

UDK 316.47:[347.962+070]

DOI: <https://doi.org/10.21564/2075-7190.47.218973>

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PECULIARITIES OF INTERACTION OF COURTS AND MEDIA IN THE CONDITIONS OF DEMOCRACY

The problem of communication between courts (judiciary) and the media is analyzed. It is noted that in a democracy, both institutions are interested in effective interaction: the judicial system – in the objectivity and completeness of coverage of their work, and journalists – in that they do not interfere in their activities to collect and disseminate information about courts and judges. The directions of cooperation between courts and the media are proposed.

Keywords: *judiciary, courts, mass media, journalists, democratic principles.*

Problem setting. Transparency in the functioning of state institutions is an important feature of modern democracy. Citizens need to know who and how makes socially important decisions, how they are implemented and what the consequences are for society as a whole. The implementation of this general principle of the democratic system in the judiciary has significant differences, as the balance of interests of society as a whole, individual groups and individuals in relation to information about court proceedings must be constantly maintained. Violation of this balance can create risks of human rights violations, undermining the authority and public confidence in the court. The media play the role of an important social mechanism in the interaction of the judiciary and civil society institutions. The formation and effective functioning of a free press and independent judiciary largely depend on the coordinated interaction of these two institutions of society: the court as an independent authority and the media as an influential social mechanism. The court is the guarantor of law and justice, an independent body for the

protection of the rights and freedoms of citizens, designed to ensure the rule of law, stability and law and order in society. The media, promoting the realization of one of the fundamental rights of citizens – the right to information, is an expression of public interests, a channel for forming public opinion and an instrument of public control over the state and government (including the judiciary).

Recent research and publications analysis shows that the problem of interaction between the courts and the media is quite debatable. There are several areas in its consideration. Firstly, the court is considered not only as a legal category, but also as a social phenomenon: the process of its institutionalization and modern features [1; 2], place in the system of social relations [3], the problem of trust in the court [4] etc. Secondly, the theoretical and applied aspects of communication in the judiciary [5], as well as the algorithm and practical recommendations for establishing the communication work of the court [6] are highlighted. Thirdly, considerable attention is paid to the peculiarities of the interaction of the judiciary and the media, problems and ways of their neutralization [7-10], mechanisms of effective communication between the courts and the media [11], the influence of publications in the media [12] on the court (administration of justice). Finally, the use of social media in the communication between the court and society in order to ensure trust in the court while ensuring the rule of law is an interesting area [13; 14].

The purpose of the article is to analyze the peculiarities of the interaction of courts (judicial system) and the media, to identify problems that arise in the process of this interaction and to clarify the conditions and directions of effective interaction of these institutions of society.

Paper main body. Court as an independent form of human relations, as a social institution arises in the early stages not only of civilization but also the development of man as a biological, intelligent and social being. According to S. V. Prylutskyi, the nature and organization of man is such that outside society he could neither save his life nor develop and improve his abilities and talents. By uniting with others like him, he gained the strength he lacked when he was alone. As a reward, nature has given man two properties that give him an advantage over other animals – intelligence and sociality; thanks to them, he who alone could not oppose anyone, becomes everyone. However, in addition to the strength gained through social unity, the negative companion of the people was mutual confrontation and enmity. In the wild, a conflict is usually resolved by the law of force, through a brutal struggle (war), in accordance with the principle: who is stronger is right. However, this form of social relations inevitably weakened, and even destroyed the already unstable, but so important and necessary social ties. All this prompted people to find new ways to overcome interpersonal conflicts, ways that would ensure social unity, stability, tranquility (peace). It is the search for ways to reach an

understanding in resolving conflicts that prompted people to turn to such a form of social relations as the court [2, p. 38].

Court is an independent type of social relations, which within certain historical stages of development of social and public and legal relations, acquires its own separate organizational and legal norms, thus completing the process of institutionalization.

