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## JURY TRIAL IN UKRAINE: FROM THEORY TO PRACTICE

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### INTRODUCTION

The jury trial, as a vital component of the legal system, safeguards impartiality in judicial proceedings. Its roots in citizen participation date to ancient legal traditions and underscore democracy's ties to the rule of law. In Ukraine, as in other jurisdictions, this institution has continually evolved amid political, social, and legislative shifts.

Historically, Ukraine's jury trial traces back to the Russian Empire's nineteenth-century reforms, which encouraged citizen involvement in criminal justice. Soviet authorities abolished it following the October Revolution of 1917, leaving it dormant until Ukrainian Independence in 1991.

Subsequently, Ukraine launched democratic reforms to strengthen the judiciary, reestablishing the jury trial through constitutional and statutory provisions. However, implementing it in practice faced many obstacles, including legislative gaps and limited public awareness.

This monograph surveys the institution's development–its foundational principles, current challenges, and prospective reforms. Particular emphasis is placed on the legal framework that governs jury selection and procedure, focusing on efficiency and credibility. The research also proposes amendments to enhance citizen participation and bolster the jury's influence.

A key premise is that transparency, fairness, and independence in a jury-based system hinge on strong civil-society support, integral to democratic justice. The findings may propel continued modernization of jury trials, further aligning them with contemporary standards.

In today's climate–characterized by rapid state-building, globalization, and European integration–Ukraine's democratic institutions confront unique opportunities and challenges. Harmonizing domestic legal norms with international standards and upholding judicial independence remain priorities. Drawing on historical experiences and modern innovations will help secure a judiciary capable of protecting citizens' rights, thus encouraging stability. The aspiration to join the European legal community intensifies the necessity for clear, consistent, and independent adjudication methods.

Because Ukraine's experience with jury trials is still evolving, comparing international practices and tailoring them to national realities is essential. Such adaptation, guided by local legal traditions, can promote greater trust in the

court system. This approach can also safeguard the culturally specific features of Ukrainian jurisprudence.

Worldwide, the jury trial elevates public confidence in judicial bodies. In Ukraine, it relies on historical and international influences alike. Examining its evolution, guiding principles, and avenues for reform is crucial for forging an equitable, efficient judiciary. By promoting transparency, independence, and civic engagement, Ukraine can build a legal structure equipped to uphold human rights at the highest level. In turn, the assurance of jury-based deliberation can elevate confidence in judicial impartiality across diverse regions of the country.

In conclusion, this monograph underscores that a well-formed, consistently supported jury trial anchors democratic governance. The core message is that unwavering societal engagement–through open dialogue and informed participation–remains indispensable for a balanced legal order. Strengthening the jury trial transcends mere procedure; it reflects Ukraine's commitment to justice, equality, and the enduring growth of its legal culture. Moving forward, lawmakers, scholars, and practitioners must collaborate to ensure that jury trials remain dynamic and responsive to societal transformations.

## 1. The History of the Jury Trial in Ukraine

### 1.1. The Jury Trial During the Russian Empire

The history of jury trials in Ukraine dates back to 1864, when the Russian Empire regime introduced the system as part of a wide-ranging reform to modernize its unstable empire. The jury was composed of local residents who belonged to different classes and were under Russian rule, aged 25 to 70, and had at least two years of residence in the area. Clergymen, monks, military personnel, public school teachers, and persons working for private individuals were exempt from jury duty. Women could not serve as jurors either. Governors reviewed the jury lists and had the right to exclude persons deemed unacceptable.

The jury trial of that time stood out as a notable phenomenon not only within the framework of judicial practice, but also in the context of the general social life of the empire. Even progressive thinkers evaluated this system as an expression of the national genius of the Slavic peoples, recognizing its significant influence and innovative character.[1]

[1] Теньков С. Чи дочекаємося суду присяжних? / С. Теньков // Юридичний вісник України. – 2012. – 17–23 березня. – № 11. – С. 10.

### 1.2. The Jury Trial During the Ukrainian Revolution

Under the Central Rada, the judicial system of Ukraine consisted of magistrates' courts and congresses of magistrates, district courts, courts of appeal (formerly judicial chambers), and the highest court. Jury trials continued to operate at district courts, where jurors dealt only with factual issues of guilt in cases of crimes that resulted in deprivation of property and personal rights. Jurors were selected according to the procedure established by the legislation of the Russian Empire, which remained in force in parts that did not contradict the new laws. Trial by jury was also provided for in the courts of appeal, which acted as courts of first instance in criminal cases of state crimes instead of the abolished institution of state representatives, when the punishment was "not lower than a correctional institution"[2].

