

UDC [343.1:[342.565.2:342.531.43]](477)

DOI [https://doi.org/10.20535/2308-5053.2024.1\(61\).306750](https://doi.org/10.20535/2308-5053.2024.1(61).306750)

THE ROLE OF THE SUPREME COURT IN ENSURING THE OBSERVANCE AND RESPECT FOR THE RULE OF LAW

Skidan N. V.,

*Postgraduate Student at the Department of Criminal Justice,
Yaroslav Mudryi National Law University;*

*Visiting Researcher at the Institute of Criminal Law, Criminal Procedure,
and International Criminal Law*

University of Liege

ORCID ID: 0000-0003-4009-4796

n.v.skidan@nlu.edu.ua

The rule of law is the cornerstone of modern democratic legal systems and an important condition for their continued existence. At the legislative level, it has been recognised in Ukraine since the adoption of the Constitution of Ukraine in 1996, and the establishment of democratic values continues to this day. This scientific paper investigates the development and establishment of the rule of law through judicial proceedings to attain its purpose of delivering justice. In most developed European countries, there is a well-accepted legal tradition whereby constitutional jurisdiction takes precedence over general jurisdiction, thus making the Constitutional Court superior to the Supreme Court. However, the legal reality in Ukraine demonstrates a contrary scenario. As shown by the author, the Ukrainian approach, while highly distinctive, does not contradict international principles about the formation of the rule of law through the courts. Furthermore, the principal legislative provisions completely match the criteria of international and European law. Nevertheless, the study concludes that the excessive activity of the Supreme Court appears to be a significant drawback due to its overly extensive case law. For instance, during the first half of 2023, the Supreme Court heard a total of 63 406 procedural appeals and cases, including 5 433 in the sphere of criminal justice and 7 174 taking into account cases and materials not heard the previous year (Верховний Суд, Аналіз здійснення правосуддя). That is the reason why the Ukrainian legal system is confronted with the issue of defining legal certainty, which is one of the key characteristics of sustainable and democratic justice (Consultative Council of European Judges, 2017). The article identifies that not only is this problem currently unresolved by the Ukrainian legislature, but it also emphasises the importance and necessity of defining the status of case law in the country, as well as the influence of the Supreme Court on ensuring the rule of law. According to the author, there are several options available to overcome these challenges which must be handled expeditiously in light of the ongoing war and Ukraine's eventual membership in the European Union. Based on the results of this article, it is proposed to adopt two legislative proposals. First, case law should be recognised as a source of law, namely the legal conclusions established in Supreme Court rulings. Second, these judgments must be published in the determined form to be regarded as a source of law. To clearly identify the Supreme Court decisions containing legal conclusions and serving as a source of law, the study proposes a separate publication of these judgements from others that do not hold such status. For example, they could be published in dedicated documents/collections, etc. specifically designed for this purpose. Moreover, the author concludes that such an instrument already exists, despite the fact that it is not officially recognised as such. According to the results of this research, the Supreme Court's reviews and digests of case law are an illustration of this particular tool.

Key words: rule of law, Ukraine, Constitutional Court of Ukraine, Supreme Court, case law.

Introduction. The rule of law (RoL) serves as a fundamental basis for the establishment of law in democratic countries, as well as for interstate relations. Although it has existed since the time of antiquity philosophers such as Plato, this concept was widely examined during the Enlightenment in the 17th and

18th centuries and had organically developed over centuries through philosophical, legal, and political changes to attain its current form. The intention was to highlight the tension between government power and individual rights in modern, centralised systems. As a result, it seeks to identify legal mechanisms for prohibiting the unjustified use of government power (Tuori, 2013, p. 14). Numerous years later, this concept remains exactly the same; only the forms of its application have improved by enhancing legislation and particular legal mechanisms.