The main reason for the transformation of the judiciary into a social institution was the growing public need for judicial assistance and the ability and desire of people to defend their rights, as well as to resolve conflict situations in court. Therefore, it can be argued that the formation of the judiciary as a social institution is directly related to the development of democratic principles of modern society, the growth of the level of legal culture.

Today, the court is understood in several meanings. Firstly, as a body of the judiciary, secondly, as a specific judicial institution (an element of the judicial system), which has additional characteristics that clarify and individualize it, as well as determine the territorial and substantive jurisdiction, and thirdly, its meaning is clearly associated with those who administer justice, i.e. judges [2, p. 40].

As a social institution, the court and the judiciary are directly dependent on the society in which they operate. As O. V. Chernushenko notes, only such a court and the judiciary, which have passed the procedure of legitimation and are supported by society, and therefore have a high authority in it, can be effective (in a positive sense). One of the ways to legitimize the judiciary is effective social (public) control over it, which provides for publicity of court proceedings, in particular, with free access to them by media representatives [3, p. 113].

In turn, D. B. Baronin notes that the judiciary needs, first, social control by the members of society over the fair application of not only the law but also moral norms, taking into account local traditions and customs, and, second, providing by the representatives of society with such conditions that can guarantee judges independence from the illegal influence of official structures and independence in the formation of their inner beliefs in the judicial case, that is why the question of defining the ways and limits of social control over the court is relevant [1, p. 144].

Social control is usually divided into formal and informal. The formal means the state control exercised by official institutions and organizations, as well as legal norms, the purpose of which is to protect a certain social order. The informal social control may mean the application of informal regulatory requirements, sanctions, “informal” social pressure. It comes mainly from civil society institutions.

Social control over the judiciary should be exercised through the openness of the judiciary, availability of the judicial information to the media and its objective coverage. The purpose of social control over the court is to form public trust in it.

Like any social institution, the court has a certain image in society. According to O. A. Ivanova, the current Ukrainian government (including the judiciary) has a negative image, which is confirmed by the results of monitoring public opinion on the perception of the judiciary (in 2017–2018) [11]. At the same time, according to this monitoring, there are some contradictions that allow us to conclude that mistrust is often based on lack of awareness of the work of court (judicial system) and doubtfulness of the sources of information.

These data are confirmed, in particular, by the results of a study by the Razumkov Centre. Thus, the sociological survey “Attitudes of Ukrainian citizens to the judiciary”, conducted by the Razumkov Centre in 2019 [15], states that the level of trust in the courts is one of the lowest in the society. 77.7% of respondents reported their distrust of the courts (the judiciary as a whole). By the way, the main source of information about the activities of Ukrainian courts for 55% of Ukrainian citizens is the media.

Institutional trust can be considered a kind of indicator that determines social well-being of the population, in addition, is an important condition of social communication, through which agreement, understanding and dialogue between the parties is possible and also it is possible to find new opportunities for further development. Increasing trust in the judiciary of Ukraine is one of the tasks of the judiciary and it is outlined in the strategic documents for the development of the judiciary in Ukraine in recent years. The degree of trust (distrust) of citizens in justice is influenced by many factors. One of the most important of them is the media coverage of the court’s work.

The media as a social institution arises from the needs of people to exchange messages, their own and others’ thoughts and feelings through language and other signs of communication. People use the received information as a cognitive resource in the process of forming their ideas, opinions, value orientations. Thus, the media play a significant role in shaping people’s views, public opinion, which is an important institution of a democratic system and a sign of a “sphere of openness” functioning.

The development of the information society, increasing the role and importance of the media, information in shaping the worldview of citizens has put public authorities, including the judiciary, in front of the need to form information policy, creating conditions for openness and transparency of their activities.