On December 17, 1917, the 2nd Legal Congress was held in Kyiv, where the need to reform the judiciary to adapt it to the new conditions in society during the formation of an independent state was discussed. In particular, it was noted that the institution of professional judges should be changed to reform the jury trial. It was suggested that judges should be appointed to the positions of persons of Ukrainian origin or other nationalities who support the Ukrainian cause, speak Ukrainian and are familiar with local life.

These initial requirements were considered key to the establishment of an effective judicial system in Ukraine. One of the negative aspects considered was the separation of the jury from the panel of professional judges, which limited the ability of jurors to decide legal issues, contributing to an excessive number of acquittals. It was believed that the practice of criminal trials by the district court without a jury should be completely abolished. In addition, the pre-trial chamber, which had previously been part of the court chambers, was to be moved to the district court, as the jury trial was functioning at the district court, not the chamber. In order to reduce the time of consideration of cases in the chamber, it was proposed to reduce the number of instances from the court prosecutor to the chamber prosecutor. It was believed that such measures would contribute to the creation of a people's court that would be able to ensure correct and speedy justice[3].

During the Hetmanate, Minister of Justice M.P. Chubynsky drafted and submitted to the Council of Ministers on May 24, 1918, a bill concerning the temporary rules for selecting jurors, with an explanatory note. According to the draft, in the regions where jury lists for 1918 had not been drawn up, district courts had the right to appoint jurors from the lists that had been drawn

[2] Мищуга Л. Які тепер суди на Україні. – Кам'янець: Видання «Стрільця» органу Галицької армії, 1919. – С. 19. (31 с.)

[3] Кротевич К. Суд на Україні і його завдання в сучасний момент. – Кременчук: Друкарня А. Варшавського і Л. Аронова, 1918. – С. 5-8. (11 с.)

up in 1916 on the basis of the law of September 21, 1917. Jurors were to be appointed by lot, provided that there were at least 15 candidates who had not been disqualified. These rules were supposed to be applied until January 1, 1919, as a supplement to the existing laws on the election of jurors. The development and improvement of the jury system continued during the reign of the Directorate.

During this period, a significant problem remained the unresolved issue, which had not been resolved by the two previous governments, of the formation of jury lists for 1919. This created difficulties in conducting court sessions, as evidenced by numerous reports from the presidents of district courts calling for a legislative solution to this problem. In addition, there was a serious problem associated with the inconsistency of legislative norms on the procedure for drawing up jury lists by different judicial institutions.

According to the Resolution of the Provisional Government of March 31, 1917, state and official crimes were to be tried by the judicial chambers and the State Senate with the involvement of jurors. According to another decree, dated September 21, 1917, the composition of the jury was to be determined by the judicial chambers for each trial period by drawing lots from regular and reserve lists formed according to established rules. These lists were to be drawn up by district courts during administrative sessions on the basis of general lists submitted by county commissioners and mayors. Jurors were added to the regular lists from among those eligible for jury service that year, with 100 people for each period in counties where no more than four periods of jury trials were planned for the following year, and 100 people for each of the first four periods and 60 people for each subsequent period in counties with a larger number of periods.

The problem arose because the court chambers did not form their own regular and reserve lists of jurors to hear cases within their jurisdiction, but used the lists compiled by the district courts.

District courts, in turn, when compiling the lists, were guided only by their own sitting periods and, accordingly, the number of jurors needed for the next year, without taking into account the needs of the court chambers for jurors to hear criminal cases. The absence of clear instructions in the Resolution on the need for district courts to form the relevant jury lists for the same period for the court chambers also led to serious delays in the consideration of criminal cases, which complicated the proceedings in the court chambers with the participation of jurors.

The evolution of the jury trial during this tumultuous period provides valuable lessons on how shifting political power and legislative norms affect judicial mechanisms. From the earliest reforms under the Russian Empire to the more ambitious initiatives of an emerging Ukrainian state, the history of

jury trials highlights recurring challenges and initial achievements that still inform debates on legal reform. Examining how different regimes approached juror lists, eligibility criteria, and community involvement underscores the importance of clear procedures and robust public trust. Policymakers and legal experts today can draw from these experiences to refine current jury practices and ensure the continued integrity and credibility of Ukraine's justice system.

### 1.3. People's Assessors in the Ukrainian USSR

The Soviet judicial system operated on unique principles that differed from many Western judicial systems, reflecting the specific ideological and political context of the Soviet Union. The abandonment of jury trials, which were considered a "bourgeois court," was a significant departure from the traditional forms of public participation in the legal process common in many other countries. Instead, the Soviet system introduced people's assessors into the judicial process, which was intended to align legal procedures with socialist principles and ensure working-class participation in the administration of justice.