Turning to the current state of the RoL in Ukraine, it is essential to delve a little deeper into history. Following the Soviet Union's demise and emancipation from oppression in 1991, many post-Soviet states incorporated the concept of democratic state of law into the text of their Basic Laws. However, in this manner, the determination of the state's developmental trajectory was limited to establishing a general direction, without due acknowledgement of certain mechanisms. In this regard, the distinction between two approaches arose: the narrower concept of legality (more Soviet in its ideology) and the concept of the RoL (filled with human rights principles).

Even predating the dissolution of the Soviet Union, an initial consideration of the choice between the aforementioned distinctions emerged in the Copenhagen Conference document (Conference on Security and Co-operation in Europe, 1990). However, as H. Suchocka (2020, p. 644) correctly stated, "the goal of not only Poland but also of other post-communist countries was future membership in European institutions, first in the Council of Europe (CoE) and then in the European Union (EU)." In this context, we agree with the scholar's subsequent conclusion that these [post-Soviet] countries have opened up in this way through the new constitutional formulation of RoL. The documents of the European institutions are unequivocal when they speak of the member states' attachment to the spiritual and moral values that constitute their peoples' common constitutional heritage and a true source of individual freedoms, as well as RoL as the foundation of true democracy (Suchocka, p. 644).

Considering the above and returning to the core subject of this paper, it is worth emphasising that these conclusions are entirely applicable to Ukraine, both in terms of its legal origins and current reality. Especially since on 23 June 2022, the European Parliament voted a motion calling for Ukraine to be granted candidate status for European Union membership immediately, and the European Council gave Ukraine candidate status for EU accession on the same day (European Council [EUCO], 2022). Furthermore, at a special European Council meeting in February 2023, EU leaders underlined Ukraine's significant progress towards achieving the goals that underpin its candidate status for EU membership, and they urged Ukraine to meet the conditions outlined in the Commission's opinion in order to finally enter the EU (EUCO, 2023).

Considering this fact, as well as Ukraine's long-standing European aspirations, it is clear that the RoL establishment and proper existence in the legal system are both a crucial challenge for the state and a key indicator of its compliance with the high requirements of future EU member state status.

Therefore, this **research aims** to determine the Supreme Court's role in ensuring the observance and respect for the RoL in Ukraine.

The choice was made to evaluate the RoL's establishment through the lens of Supreme Court activities because all RoL components (defined for the first time by the Venice Commission (2011)) have a particularly close connection with judges. On the one hand, they must comply with RoL requirements (*i.e.*, legality, including a transparent, accountable and democratic process for enacting law; legal certainty; prohibition of arbitrariness) (Venice Commission [VC], 2011, p. 10), and on the other, they must protect these values from violations (*i.e.*, access to justice before independent and impartial courts, including judicial review of administrative acts; respect for human rights; non-discrimination and equality before the law) (VC, 2011, p. 10), as well as establish and shape the further RoL development through their case law.

Methodology. The incorporation of the system-component aspect within the framework of the system approach is pivotal in elucidating the position and significance of the Supreme Court within Ukraine's legal system, particularly in its role as the arbiter of the Rule of Law (RoL). This entails a comprehensive analysis encompassing both the regulatory framework delineating the legal standing of the Supreme Court and an examination of its practical exercise of authority. Additionally, a historical contextualization is employed to provide a succinct overview of the emergence of the RoL as a legal phenomenon.

Moreover, this study employs a nuanced examination to discern trends and patterns in the evolution of Supreme Court jurisprudence, serving as a crucial instrument in the establishment and consolidation of the RoL within the Ukrainian legal landscape. Central to this methodology is the adoption of a hermeneutic approach, facilitating the harmonization of descriptive and normative arguments whilst leveraging interpretive and persuasive reasoning techniques to augment the analysis.

Results and Discussion.

1. Evolution and Contemporary Dimensions of the RoL. As previously stated, the RoL is not a new concept in modern legal reality, and it is currently an important indicator of a state's degree of legal culture and development. Additionally, the RoL has a dual nature since it is both an assessment criterion and a legal ideal to which democratic societies strive.

