

ACTIVITY OF THE VENICE COMMISSION AND ITS IMPACT ON DEMOCRATIC AND LEGAL REFORMS IN UKRAINE

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On May 5, 1949, Belgium, Denmark, France, Great Britain, Ireland, Italy, Luxembourg, Netherlands, Norway, Sweden founded the Council of Europe - an international organization that today has 47 states-members and which deals with the crime prevention, the environmental protection, the development of international treaties and conventions. Ukraine joined the Council of Europe in 1995. The Council of Europe has many advisory bodies, including the Venice Commission. Its official name – «European Commission «For democracy through law». This Commission sits in Venice (Italy), and its Permanent Secretariat is located in Strasbourg (France) at the headquarters of the Council of Europe. It was officially established on the basis of the resolution of the 86th session of the Committee of Ministers of the European Union on May 10, 1996. Ukraine joined this resolution on November 22, 1996.

In general, the activities of the European Commission «For Democracy through law» are aimed at modernization and approximation of the legislation and the judicature of the countries of Central and Eastern Europe for their future accession to the European Union. The role of the Venice Commission is to provide legal advice on bringing the regulatory regulations and institutional structures of Member States in line with European standards. Incidentally, the Venice Commission cooperates with the International Institute for Democracy which was created under the auspices of Strasbourg Conference on Parliamentary Democracy.

The Venice Commission also acts in Ukraine, provides opinions on various legal and democratic reforms and many bills related to the rule of law, such as an independent transparent and fair court, efficient prosecution, separation of powers, activity of the High Qualifications Commission of Judges of Ukraine, the High Council of Justice, the Constitutional Court of Ukraine etc.

Let's consider this on the example of the Draft Opinion on amendments to the legislation governing the status of the Supreme Court and the judiciary, adopted by the Venice Commission at its 121st plenary session in Venice on December 6-7, 2019. In this document, the European Commission «For Democracy through Law» provided conclusions on: Law of Ukraine №193 «On Amendments to the Law of Ukraine «On the Judiciary and the Status of Judges» and some laws of Ukraine on the activities of judicial authorities", reform of HCJ and HQJCU, reduction the number of judges of the Supreme Court and the selection of judges, on disciplinary proceedings of judges, judicial remuneration.

The Commission reiterated that «...the stability of the judiciary and its independence are closely interlinked...», and «...citizens' trust in the judiciary can only grow in a stable constitutional and legislative framework...». That is why the European Commission «For Democracy through Law», after a thorough examination of the points mentioned in the previous paragraph, was very positive about those radical reforms in the judicial system of Ukraine, which were enshrined in Law № 193. Interesting are the remarks that «...a stable and predictable judicial system is also considered by investors to be very large for the economy and to reduce foreign investment...» and that «...the principle of stability and universality of laws is important for the predictability of laws...». With regard to the involvement of international experts in the selection of judges for the HQJCU and the HCJ Ethics Commission, the Commission considers that this increases «public confidence in the judiciary and can help to overcome «corporatism» when dishonest judges restrain the cleansing of courts».

In general, such an analysis of reforms, laws and certain provisions by the European Commission «For democracy through law» allows us to identify specific shortcomings that could threaten the judiciary or that could undermine the effectiveness of reforms.

Thus, the Venice Commission is a very useful advisory body to the Council of Europe, especially for those member states of the Council of Europe that aim to bring their national legal systems closer to European standards. The Commission provides important conclusions and points to shortcomings (such as the above-mentioned Law №193 in Ukraine) that help to improve the effectiveness and dynamism of reforms. The commission's findings and activities are generally aimed at upholding reforms and laws, fundamental principles of the rule of law, such as «horizontally» effective separation of powers, impartiality of judges and transparency of courts, non-discrimination and equality before the law, presumption of innocence, access to justice and respect for human rights. etc. An important principle embodied by the Venice Commission is the principle of «For democracy through law».

References:

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