In the Soviet system, people's assessors were elected during an open meeting for a term of 2.5 years. Candidates could be citizens over the age of 25, and their judicial duties were limited to no more than two weeks per year. This restriction was imposed to prevent disruption of their main employment and to ensure that their participation in the judicial process is seen as a civic duty. The assessors worked together with professional judges in all courts of first instance, both civil and criminal, thus ensuring direct participation of workers in the administration of socialist justice.

It was believed that people's assessors should act as intermediaries between society and the judicial system, which was supposed to ensure a more transparent and fair trial.

In the Soviet system of justice, people's assessors played a largely symbolic role, as they had no special legal education and their influence on decision-making was limited. Professional judges usually played a decisive role in making final decisions in cases. Nevertheless, the participation of lay judges in court hearings was seen as a form of direct citizen participation in the administration of justice and ensuring public control over the judiciary.

At the same time, in the late 1970s, the height of "revolutionaryism" in the USSR subsided. The institution of people's assessors gradually began to lose its "political" significance. People's assessors began to be elected as a tribute to the revolutionary history of the judicial system rather than for practical or legal expediency. Their participation was basically limited to their presence at court hearings. The people's assessors who continued to be elected did not associate themselves with the court or justice, and lost interest in participating

in the proceedings. Cases were often postponed due to their absence. They became unnecessary judicial ballast [4].

## 2. Jury Trials in the Global Context and Their National Dimension

### 2.1. The Global History of the Jury Trial

A study of foreign legislation and academic sources on the structure and functioning of the jury reveals that there is a well-established method of classifying this institution into two main models: Anglo-American and continental. Each of these models has inherent characteristics which allow for easy distinction.

The Anglo-American (classical) model of jury trial, which covers the laws of more than thirty countries, including the United Kingdom, the United States of America, Canada, Spain, Belgium, Malta and others, is known for its historical depth and influence. The continental (mixed) model prevails in such countries as France, Germany, Austria, Denmark, Italy, and others.

Developed over centuries, the classic model–particularly prominent in England and the United States–has served as a reference point for the adaptation and evolution of jury trials in various parts of the world. Under this framework, the accused retains the right not to plead guilty. Should a defendant opt to admit guilt–via a plea bargain or comparable procedure–the court determines the sentence according to the criminal case materials and the stipulations contained within the plea agreement.

One hallmark of the Anglo-American model is its division of responsibility between the jury and the professional judge. Typically, jurors issue a verdict that, in most instances, does not require a formal rationale. However, Spain diverges from this norm by mandating that jurors provide justifications for either acquittals or convictions. Opportunities to appeal a jury's verdict are generally limited to serious procedural errors.

Features of the Anglo-American jury model include the division of responsibilities between the jury and the professional judge. A typical situation is when the jury reaches a verdict that mostly does not require justification, although in Spain the law requires jurors to justify their decisions, regardless of whether they are acquittal or conviction. The verdict can usually be appealed only if significant procedural irregularities are found.

In the Anglo-American model, the decision of the jury is considered independent and is made without the intervention of professional judges, reflecting their unanimous decision on the indictment. In this system, jurors act as respondents to the question of whether the evidence of the defendant's guilt is sufficient. If the jury's answer is guilty, then based on their findings, a

[4] Ясинок М. М. Окреме провадження і народні засідателі: історико-правовий огляд // Часопис Київського університету права. – 2009. – № 2.

professional judge determines the appropriate punishment for the defendant and resolves other legal issues requiring a deep understanding of the law. Thus, jurors act as “judges of the facts,” while the professional judge focuses on the application of the law, which is a key feature of this model.

In the classical jury model, as opposed to the mixed model where jurors actively analyze the evidence, jurors participate in the analysis of the evidence and circumstances of the crime from the beginning to the end of the trial, but do not act as active participants in the process. The law provides them with the necessary procedural opportunities to understand all aspects of the case, including the position of the accused. For example, jurors are given the right to ask questions of witnesses through the presiding judge in writing, which helps them to get clarification on complex issues. This mechanism helps to maintain order in the courtroom and avoid confusion about the source of each question. However, the Anglo-American model usually tries to limit the number of such questions from the jury, as it is assumed that the proper amount of information and the authority of the presiding judge provide all the necessary data for an informed decision, and excessive information may negatively affect the fairness of the verdict.

Only after the main issue of the defendant's guilt is resolved, the judge proceeds to collect additional data about the defendant's identity, which is of great importance in determining the appropriate punishment.

Thus, it can be concluded that the Anglo-American model of trial includes procedural rules that guarantee consideration of certain circumstances of the case and resolution of legal issues without the participation of a jury, especially in the context of admissibility of evidence in criminal proceedings. In cases where the parties cannot reach an agreement on the use of certain evidence, the decision to admit it becomes a matter of discussion, and the final decision on the admissibility of such evidence falls within the competence of the court. In order to protect the jury from any influence on the further evaluation of the evidence, the presiding judge may independently decide that the arguments of the parties should be presented and considered without the presence of the jury in the courtroom.