Black's Law Dictionary (2nd Ed., online) defines the term 'RoL' as "the predominance that is absolute of an ordinary law over every citizen regardless of that citizen's power". This brief description obscures the full range of the concept under investigation and, in some ways, minimises its relevance. By focusing on the predominance of ordinary law over citizens, the definition may not capture the nuanced aspects and broader implications of the rule of law. As a result, this does not fully appreciate the rule of law's diverse and comprehensive nature, and that limiting definition may understate its significance and relevance. According to Geoffrey de Q. Walker (1988), "...the majority of the content of the rule of law can be summed up in two points: (1) that the people (including, one should add, the government) should be ruled by the law and obey it, and (2) that the law should be such that people will be able (and, one should add, willing) to be guided by it." Walker's definition appears to be more tied to the RoL's fundamental significance. Firstly, he stresses that both the people and the government must be subject to and abide by the law, promoting the principle of equality before the law without exemptions based on status or power. Secondly, Walker underscores the significance of crafting laws that are clear, accessible, and legitimate, emphasising the need for laws to be understandable and encourage voluntary compliance for the RoL to be effective. Nonetheless, Walker's definition, while detailed, remains somewhat generalised.

Meanwhile, in 2010, the British Institute of International and Comparative Law published a book based on a rather extensive assessment of the RoL. They outlined an approach for investigating the RoL concept at both the national and international levels, with an initial emphasis on the latter (McCorquodale, 2010).

The Venice Commission (VC) pursued a similar approach in its Report the following year (2011). At the international level, the Commission reviewed documents supplied by the Council of Europe, the United Nations, the OSCE, the OECD, and the European Court of Human Rights case law (VC, 2011, pp. 5–8). The Commission also provided a brief assessment of the constitutional steps made by various nations at the national level, with a special emphasis on former socialist countries of Central and Eastern Europe, including Ukraine (VC, 2011, p. 8–9). Based on this analysis, the Commission declared that "the notion of RoL has not been developed in legal texts and practice as much as the other pillars of the Council of Europe, human rights and democracy" (VC, 2011, p. 14).

Furthermore, the RoL was defined in that Report through its constituent components, which in entirety take into account several aspects of it, giving it a shape that everyone recognises. The VC's approach (2011, p. 10) can be considered classical, with RoL elements including: (1) legality, including a transparent, accountable, and democratic process for enacting law; (2) legal certainty; (3) prohibition of arbitrariness; (4) access to justice before independent and impartial courts, including judicial review of administrative acts; (5) respect for human rights; and (6) non-discrimination and equality before the law.

The VC's idea is currently being expanded and given new forms. The four fundamental principles of the World Justice Project¹ ("What is the Rule of Law?"), for instance, serve as a feasible definition of the RoL. Among them are accountability, just law, open government, and accessible and impartial justice. Meanwhile, the four basic tenets are extended further in the following forms: constraints on government powers, absence of corruption, open government, fundamental rights, order and security, regulatory enforcement, civil justice, and criminal justice.

In this paper, the focus will be on justice issues, particularly in the criminal justice field. Simultaneously, taking into account the inextricable interdependence of RoL elements, they will also be examined to accomplish the research tasks.

2. Navigating the RoL Challenges: Ukraine's Judicial Landscape. Ukraine's Declaration of Independence in 1991 was the turning point in the country's history because it not only legally broke links with tyranny and the Soviet past, but also selected the opposite European path. At the legislative level, Ukraine's European and Euro-Atlantic orientation was set only in 2019 in the Constitution's Preamble (Constitution of Ukraine [CoU], 1996, para. 5)). However, this does not change the reality that Ukraine began active legislative and implementation activities at the state level almost immediately after achieving independence.