P. Kablak believes that the most important function of the media is to provide objective information on the basis of which one can make a real picture of the present, monitor the work of various branches of government, raise topical issues, monitor the solution of important problems. By informing the population, the media develop people’s skills of analyzing the activities of the government, the ability to defend their own views, increase the responsibility of the government for

its actions [7, p. 48]. Indeed, the media have a great influence on the formation of public consciousness and public opinion. The courts' communication with the public through the media is primarily aimed at covering and disseminating the information on the activities of the judiciary, judges and judicial self-government bodies, forming a positive image of the court and trust in this institution.

According to O. Ovsyannikova, the judiciary and the media have common goals and objectives, their interaction should be aimed at ensuring that the population correctly understands the purpose and actions of the court, and the media have the opportunity to carefully, accurately and truthfully convey information to citizens. The interaction between the courts and the media does not involve protection from criticism, but a free exchange of views, open discussion of successes and difficulties [8, p. 174].

Creating an effective system of interaction between the courts and the media is one of the priorities of democratization in modern Ukraine. Both judges and media workers must not only be clearly aware of the importance of such activity, but also carry it out themselves. A fair and efficient judicial proceeding cannot be ensured if it is not open to the public. This is exactly what modern democratic standards of justice require. A general idea of international standards of interaction between the courts and the media can be found in the manual "Courts in relations with journalists and the media" [16, p. 6–13].

Pursuant to the UN Economic and Social Council Resolution 1296 of 11 February 1994, the Madrid Principles on the Relationship of the Media and Judicial Independence were extended. The main provision of the document is the statement that "the function and right of the media is to gather and convey information to the public, statements and comments on the administration of justice, including cases before, after and during the trial without violating the presumption of innocence". Therefore, such a principle of the media in the field of administration of justice may be subject to certain restrictions applied on a clearly defined basis.

The position of the Council of Europe, enshrined in the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950), in its interpretations by the European Court of Human Rights, as well as in resolutions and recommendations of Council of Europe bodies, is also important for Ukraine. According to paragraph 2 of Article 10 of this Convention, freedom of expression (and hence freedom of the media) may be subject to restrictions imposed for the following purposes: to protect the reputation and rights of others, to maintain the authority of the court, to ensure the impartiality of the court.

The European Court of Human Rights also applies in practice other principles of interpretation of the Convention norms on freedom of the media, especially in the context of judicial coverage. Such approaches are summarized in several Resolutions and Recommendations of the Committee of Ministers of the Council

of Europe. The application of democratic standards of the relationship between the judiciary and the media can be complicated by certain factors related to our historical past and the immaturity of democratic principles. Firstly, the traditions of the Soviet judicial system, which was based on the principles of secrecy and limited public coverage of the proceedings, are still preserved. Secondly, the “immature” Ukrainian media have not yet fully passed the stage of learning the rules of integrity, and the journalists are not always ready to adequately respond to the specific restrictions on their rights in the coverage of judicial issues. The above factors affect the peculiarities of communication between the courts and the media and create certain problems of substantive and organizational nature.

Thus, O. Ovsyannikova rightly notes that the media currently contains many critical articles on the problems of judicial activity – about the courts and judges [8, p. 177]. Of course, the facts of violation of the law are important to publicize, including through the media, to form intolerance in the public consciousness to such manifestations. At the same time, the positive aspects of the work of judiciary are often overlooked by the media, and the citizens thus receive a one-sided negative perception of justice. The topics of corruption, bribing judges, and biased court decisions account for almost half of the number of publications containing various types of criticism and claims against judges. But objectivity requires covering both the negative and the positive, because it is difficult to build a constructive relationship on a single negative. It is necessary to provide positive facts for the formation of the correct pattern of behavior, and its implementation.

Of course, the legal awareness of journalists is also a problem. This is what the existing issues of their communication with the courts are often associated with. Factual and legal inaccuracies, terminological errors, inaccuracies in the names of the judicial institutions, uncritical use of various sources of information in the preparation of materials, etc. – all this may indicate the gaps in the professional training of journalists.

Sometimes misunderstandings between judges and journalists result in misconduct on the part of judges themselves, who still maintain the tradition of a “closed” judicial system, finding reasons to avoid covering their activities.