All facts and evidence that were excluded from consideration at the jury trial stage but are relevant to the decision-making process, as they can either aggravate or mitigate the punishment, are considered and analyzed by the parties with the participation of the presiding judge after the verdict is reached at a special stage called “sentencing”. That is why the Anglo-American model of jury trial has found an effective way to achieve a compromise between the need to comply with the requirements of a full investigation of all circumstances of a criminal act and the protection of jurors from any external pressure.

As noted above, in the Anglo-American system of legal traditions, there is a practice of unmotivated jury verdicts. Thus, in this model, it is possible for a jury to render an acquittal even when there is overwhelming evidence that the defendant's actions contain elements of a criminal offense. This process is known as jury nullification, which is sometimes observed in criminal trials, including cases of murder, illegal euthanasia, and other serious crimes.

One such case resulted in the nullification of a jury trial in Mexico. Maria Teresa Landa Ríos became the first Miss Mexico in 1928, participating in the first beauty pageant modeled after American contests. She gained popularity for her beauty and intelligence, but turned down offers from Hollywood, choosing family life with 34-year-old General Moises Vidal Corro.

Shortly after their wedding, María Teresa discovered through newspaper reports that Vidal was already married to another woman, María Teresa Errejón López, making him a bigamist. Confronted with this betrayal, she shot and killed him, firing six times.

The ensuing trial captivated the public's attention. In her statement before the jury, María Teresa remarked: "The jurors can understand the twists of fate that drove me to the madness in which I destroyed my own happiness by killing the man I desperately loved."

Her plea resonated with the jury, which ultimately acquitted her. This verdict sparked widespread debate and, in part, led to the dismantling of the jury system in Mexico. Skeptics argued that the jury's emotional response outweighed its responsibility to apply the law, demonstrating how the unrestrained authority of jurors can produce controversial outcomes when the evidence appears conclusive.

Today, the Anglo-American model stands as an influential prototype. From centuries of English common law to modern adaptations around the globe, it underscores the delicate balance between safeguarding juror independence and ensuring legal consistency. Through the bifurcation of roles–jurors focusing on factual inquiries, judges presiding over legal questions–this approach strives to enhance fairness, transparency, and respect for fundamental rights. While the concept of jury nullification remains a subject of ongoing scholarly and public debate, it testifies to the power vested in a panel of ordinary citizens and their potential to shape legal standards in unpredictable ways.[5]

After these words, María Teresa Landa Ríos began to weep, prompting applause from everyone present. The jury unanimously declared her not guilty. As one juror stated, "Such a beautiful woman cannot be guilty." Public

[5] La miss mexico que asesino su esposo. https://www.eluniversal.com.mx/colaboracion/mochilazo-en-el-tiempo/nacion/sociedad/la-miss-mexico-que-asesino-su-esposo/

outrage over this decision led to the abolition of the jury as a judicial institution in Mexico.

Ten years later, in 1938, there were attempts to restore the jury system, but they ultimately failed, as Mexico's legislature did not agree on the necessity of its reinstatement. To this day, a full-fledged jury trial has not been reestablished in Mexico.

Europe has created its own model of jury trial, which in many scientific sources is characterized as a continental model.

This jury trial was developed on the basis of the Assize court (typical for France and some other countries) and the Sheffen court (typical for a number of German-speaking regions).

The distinctive features of this model are the general competence of a panel of professional judges and a jury, which simultaneously perform both a "court of law" and a "court of fact". Jurors in this model have all the rights of judges and are obliged to provide reasons for their decisions.

### 2.2. The Legal Status of Jurors in Ukraine

Ukrainian legislation has introduced the continental model of jury trials. The legal basis for this process includes part 4 of Article 124 of the Constitution of Ukraine, which establishes that the people directly participate in justice through people's assessors and jurors. It is also regulated by paragraph 2 of Chapter 30 of the Criminal Procedure Code of Ukraine (Articles 383-391)[6] and Chapter 3 of the Law of Ukraine "On the Judiciary and the Status of Judges" (Articles 63–68)[7]. These provisions set forth requirements for prospective jurors, outline their duties, and ensure a democratic approach to criminal adjudication.

Jurors are considered by law to be "persons authorized to perform the functions of the state or local self-government". This means that they are subject to the requirements to submit an annual declaration (if they administered justice in the relevant year), as well as to notify of significant changes in their property status and to comply with other anti-corruption prohibitions and restrictions established by the Law of Ukraine "On Prevention of Corruption". Exceptions include restrictions on part-time work and combining it with other activities, as well as restrictions on joint work of close relatives.