Throughout subsequent amendments, several European legal instruments (for example, the European Convention on Human Rights (ECHR), the Statute of the Council of Europe, the European Social Charter, and so on) were adopted and incorporated into the national legal system. Joining the ECHR made it possible for Ukrainian citizens to apply to the European Court on Human Rights (ECtHR), and its case law has had an impact on the country's legal system and judiciary. Furthermore, Ukraine, like many other Council of Europe countries, has a seat on the Consultative Council of European Judges (CCJE)². The CCJE's opinions have also an effect on judges and the administration of justice.

¹ The World Justice Project (WJP) is an independent, multidisciplinary organization working to create knowledge, build awareness, and stimulate action to advance the rule of law worldwide. About US, WJP, <https://worldjusticeproject.org/about-us>.

² CCJE's primary mission is to assist in the execution of the Framework Global Action Plan for Judges in Europe, which was established by the Committee of Ministers on 7 February 2001 to improve the role of judges in member countries. It advises on broad concerns concerning the independence, impartiality, and competency of judges ("About the Consultative Council").

This paper, as mentioned above, specifically examines the noticeable results of this ongoing development, with a significant example found in Article 8 of the Constitution of Ukraine (CoU, 1996). In this constitutional provision, the acknowledgement and emphasis on applying the RoL within the country are clearly stated. In the field of criminal justice, Article 8 of the Code of Criminal Procedure ([CCP], 2012) allocates particular emphasis to the concept of the RoL. According to that, criminal proceedings are conducted under the principle of the RoL (para. 1), which is applied following the practice of the ECtHR (para. 2).

While the groundwork for implementing the RoL has been laid in Ukraine, its full assurance is not yet realised, particularly within the realm of justice. As previously mentioned, resolving these matters falls under constitutional jurisdiction, a domain solely presided over by the Constitutional Court of Ukraine (CoU, 1996, Section XII). However, the facts demonstrate that the situation in Ukraine is quite the contrary.

In Ukraine, the Supreme Court, rather than the Constitutional Court, has the most impact on the evolution of legal relations in the state, including maintaining adherence and respect for the RoL. This scenario is explained by a variety of circumstances and issues that face not only the legal system but the entire country. As S. Holovaty ("Promoting the Rule," p. 383) points out, the problems in implementing the RoL arose from historical, cultural, and institutional aspects that shaped the country's current constitutional evolution.

One of the challenges, for instance, was the inability to determine the Court's composition in 2019, when three vacant slots remained unfilled. Following that, the number of vacant judge positions increased to six in 2022. Furthermore, since the 2016 judicial reform, no adequate legislative framework has been established for an independent commission to conduct a full-fledged competitive selection of Constitutional Court judges, which would recommend to the relevant subjects the appointment of candidates for the position of judge. In this regard, the Court was destabilised, which became yet another example that Ukraine has serious difficulty meeting the requirements of the RoL, because one of the components of the RoL is a stable legal system to which citizens have real access.

This issue has become a barrier not just to the functioning of the judicial system, but also to Ukraine's potential EU membership. The need to address this issue was emphasised not just by the Venice Commission, but also by the European Commission.

The VC, as the focal point of the RoL creation, has recently focused on judicial reform, notably in terms of the Constitutional Court, as one of the important factors in such a process within the state.

One of its most recent documents relating to Ukraine, dated 9–10 June 2023, explores the topic of legislative reforms aimed at enhancing the mechanism for competitively selecting candidates for the position of judge of Ukraine's Constitutional Court (VC, June 2023). The VC highlights the importance of adopting a mechanism for selecting justices for Ukraine's Constitutional Court that ensures the Court's independence and impartiality. The VC also emphasises the essential need to ensure that positions of constitutional court judges are not left vacant for a lengthy time. Moreover, notwithstanding the Russian Federation's aggression against Ukraine, the Ukrainian government and civil society have shown a remarkable willingness to push on with reforms and execute the VC's ideas (VC, June 2023, paras. 38–39). The VC then concluded with satisfaction in its final Opinion for Ukraine, dated 25 September 2023, that the key suggestions it had outlined in the June opinion described above had been followed in the Law approved on 27 July 2023. It is a clear demonstration of Ukraine's strong desire to resolve challenges faced and adhere to generally accepted standards (VC, September 2023, para. 16).

