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PARTICIPATION OF JUDGES IN LEGAL REGULATION: GENESIS AND CURRENT STATE

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It is well known that the classical factor in the regulation of social relations is a written law (the product of legislative authority) that establishes, changes or terminates the basic rule. However, this rule may be unclear, and contain shortcomings and gaps that complicate its application, and therefore the law needs to be properly interpreted by those who apply it – judges.

At the same time, sometimes this interpretation of the norms rises to a qualitatively higher level, becoming almost an independent rule itself. This can be called the starting point of the academic idea of the unity of these judicial rules, which means the unity of judicial practice. It seems appropriate to analyse the development of the unity of judicial practice in the context of the stages of academic thought development described in academic works [1].

In the classical stage of academic development, the unity of judicial practice was ensured mainly through the hierarchical structure of courts, where higher courts had the right to overturn decisions of lower courts in case of non-compliance with the law. At the same time, the courts were mostly guided by written law. Thus, the main factor in the unity of judicial practice was the legislation that defined the framework of judicial activity.

As for the role of the highest courts, their activity was primarily aimed at controlling the legality of lower court decisions. Accordingly, the issue of the unity of judicial practice was focused on the shortcomings or gaps in legislation.

As we approach the *non-classical stage*, there have been significant changes in the views on the role of courts, legislation, and court practice in ensuring the unity of court practice itself. The importance of judicial precedent, i.e. a court decision in a particular case that is binding on similar cases in the future, was growing.

In general, the non-classical stage of scientific thought development is characterized by an increasing role of judicial discretion, which may lead to

differences in judicial practice. Legislative gaps undoubtedly continue to pose problems for ensuring uniformity, but the courts are now more boldly addressing such gaps, setting precedents that have both positive and negative aspects.

The *post-non-classical (modern) stage of academic development* is marked by the active use of various mechanisms to ensure the unity of judicial practice – both those intended for use in the current work of judges and those that can be applied at the sole initiative of certain judicial bodies or institutions.

In the case of Ukraine, the legal provisions from the Supreme Court's ruling and the influence of the Convention and the European Court of Human Rights through its case law are of great importance for judicial practice. It is worth noting the special activity of the development of information technology, which contributes to the dissemination of judicial practice, accessibility of its analysis, and popularisation of relevant processes. At the same time, there is an active and targeted introduction of information technologies into the judicial process for the purposes mentioned above, as well as for the purpose of generalizing judicial practice.

At the level of the highest court within the state, there is an awareness of the need to generalize judicial practice. At the same time, there are problems with uncontrolled judicial discretion and differences in interpretation of the law, given that such interpretation is now becoming binding.

In addition to the already known legislative shortcomings and discrepancies in judicial discretion, the factors affecting the unity of judicial practice include social changes, the influence of the informational environment, international standards of judicial practice unity, and the lack of efficiency of mechanisms for its generalization.

It is also necessary to point out the excessive workload of national courts as a factor affecting the unity of judicial practice, which, in turn, affects the relevance of certain mechanisms for ensuring unity.

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VIEWS OF MYKOLA MIKHNOVSKYI ON THE STATE AND LAW

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In the current conditions of the brutal war in which Ukraine is fighting to maintain sovereignty and territorial integrity, studying historical figures who laid the foundations of the Ukrainian statehood is of particular **importance**.