[6] Кримінальний процесуальний кодекс України від 13 квітня 2012 року, документ № 4651-VI (електронний варіант) URL: https://zakon.rada.gov.ua/laws/show/4651-17/ (дата звернення 20.12.2024)

[7] Закон України «Про судоустрій і статус суддів», документ №1402-VIII (електронний варіант) URL: https://zakon.rada.gov.ua/laws/show/1402-19#Text (дата звернення 20.12.2024)

The rights of jurors established in the basic law are the main guarantees of their independence and contribute to the effective functioning of the jury. These rights include:

1. The right to be excused from work during participation in jury duty. This safeguard ensures that jurors can fulfill their responsibilities without jeopardizing their primary employment or facing any adverse consequences from their employer. It is of paramount importance that jurors be able to concentrate on their judicial functions without fearing for their professional standing.

2. The right to return to the same workplace following the period of jury service, with no loss of salary or professional privileges. This measure enhances jurors' social security and reinforces their willingness to serve, as it guarantees that they can resume their employment once their duties have concluded.

3. The right to decline involvement in a specific proceeding or withdraw from jury service altogether. This provision allows jurors to remove themselves from cases in which they may have a conflict of interest or otherwise be unable to maintain impartiality. Such an option is vital for preserving fairness and neutrality in judicial proceedings.

However, it is important to understand that the legal status of jurors may differ depending on the type of trial. Criminal and civil justice systems have different frameworks and procedures, and the legal status of a juror in criminal cases may differ from that of a juror in civil cases. Accordingly, jurors should be aware of the special requirements and responsibilities relating to their role in a particular type of trial.

Therefore, consideration of the legal status of jurors and their responsibilities in different types of trials is key to ensuring the fairness and independence of the judicial system. This underscores the importance of a clear understanding of and compliance with the legal provisions governing jurors in order to maintain high standards of justice in Ukraine.

The guarantees provided to jurors, such as exemption from work, job security and the right to refuse to participate in a particular case, are fundamental to ensuring their independence. This creates the conditions for fair and impartial consideration of cases, which is the basis for public confidence in the judicial system.

It is important that jurors are well informed about their rights and obligations, as well as the specifics of their status in different types of trials. This will ensure not only their effective participation in trials, but will also contribute to the overall level of justice in Ukraine.

In court cases, juries are crucial in determining the guilt or innocence of a defendant. Their decisions must be based on the evidence presented and

comply with the principles of fairness and impartiality. This is a special responsibility because a person's fate largely depends on their decision. They must be absolutely independent and not be influenced by anything other than an objective analysis of the facts and evidence presented.

### 2.3. Formation of Jury Lists

Jurors participate in court hearings in accordance with the lists formed and approved by the local council.

Citizens of Ukraine aged 30 to 65 who permanently reside in the region under the jurisdiction of the relevant court and have expressed their consent to serve as jurors may be included in the jury list. Exceptions are persons who, by a court decision, have limited legal capacity or are declared incapacitated, those suffering from chronic mental or other diseases that make it impossible to perform jury duty, persons with an outstanding criminal record, members of parliament, members of the government, judges, prosecutors, law enforcement officers, military personnel, court staff, attorneys, notaries, and persons who do not speak the state language. One of the key psychological methods of preparing jurors for their duties and fulfilling their role in a trial in good faith is taking an oath.

The problem is that, in our opinion, the significant shortage of jurors in courts is primarily due to the lack of public awareness. The scientific community has repeatedly proposed measures to remedy this situation.

Thus, in January 2020, the Verkhovna Rada of Ukraine received four draft laws from the Cabinet of Ministers aimed at reforming the jury system. These initiatives have sparked renewed interest and debate in legal circles about the effectiveness and possibility of expanding the role of citizens in the administration of justice: Draft laws No. 2709 of 02.01.2020)[8]; No.2710

[8] Проект Закону про внесення змін до Закону України «Про судоустрій і статус суддів» щодо удосконалення порядку формування списку присяжних № 2709 від 02.01.2020 [Електронний ресурс]. – Режим доступу: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=67834;

(January 2, 2020)[9]; No.2709-1 (January 16, 2020)[10] and No.2710-1 (January 16, 2020)[11].

Proposed draft laws aim at a single overarching goal: improving the procedure for composing the list of potential jurors. The suggested amendments include:

1) expanding the duties of jurors in criminal cases where the accused may face more than ten years' imprisonment or life imprisonment, according to amendments to part three of Article 31 of the Criminal Procedure Code of Ukraine;

2) updating the structure of the jury to consist of twelve jurors plus a presiding judge who indicates the aspects that the jury should consider when making a decision;

3) separation of responsibilities between the jury, which decides on factual issues, and the judge, who considers legal aspects;

4) introduction of the position of a jury foreman who interacts with the presiding judge, the parties to the proceedings and organizes the voting and announcement of the verdict, which is recorded by the court clerk;

5) modification of the method of forming jury lists, which is ensured by selecting candidates from the voters of the respective territorial community through an electronic system between September 1 and December 1 annually, using a random sample.