The European Commission, for its part, changed Ukraine's fate by granting it the status of a candidate country for EU membership in June 2022. It also drew attention to the need to complete seven steps, without which further progress towards accession is impossible. So, following VC recommendations, the first proposal was to adopt and implement laws on a selection system for judges of Ukraine's Constitutional Court, including a pre-selection process based on the evaluation of their integrity and professional skills (Opinion on the EU membership, 2022, p. 20). Following that, the European Commission, in presenting its 2023 Enlargement Package in November 2023, recommended opening negotiations with Ukraine because the Ukrainian government and Parliament demonstrated progress in meeting the seven steps of the European Commission Opinion on Ukraine's EU membership application. And, most importantly in terms of the RoL, Ukraine has developed a transparent pre-selection system for Constitutional Court judges, as well as overhauled judicial governance bodies (Ukraine 2023 Report, 2023, pp. 19, 21).

Despite the ongoing evolution of the RoL within the confines of constitutional jurisdiction, Ukraine's Constitutional Court was destabilised and blocked because of other circumstances that this study will not discuss. As a result, the Constitutional Court's 'production' has been reduced to near nil, and its contribution to the RoL growth cannot be considered. This is also proved by statistics, which is solid evidence. The Constitutional Court of Ukraine has issued 375 rulings since it began performing its responsibilities in October 1996 ("Щодо окремих статистичних," 2021). This looks to be significant, given that they are the results of nearly 24 years of service. However, with an average of 7 rulings every year since 2014, several

concerns have arisen. Especially when contrasted to the Supreme Court's activity, whose case law, even within a single criminal jurisdiction, makes keeping up with all the changes impossible. For instance, in the first half of 2023, the Supreme Court heard a total of 63 406 procedural appeals and cases (Supreme Court's Report, 2023, p. 3), including 5 433 in the sphere of criminal justice and 7 174 taking into account cases and materials not heard the previous year (Administration of Justice's Analysis, 2023, p. 3).

Moreover, there is already an unspoken rule in the legal community that if someone wants to have a favourable outcome in court, they must be familiar with Supreme Court's case law. Future lawyers are aware of this formula since their student days, and as a result, the next generation of lawyers is formed with a clear understanding of the significance of Supreme Court decisions, which means that the focus dynamically shifts not only from one highest-ranking court to another but also, to some extent, from current legislation to case law because future generations of lawyers will concentrate mainly on it rather than legal provisions. In this regard, a breakdown of the well-known separation of powers system, an important component of which is the RoL, may occur.

All of the concerns outlined above, along with many more not covered by this article, ended up in the Supreme Court being the primary trendsetter of changes in the legal system on the part of the judicial branch, and law application is impossible without knowledge of its case law. Taking this into consideration, it is vital to examine the role and status of the Supreme Court in this paper's investigation.

The Supreme Court, as in other countries of continental law, is the highest court in Ukraine's judicial system (CoU, 1996, Art. 125, para. 3; "On the the Judiciary," 2016, Art. 17 para. 2 and Art. 36 para. 1). Furthermore, being the highest court in the Ukrainian legal system, the Supreme Court preserves the stability and uniformity of case law in accordance with procedural legislation ("On the Judiciary," 2016, Art. 36, para. 1 and para. 2, ss. 2, 6, 7).

The publication of court decisions, in the author's opinion, is one of the tools to establish a uniform and stable case law. It is important to note that this must be done not just for the parties to the particular case, but also for other courts, lawyers, prosecutors, researchers, and the general public to be able to count on these judgements in future cases (CCJE, 2017, para. 40).

