principles of the jury trial in the United States, 2016) ⁴⁸ .
Canada	The work of the jury is paid. In Canada, the level of jury compensation varies by province. Some jurisdictions start paying jurors from the first day of the trial, others do not provide compensation until the 10th day. Many increase the fee on the 11th and then on the 50th day of the trial. Most cover some of the costs of food, travel and accommodation, and some include the cost of caring for children. Thus, in Ontario the 11-49 th day costs 40 dollars USA, a day from 50 th – 100 dollars USA; in Alberta the payment is \$ 50 USA; In British Columbia the 11-49 th day costs \$ 60 USA (General Information about Jury Duty., 2019).
Great Britain	The court does not pay salaries to jurors, but jurors have the right to claim reimbursement of expenses such as travel, meals and accommodation during the trial (The Jury System, 2019) ⁴⁹ .
France	Jurors must attend each hearing before sentencing, who are already involved in the trial. During the trial, jurors receive compensation. Employers are not required to pay salaries to their employees during their absence due to refereeing. However, they must provide a payroll document confirming the loss of professional income in order to receive compensation from the jury ⁵⁰ .

Thus, it is possible to say that the monetary remuneration of jurors in Ukraine is simply meager, in comparison with the leading countries of the world. But at the same time, it is worth remembering that the economic condition of the studied states greatly differs from Ukraine. The situation are complicated by military escalation on the part of the Russian Federation, some courts of Ukraine have suspended their activities as of today due to active hostilities and temporary

⁴⁸ The main principles of the jury trial in the United States. 2016. Retrieved from: <<http://akrsud.kharkiv.ua/golovni-printsipi-diyi-sudu-prisyazhnih-v/>> accessed 15 August 2022.

⁴⁹ The Jury System. 2019. Retrieved from: <<https://www.lawteacher.net/free-law-essays/criminal-law/the-jury-system.php>> accessed 15 August 2022.

⁵⁰ Juré d'assises. 2021. Retrieved from: <<https://www.service-public.fr/particuliers/vosdroits/F1540>> accessed 15 August 2022.

occupation. At the same time, the courts in the territories liberated from occupation are beginning to resume their work, but more than fifty court premises have been damaged, and some of them have been completely destroyed. Some courts have been ransacked - computer equipment and other valuables have disappeared, which complicates the judicial process with the involvement of jurors.

Therefore, first of all, there is a need to stop the war, overcome the economic crisis (which only increases due to military aggression on the part of the Russian Federation) that affects all spheres of public life, including the further development of the jury trial in Ukraine. The need to get out of the economic crisis as soon as possible is indicated by a large number of scientists, because it is the crisis that causes underfunding of important spheres of public life. Agreeing with N. Nestor, we can say that global economic development and rapid technological progress create favorable conditions for the development and transformation of existing crimes, which directly affects the sphere of economic relations at the internal and external levels⁵¹.

Therefore, there is a direct link between the jury trial in terms of their financial support and the economic potential of the state. It should be emphasized that on average 50-55 criminal cases (proceedings) are considered per year for crimes punishable by life imprisonment. At the same time, the number of proceedings, for example, for particularly serious crimes (punishable by life imprisonment or milder imprisonment) which were pending in the courts in 2019, reaches almost 12 thousand, increasing by 220 times. Even if the calculations are tied only to the number of particularly serious crimes, the functioning of the jury in the proposed version will cost the state about 6 billion UAH (19 529 533 EUR) for a year. This, once again proves the need to amend the current legislation in terms of logistics and financial support of the jury.

Conclusions

It was found that the need to develop a jury trial in Ukraine is due to a number of subjective and objective reasons. After all, it is known that the jury trial

⁵¹ NESTOR, N., LYTVYN, N., YAROSH, A., DENYSYUK, S., and ROZHKOVA, L. Dynamics of development of economic crime and combating crime in different regions of the world. *Revista San Gregorio*, 2020, vol. 42, pp. 100-109.

is recognized as one of the forms of exercising judicial power by citizens - directly, and is also called the "voice of the people." Thus, in the legislation of the world and Ukraine, in particular, the institution of a jury consists of a separate panel of jurors and a professional judge or judges. It is determined that the legal regulation of the jury in Ukraine is defined by separate provisions of the Law of Ukraine "On the Judiciary and the Status of Judges" - as a basic legal act. The Law of Ukraine "On State Budget of Ukraine" for the relevant calendar year. Of the administrator of funds - the State Judicial Administration of Ukraine and the Order of the State Judicial Administration of Ukraine No 198 "On approval of the Procedure for payment of remuneration and reimbursement of expenses, payment of per diems to the juror during his duties in court" as a bylaw in which it is determined that the coefficients of remuneration, calculated based on the salary of a local court judge, taking into account the actual time worked.

Based on the above statistics, it was found that the amount of monetary compensation for a jury trial in Ukraine is minimal compared to the size of the United States, Canada or France. On the other hand, the United Kingdom, does not provide for a financial reward for jurors in its legislation as there is only compensation for travel and daily allowances. At the same time, the high level of monetary remuneration for the jury depends primarily on the socio-economic development of the state.

Therefore, overcoming the economic crisis caused by the annexation of Crimea, hostilities in the Donbas and the global pandemic - the coronavirus - should be a priority for Ukraine for the next few years. It was found that the state spent about 15 million hryvnias (488 238 euro) in 2020 to reward the jury. If the bills are passed in the form proposed by the Government, this figure will be about 5 billion hryvnias (162 746 112 euro). It is determined that the Cabinet of Ministers of Ukraine last year supported and submitted to the Verkhovna Rada of Ukraine draft laws on the introduction of a classical jury trial in Ukraine.

After all, this project envisages simplification of the procedure for compiling jury lists by excluding local councils from the process of their formation and imposing such a duty on the State Judicial Administration of Ukraine and its territorial administrations using information contained in the State Election Register. Also, they plan to reduce the minimum age of jurors from 30 to 25 years. In addition, the jury is required to decide on the guilt or innocence of the accused:

according to one of the bills, guilt will be established if five out of seven jurors voted for such a decision. Thus, it should be concluded that the actions of the legislator in recent years are aimed at the functioning of the classical model of jury trial, which exists in many countries, with the appropriate level of financial assistance and the appropriate level of logistics.

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Data de submissão do artigo: 28/06/2022

Data de aprovação do artigo: 02/12/2022

Edição e propriedade:

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