An invitation is sent to the selected candidates, which includes information about their rights and obligations, as well as the grounds for exemption from these obligations.

While agreeing that the first 4 points deserve attention and further discussion is advisable, the 5th point cannot be implemented due to the fact that a significant number of citizens, for various reasons, do not live at their place of registration.

The introduction of jury sequestration, as envisioned in Draft Law No.2709-1, may not be appropriate in the Ukrainian context for several reasons.

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[9] Проект Закону про внесення змін до деяких законодавчих актів України щодо забезпечення участі присяжних у здійсненні правосуддя № 2710 від 02.01.2020 [Електронний ресурс]. – Режим доступу: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1pf3511=67835;

[10] Проект Закону про внесення змін до Закону України «Про судоустрій і статус суддів» щодо удосконалення порядку формування списку присяжних № 2709-1 від 16.01.2020 [Електронний ресурс]. – Режим доступу: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1pf3511=67905;

[11] Проект Закону про внесення змін до деяких законодавчих актів щодо забезпечення участі присяжних у здійсненні правосуддя 2710-1від 16.01.2020 [Електронний ресурс]. – Режим доступу: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=67906

First, such isolation can cause significant psychological and emotional difficulties for jurors who are cut off from their usual social ties and families for a long period of time.

Secondly, the costs of keeping jurors in complete isolation can be high, as the state will have to provide them with housing, food, security and other necessary services. Thirdly, there is a risk that such measures may be perceived by the public as excessive, which in turn may cause distrust in the justice system itself.

Fourth, no sequestration can entirely eliminate external influence in an era of advanced communication technologies. Lastly, the democratic nature of a system that imposes forced isolation on citizens may be called into question, since it may be perceived as restricting fundamental rights and freedoms.

Although the United States sometimes implements sequestration in exceptional circumstances–frequently placing jurors in hotels with limited access to media or personal communication–the authors consider such measures ill-suited to Ukraine. Hotel confinement, prohibition of open-ended phone use, and specially equipped transport shield American jurors from headlines or protests. Nevertheless, these measures might appear disproportionate and financially burdensome in the Ukrainian context, given the concerns previously outlined.

It should also be taken into account that isolation of jurors does not guarantee the complete elimination of external influences, as information technology may allow contact with the outside world.

Finally, the democratic nature of this approach may be questioned, as isolation may be perceived as a restriction of fundamental rights and freedoms.

Indeed, in the United States of America, there is a practice of applying jury sequestration in exceptional cases. The procedure involves the temporary placement of jurors in hotels for the duration of the trial, and, in particular, during the verdict. They are prohibited from watching television, reading the press, and using communication devices without restriction. In addition, jurors are transported to and from court on a specially equipped bus with closed windows to isolate them from possible external influences, such as media headlines or protests. But, in our opinion, this does not make sense in the conditions of our country for the reasons stated earlier.

The jury trial is aimed at considering particularly serious crimes in accordance with the procedure provided for by the Criminal Procedure Code of Ukraine. One of the most important institutions of criminal law that affects the degree of social danger of acts and, accordingly, their criminal law qualification is the institution of complicity. According to Art. 26 of the Criminal Code of Ukraine, complicity is defined as intentional joint

participation of several persons in the commission of a crime. The types of complicity are classified according to the gradation from the perpetrator or co-perpetrator to the accomplice, according to Article 27 of the Criminal Code of Ukraine.

Complicity can significantly affect the criminal liability of the participants in a crime, as it provides for different levels of participation in illegal acts. Article 28 of the Criminal Code of Ukraine is also important, as it establishes four types of complicity, depending on the preliminary planning and joint actions of the participants:

1. A criminal offence shall be deemed to have been committed by a group of persons where several (two or more) principal offenders participated in that criminal offence, acting without prior conspiracy.

2. A criminal offence shall be deemed committed by a group of persons upon their prior conspiracy where it was jointly committed by several (two or more) persons who have conspired in advance, that is prior to the commencement of the offence, to commit it together.

3. A criminal offence shall be deemed to have been committed by an organised group where several persons (three or more) participated in its preparation or commission, who have previously established a stable association for the purpose of committing of this and other offence (or offences), and have been consolidated by a common plan with assigned roles designed to achieve this plan known to all members of the group.

4. A criminal offence shall be deemed committed by a criminal organisation where it was committed by a stable hierarchical association of several persons (five and more), members or structural units of which have organised themselves, upon their prior conspiracy, to jointly act for the purpose of directly committing of grave or special grave criminal offences by the members of this organisation, or supervising or coordinating criminal activity of other persons, or supporting the activity of this criminal organization and other criminal groups[12].