At first sight, it appears that this is a technical rather than a legal issue, but it is not. From a technological standpoint, Ukraine enacted the Law on Access to Court Decisions, which lays out all of the essential measures for regulating different aspects of openness and access to the decisions of judicial procedures. Indeed, decisions must be publicised publicly ("On the Access," 2005, Art. 2, para. 1) and made public in electronic form no later than the following day after they are made and signed ("On the Access," 2005, Art. 2, para. 2) (exceptions to the general norm exist for certain circumstances). The State Judicial Administration of Ukraine maintains the Unified State Register of Court Decisions, an automated system for collecting, storing, protecting, accounting, searching, and providing electronic copies of court decisions ("On the Access," 2005, Art. 3, paras. 1, 2).

However, as previously said, the Supreme Court's case law is massive, posing a problem for judges, lawyers, and persons who are unaware of all legal positions set by it. Such a situation raises many legal issues, and most importantly, it violates the RoL, as it creates legal uncertainty for both the parties already involved in the proceedings and those who may become them in the future and should know what to expect in certain typical circumstances. As stated earlier by the CCJE, this is a scenario that should not exist. According to their opinion, it is "the responsibility of supreme courts to ensure and maintain the uniformity of the case." Aside from increasing delays in the Supreme Court's case handling along with decreasing the quality of its adjudication, such an approach is certain to result in contradictions within the Supreme Court's case law. It indicates that if a Supreme Court decides an unusually large number of cases, its case law will likely be overlooked. Subsequently, the existence of contradicting lower court rulings cannot be rectified simply by granting free access to the highest court (CCJE, 2017, para. 23).

Considering this and intending to resolve the abovementioned concerns, it is worthwhile going over the standards set up at the CoE and EU levels.

3. Courts and the RoL: Promoting Respect and Adherence. At first glance, the courts' role in contribution to the observance and respect for the RoL does not appear to be obvious. This is primarily due to the doctrine of separation of powers, which states that the legislature's primary function is to enact legislation, whereas the executive is responsible for implementing, carrying out, or enforcing the state's will as expressed by the constituent assembly and the legislature. In turn, the judicial branch applies the legislation made by the legislature to individual cases while keeping the principles of natural justice and fairness in mind (Garg & Kaushal, 2022). Nonetheless, 'the separation of powers should not prevent the judicial interpretation of law from responding to the social and legal convictions of society, thus avoiding a divorce between the judicial and the popular concepts of justice' (Guerra, 2000, p. 10). Furthermore, the CCJE concluded that, like the other two branches of power, the judicial one is accountable to society. It entirely corresponds to the fact that, while justice strives to resolve conflicts, the judiciary serves both a

'normative' and an 'educative' function, giving individuals with required guidance, knowledge, and assurance regarding the law and its practical application through its decisions (CCJE, 2015, paras. 21, 23). These two points forge a connection between the RoL and the judiciary, particularly fair trial and execution of courts' decisions.

Fair trial, as a fundamental pillar of the RoL, ensures that individuals are granted the right to a just and impartial legal process (European Convention on Human Rights, 1960, Art. 6). This principle applies to all courts in countries; nevertheless, the highest courts have an additional responsibility and function, ensuring that each person has a fair trial in any circumstance, regardless of whether it is a lesser court or the highest. We believe that in this case, the RoL will be truly incorporated into the judicial system. It will be achievable because the role of the highest courts is to ensure the uniformity of case law, which serves as a guideline for all judges in a state. While judges have the authority to interpret the law, they also have the duty to promote legal clarity, contributing to a high-quality judicial system (CCJE, 2008, paras. 47, 48). In addition, the CCJE began imagining how higher courts may accomplish this. As a result, providing instructions for lower courts was considered a beneficial approach (CCJE, 2008, para. 71).