Taking into account the problems and experience of building relations with the media, O. I. Yevtushenko speaks about the need to comply with the basic principles of interaction between the press and the judiciary, namely:

- transparency: court decisions and other information related to the activities of courts (unless they are cases to which access is restricted by the law) must be provided to the media;

- consistency: court decisions must be promptly and accurately communicated to the media. In turn, the justice system should be at least aware of any references and citations of the information coming from the judiciary. This “gentleman’s”

principle signals to mutual respect and guarantees the correctness of the transfer of information;

- objectivity: the media should strive for the most accurate coverage of the judiciary's activities and in their comments and analysis do not go beyond the ethical and professional boundaries beyond which arbitrariness begins;

- technological effectiveness: press structures of courts of different levels must have a sufficient technological and personnel base to meet the needs of journalists for information on judicial issues [9].

The issues of effective cooperation between the courts and the media are related to ensuring two constitutional values: a free press and a fair and independent court. According to P. Kablak, the main purpose of such cooperation is to reach the “golden mean” so that the judge is protected from the pressure of public opinion inspired by the media conclusions. On the other hand, the society must have access to the courtroom through the media [7, p. 48–49].

The main principle for productive cooperation between judges and journalists can be formulated: judges need journalists to cover their work objectively and fully, and journalists, in turn, need judges not to impede them.

Usually, communication between the court and the public is spontaneous. Certain information is disseminated at the household level, in ordinary everyday conversations of people. In general, there is the greatest interest in cases heard by the courts, especially those that are resonant. In these cases, the mediator of the dissemination of information between the source of information (court) and the consumer (citizens), as a rule, are the media, which are responsible for the completeness and accuracy of information, for the moral position.

Creating a decent image and reputation of the judiciary in society must be purposeful. The judiciary must create favorable information flows in order to have an image and reputation that will ensure respect from society. An important role in this process, of course, is given to the media.

Today, one of the main channels of communication of individual courts is primarily the own website, which contains text, photo, video information, news, which are constantly updated. However, the development of information ties between the court and the public should not be limited to the creation by the courts of websites or, for example, the publication of color brochures for citizens, with the history or composition of the court.

The judiciary representatives need to build strong ties with the “fourth branch of government”. Strategic and tactical steps in the interaction between the courts and the media should be: preparation of the information ready for use in the media; initiating and launching certain topics for the media; prioritization of information presentation; focusing media attention on the problems of individual courts and the judicial system as a whole, etc. All this can be done through various forms of con-

veying informational messages (in addition to the own), including press conferences, press briefings, press tours, round tables, conferences, seminars, presentations, etc.

Conclusions. Creating an effective system of interaction between courts and the media is an urgent task at the stage of democratic transformation in modern Ukraine. Not only the implementation of basic democratic principles – the functioning of a free press and the independence of justice, but also the development of democracy depend on the coordinated interaction of these two institutions of society. The judiciary of a democratic state must work on the basis of openness. Such openness and public scrutiny are ensured through the media in terms of finding and taking into account the mutual interests of the main actors of interaction, the court's initiative interest and the professional work of journalists. Effective interaction between courts and the media will be facilitated by the organizational consolidation of their typical relationship, indicating the main situations or forms of such interaction and the establishment of mutual rights and responsibilities.

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ОСОБЛИВОСТІ ВЗАЄМОДІЇ СУДІВ ТА ЗМІ В УМОВАХ ДЕМОКРАТІЇ

Актуальність проблеми. Засоби масової інформації відіграють роль важливого суспільного механізму у взаємодії судової системи та інститутів громадянського суспільства. В умовах демократії становлення та ефективне функціонування вільних ЗМІ та незалежного правосуддя в значній мірі залежать від узгодженої взаємодії цих двох інститутів суспільства.