On December 23, 2005, the Plenum of the Supreme Court of Ukraine approved Resolution No. 13 “On the Practice of Consideration by Courts of Criminal Cases on Crimes Committed by Persistent Criminal Associations”. This Resolution is aimed at ensuring uniform and correct application of the law in the consideration of criminal cases committed by persistent criminal groups.

For each juror, the study and correct application of the institute of complicity is extremely important. A jury mainly considers complex and particularly dangerous crimes that are usually committed by a group of people,

[12] Кримінальний кодекс України, документ № 2341-III, URL: https://zakon.rada.gov.ua/laws/show/2341-14#Text (дата звернення 20.12.2024)

which requires a systematic approach to their planning and implementation. Consideration of such cases requires the jury to understand the role of each accomplice in the commission of the crime and to assess their contribution to the overall criminal act.

Thus, the jury plays an important role in ensuring fairness and impartiality in criminal cases that have a significant public profile. Ensuring a clear understanding of and compliance with the legal provisions governing complicity in crime is key to the effective functioning of the jury and the achievement of fair decisions in criminal cases.

Recognizing the urgent need to reform the judicial system of our country, even in wartime, President Volodymyr Zelenskyy, by his Decree No. 359/2023 of June 30, 2023, put into effect the NSDC decision of June 23, 2023 "On Accelerating Judicial Reform and Overcoming Corruption in the Justice System". This decision, among other things, provides for such measures as: "...strengthening the role of the jury trial institution and expanding the cases of its application". It is worth noting that this measure will be applied only to criminal proceedings[13].

At the same time, on April 14, 2022, the Law of Ukraine "On Amendments to the Criminal Procedure Code of Ukraine on Improving the Procedure for Conducting Criminal Proceedings under Martial Law" was adopted. This Law supplemented Article 615 of the Criminal Procedure Code of Ukraine with part ten, according to which a jury may consider cases of crimes punishable by life imprisonment if the composition of the court with the participation of jurors was appointed before the introduction of martial law and the entry into force of this part[14].

We can agree with the opinion of Osadchyi I.V. that the logic of the legislator is clear – jurors can leave their place of residence or join the Armed Forces of Ukraine, and even if it is possible to organize a jury trial, there will be difficulties in case of challenge[15].

[13] Рішення Ради національної безпеки та оборони від 23 червня 2023 року «Про прискорення судової реформи та подолання проявів корупції у системі правосуддя», документ №n0033525-23, URL: https://zakon.rada.gov.ua/laws/show/n0033525-23#Text.

[14] Про внесення змін до Кримінального процесуального кодексу України щодо удосконалення порядку здійснення кримінального провадження в умовах воєнного стану: Закон України від 14 квіт. 2022 р. № 2201-IX.; URL: https://zakon.rada.gov.ua/laws/show/2201-20#Text

[15] Осадчий І.В. Суд присяжних в умовах воєнного стану: URL:ttps://er.nau.edu.ua/bitstream/NAU/59559/1/8%20%d0%9e%d1%81%d0%b0%d0%b4%d1%87%d0%b8%d0%b9%20%d0%86.%d0%92..pdf

### 2.4. Adjudication of Specific Civil Proceedings with Jury Participation

The Constitution of Ukraine guarantees that an individual's rights and freedoms are protected by the courts. This means that anyone may seek judicial defense in cases of violation or potential violation of their rights or freedoms, or if obstacles arise that prevent them from exercising those rights. In Ukraine, justice is administered through criminal, civil, administrative, and commercial proceedings, as well as in cases of administrative offenses. The central objective of civil proceedings is to provide a fair, impartial, and timely examination and resolution of disputes, thereby safeguarding the infringed, unrecognized, or contested rights, freedoms, or interests of individuals and legal entities, along with the interests of the state.

According to the Civil Procedure Code of Ukraine (CPC), courts hear cases arising from civil, land, labor, family, housing, and other legal relationships, except those subject to a different judicial procedure. Generally, civil cases in first-instance courts are heard by a single judge who presides on behalf of the court. However, in certain instances defined by the CPC, civil matters may be tried by a panel consisting of one judge and two jurors, both of whom possess all the rights of a judge when dispensing justice.

Under Article 293 of the CPC, the following categories of cases must be heard by a panel comprising one judge and two jurors:

1. Restricting an individual's legal capacity, declaring an individual incompetent, or restoring legal capacity;
2. Limiting a person's access to gambling establishments and participation in games of chance;
3. Declaring a person missing or deceased;
4. Adoption;
5. Involuntary psychiatric treatment;
6. Compulsory hospitalization in a tuberculosis facility.