Furthermore, it ought to remember that this approach is first and foremost about individuals, whose rights are guaranteed and must be maintained. Citizens in a RoL-governed state have the right to expect to be treated the same as others and can rely on prior rulings in similar cases to predict the legal consequences of their actions or omissions. On top of that, if parties know where they are in advance, they may opt not to go to court in the first place. To the greatest extent feasible, attorneys should understand how to counsel their clients, and hence litigants should understand their rights. Case law that establishes clear, consistent, and dependable norms may lessen the need for court action in settling conflicts. Cases can be settled more rapidly if they may rely on earlier decisions obtained in similar situations, particularly by higher courts (CCJE, 2017, paras. 5, 7).

Nevertheless, while court decisions play a crucial role in establishing, elaborating, and clarifying the law, it is equally important to consider their accessibility, as highlighted by VC (2016, p. 25). Meanwhile, the accessibility of court decisions contributes significantly to legal certainty, a vital aspect of the RoL (VC, 2016, p. 25).

Transitioning to the execution of court decisions, it is pertinent to echo the CCJE's observation that 'the right to a fair trial, and the RoL in general, would be meaningless if judicial decisions were not carried out' (VC, 2016, p. 46). This underscores the critical significance of examining all these factors concurrently.

In the realm of court rulings, the quality of a decision is paramount, characterised by the proper application of legal norms, adherence to a fair procedure, and a thorough factual examination. Additionally, it must be effectively enforceable to garner the confidence of the involved parties and society at large. A high-quality court ruling, as emphasised by the CCJE, is one that not only meets the procedural and substantive criteria but also addresses conditions such as clarity, reasoning, dissenting opinions, and enforceability (CCJE, 2008, paras. 31, 32, 35, 36, 51, 53). These conditions play a crucial role in ensuring that parties involved believe their issues have been meticulously investigated and settled. Simultaneously, society perceives the court's decision as a contributing factor in restoring social peace. Thus, examining and addressing these multifaceted factors concurrently becomes imperative for the overall effectiveness and legitimacy of court decisions.

From the author's point of view, this CCJE Opinion expands on the previously stated ideas (Guerra, 2000, p. 10; CCJE, 2015, paras. 21, 23) that courts do not solely handle justice in a narrow sense (dealing with a particular case meanwhile, if necessary, relying upon the interpretation of the legislative requirements required for its resolution). Courts also develop current legislation through their judgements, identifying gaps and collisions and imbuing it with new forms and meanings. Additionally, law enforcement practice evolves more rapidly than static legislation, with a relatively complex and lengthy method for amending it. As a result, normative documents through different phases of legal evolution are older than actual legal reality. Judges managing a particular legal situation demonstrate to both the parties and other individuals (potential participants in similar lawsuits and applicants of the same legislation) various aspects of the normative provisions based on the facts of the case at hand in their decisions. All these variables unite to make up the RoL, thus this is how it is ensured within the court's jurisdiction as well.

However, it is clear that, for a variety of reasons, forecasting everything in court decisions is challenging. First, while case law is more dynamic than legislation, court proceedings nonetheless occur post facto in relation to a particular case in objective reality. As a result, the judicial system will always function. Second, not all citizens should be aware of such precise legal concerns. The non-legal community should understand the fundamental rights and duties, but burdening them with legal knowledge makes little sense. Lawyers, on the other hand, should be aware of all legal matters resolved under case law; hence, case law uniformity and consistency are crucial. Because formal procedures in appellate courts, especially supreme courts or courts of cassation, have the greatest direct impact on uniform interpretation and application of the law (CCJE, 2017, para. 16).

To sum up, the right to a fair trial and the execution of court decisions as integral components of the RoL cannot be overstated. Judges and courts, as custodians of these processes, emerge as crucial guarantors and guardians, actively contributing to the steadfast observance and promotion of the RoL. Their role is paramount in upholding justice and fostering a society built on principles of fairness and legality.