Аналіз останніх джерел показує, що проблема взаємодії судів та ЗМІ є доволі обговорюваною. Суд як соціальний феномен та соціальний інститут розглядається такими вченими, як Д. Б. Баронін, С. В. Прилуцький, О. В. Чернушенко та ін. Теоретичним і практичним аспектам здійснення комунікації в судовій владі присвячені роботи А. Г. Алексєєва, П. О. Гвоздика, М. М. Лагунової, М. Г. Лашкіної, А. Розлуцької, В. Рибак та ін. Особливості взаємодії судової влади та засобів масової інформації є предметом дослідження О. І. Євтушенка, П. Каблака, К. Лім, Н. Меєра, О. Овсяннікової, Дж. Снідера, Д. Стромберга та ін.

Метою статті є аналіз особливостей взаємодії судів (судової системи) і засобів масової інформації, виявлення проблем, що виникають в процесі такої взаємодії та з'ясування умов та напрямків ефективної співпраці цих інститутів суспільства.

Викладення основного матеріалу. Будучи соціальним інститутом, суд і судова влада безпосередньо залежать від суспільства, у якому вони функціонують. На ступінь довіри (недовіри) громадян до правосуддя впливає багато чинників, одним з найважливіших є висвітлення роботи суду у ЗМІ. Дійсно, засоби масової інформації мають великий вплив на формування суспільної свідомості та громадської думки. Комунікації судів із громадськістю через ЗМІ мають на меті передусім висвітлення та розповсюдження інформації щодо діяльності судової системи, суддів та органів суддівського самоврядування, формування позитивного іміджу суду і довіри до цієї інституції. Створення ефективної системи взаємодії судів і ЗМІ є одним з пріоритетних напрямків демократизації в сучасній Україні. Застосування демократичних стандартів взаємодії судових інститутів та засобів масової інформації в Україні може ускладнюватися певними чинниками, пов'язаними з нашим історичним минулим і незрілістю демократичних принципів. Це, в свою чергу, може впливати на особливості комунікації між судами та ЗМІ і породжувати певні проблеми змістовного та організаційного характеру

(іноді «закритість» судів, правова освіта журналістів, випадки некоректної поведінки як з боку суддів, так і з боку журналістів тощо). Представники судової влади повинні встановлювати міцні зв'язки з «четвертою гілкою влади». Основними кроками у цьому напрямку мають стати цілеспрямовані форми взаємодії судів і ЗМІ, наприклад, донесення інформації про діяльність суду через веб-сайти, прес-конференції, брифінги, підготовка судами повідомлень, готових для використання у ЗМІ, акцентування уваги ЗМІ на проблемах окремих судів та судової системи в цілому.

Висновки. Створення ефективної системи взаємодії судів та засобів масової інформації є актуальним завданням на етапі демократичних перетворень у сучасній Україні. Від узгодженої взаємодії цих двох інститутів суспільства залежить не тільки реалізація основних демократичних принципів, а й розбудова усєї демократії. Судова влада демократичної держави має працювати на підставах відкритості. Така відкритість та громадський контроль забезпечуються завдяки ЗМІ на умовах пошуку та врахуванню взаємних інтересів основних суб'єктів взаємодії, зацікавленої ініціативи з боку суду та професійної роботи журналістів.

Ключові слова: *судова влада, суди, засоби масової інформації, журналісти, демократичні принципи.*

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ОСОБЕННОСТИ ВЗАИМОДЕЙСТВИЯ СУДОВ И СМИ В УСЛОВИЯХ ДЕМОКРАТИИ

Анализируется проблема коммуникации судов (судебной власти) и средств массовой информации. Отмечается, что в условиях демократии оба института заинтересованы в эффективном взаимодействии: судебная система – в объективности и полноте освещения своей работы, а журналисты – в том, чтобы их деятельности по сбору и распространению информации о судах и судьях не препятствовали. Предлагаются направления сотрудничества судов и СМИ.

Ключевые слова: *судебная власть, суды, средства массовой информации, журналисты, демократические принципы.*