Including jurors in these proceedings adds an extra layer of assurance for the protection of personal rights, thereby enhancing trust in the judiciary. The significance of juror involvement is tied to the need for additional safeguards in rendering decisions that profoundly affect a person's legal status. By bringing real-life experience and societal values into the judicial process, jurors play an essential role in reinforcing the credibility of the court system.

### CONCLUSIONS

Trial by jury is an important component of the legal system in many democratic countries, including Ukraine. The further introduction of this institution is aimed at ensuring a fair trial with public participation, which is an important step towards transparency and increasing trust in the judicial system. However, the functioning of jury trials in Ukraine faces a number of

challenges that need to be addressed, including the involvement of practicing judges and academics in the discussion and search for solutions.

One of the main problems of jury trials in Ukraine is the low level of public trust in the judicial system in general and in jury trials in particular. This is due to the historical distrust of state institutions and the frequent corruption scandals that have plagued the judicial system. In addition, there are differences in qualifications between professional judges and jurors, which sometimes affects the objectivity and impartiality of decisions.

Other problems include a limited list of cases that can be tried by juries, which reduces their role in the justice system. Juries can be used only at the level of the first instance court, both in civil and criminal cases.

Thus, in 2023, only 12.1 thousand civil cases were considered by juries out of a total of 56.2 thousand cases of separate proceedings[16]– which amounts to only 21.53 percent of the total number of cases in the individual proceedings.

In addition, jurors are involved only in criminal cases punishable by life imprisonment and only at the request of the accused, which significantly limits their effectiveness and also narrows their participation in justice. In addition, due to the amendments to Article 615 of the Criminal Procedure Code of Ukraine, courts can only hear criminal cases with the participation of juries that were filed before the declaration of martial law.

Successful reform of the jury trial in Ukraine requires systematic research and scientific support. Scholars can provide sound recommendations based on the analysis of existing jury trial models in different countries, taking into account the specifics of the Ukrainian legal system. Such research should cover the legal status of jurors, their rights and obligations, as well as mechanisms to ensure their independence and impartiality.

However, expanding the scope of its activities to other categories of cases could increase the efficiency of the judicial process and public confidence in justice. For example, a jury may be involved in complex civil cases involving human rights and fundamental freedoms.

For jury trials to function successfully, it is important to ensure that citizens are well informed about their rights and responsibilities as jurors. Information campaigns can help to increase trust in the judicial system and encourage more citizens to participate in the justice process. These campaigns may include explaining the importance of jury service, its role in the justice system, and the process of participating in court proceedings.

[16] Аналітичний огляд стану здійснення цивільного судочинства у 2023 році, [Електронний ресурс]. – Режим доступу URL: https://supreme.court.gov.ua/userfiles/media/new_folder_for_uploads/supreme/ogliady/Analiz_KCS_2023.pdf/

Ensuring the effective functioning of a jury is impossible without proper preparation and education of jurors. Special training programs should include information on the legal status of jurors, their rights and obligations, trial procedures, and ethical standards and rules of conduct. This will help jurors to perform their duties at a high level, ensuring the objectivity and fairness of the proceedings.

To effectively address the existing problems of jury trials, it is necessary to hold regular discussions with practicing judges and scholars. These discussions can be held in the form of conferences, seminars and roundtables where experts can share their opinions and experiences. This will contribute to the formation of a unified strategy for reforming jury trials and ensure informed decisions based on the analysis of scientific data and practical results.

Despite numerous challenges, jury trials have great potential to improve the justice system in Ukraine. Proper implementation and effective functioning of this institution can significantly increase the level of public trust in the judicial system, ensure transparency and fairness of the judicial process. It is important that all stakeholders, including the government, judges, academics, and the public, are actively involved in the process of reforming the jury and contribute to its development.

Thus, solving the problems of jury trials in Ukraine is a complex task that requires active cooperation between all stakeholders. Together, we can ensure the reform of this institution and increase the level of public trust in the legal system, which will contribute to the creation of a transparent and fair judiciary in Ukraine.

**SUMMARY**

The monograph «Jury Trial in Ukraine: From Theory to Practice» explores the evolution, challenges, and prospects of the jury trial system in Ukraine. It provides an in-depth historical analysis of its development, from the judicial reforms of the 19th century Russian Empire to its modern-day application amid democratic transformations. The study focuses on the legal framework governing jury selection and proceedings, identifying key issues such as legislative gaps, limited public awareness, and procedural inefficiencies. The authors propose reforms aimed at enhancing the transparency, efficiency, and credibility of jury trials, aligning them with international standards while preserving Ukraine's unique legal traditions. Emphasis is placed on the role of civil society in fostering judicial independence and public trust. The work underlines that the jury system, as a democratic institution, is integral to protecting human rights and ensuring fairness in the administration of justice.

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