4. Court's Contribution to the RoL in Ukraine: Aligning with International Standards. In the context of courts' contribution to the observance and respect for the RoL, it is noteworthy that, despite the prevailing legal traditions in most developed European countries favouring constitutional jurisdiction over general jurisdiction, the Constitutional Court usually holds precedence over the Supreme Court, the Ukrainian case presents a contrary scenario. However, the distinctive Ukrainian approach, though divergent, aligns with international principles regarding the establishment of the RoL through the courts. Additionally, the principal legislative provisions in Ukraine fully adhere to the criteria set forth by international and European law.

For example, the legal provision outlining the powers of the Supreme Court to uphold the stability and consistency of case law in accordance with procedural legislation ("On the Judiciary," 2016, Art. 36, para. 1 and para. 2, ss. 2, 6, 7) aligns with the approach endorsed by the CCJE. According to this provision, establishing a framework for lower courts to adhere to Supreme Court decisions in similar circumstances constitutes a vital aspect of exercising their authority to ensure uniformity in the application of the law (CCJE, 2017, para. 12). To adhere to the requirement of publishing judgments (CCJE, 2017, para. 40), Ukraine has enacted the Law on Access to Court Decisions, which comprehensively addresses various aspects of openness and accessibility to judicial proceedings' outcomes. Specifically, judgments are required to be publicly disclosed ("On the Access," 2005, Art. 2, para. 1) and made available in electronic form no later than the day following their issuance and signing ("On the Access," 2005, Art. 2, para. 2), with exceptions applying in certain circumstances. The State Judicial Administration of Ukraine oversees the Unified State Register of Court Decisions, an automated system designed for the collection, storage, protection, record-keeping, search functionality, and provision of electronic copies of court decisions ("On the Access," 2005, Art. 3, paras. 1, 2).

Returning to the question of how the highest court, such as the Supreme Court in Ukraine, can contribute to the observance and respect for the RoL, two primary legislative challenges arise. Firstly, there is the matter that case law is not officially recognized as a source of law in Ukraine, despite its de facto status as such. Secondly, ongoing debates within academic and practitioner circles have raised a question whether rulings from the entire Supreme Court constitute a source of law or if only the rulings of the Grand Chamber hold such standing.

To address the first challenge, the intervention of National Parliament is essential, as only they have the authority to amend legislation and break the ice. From the author's perspective, the case law of the Supreme Court holds the status of a legal source for Ukrainian criminal procedural law. In this case, it takes form in specific decisions of the Supreme Court, encapsulating legal positions such as conclusions on the application of certain rules or even the establishment of new settlement rules (Skidan, "Correlation", p. 60).

To figure out the second challenge, it appears necessary to establish legislatively that decisions of the entire Supreme Court form case law, which is the source of law. As a result, only the legal perceptions stated in its rulings should be taken into account.

Also, a crucial approach to alleviating the stated challenge could be the separate publication in a properly specified form of only those Supreme Court's decisions that would be acknowledged as sources of law. This strategy is more widespread in common law countries, but it can also be found in several continental legal systems. In the Czech Republic, for instance, the Collection of Supreme Court Decisions and Standpoints (Sbírka soudních rozhodnutí a stanovisek) publishes the most important Supreme Court judgements, as well as the opinions of Supreme Court's Divisions or Plenary Sessions (European Justice, "National legislation. Czechia"; Nejvyšší soud, "Role of the Court").

While case law is not regarded as a source of law in Ukraine, this potential advantage of a separate publishing of the case law regarded as a source of law is not currently determined at the legislative level. However, it is possible to argue that such a tool already exists.

In the author's viewpoint, such a tool is the Supreme Court's publication of Case Law Digests and Reviews. First, there are Digests of case law of the Supreme Court's Grand Chamber, which are published roughly every three months. Second, Reviews of case law of Chambers and Joint Chambers of the Criminal Court of Cassation, which is part of the Supreme Court, are also shared, but it is one of the least defined tools. Third, every month, Reviews of case law from the Criminal Court of Cassation, which is part of the Supreme Court, are published as well. Furthermore, reviews of ECtHR judgements are released separately for each month.

Additionally, on 6 November 2023, the Supreme Court made history by publishing, for the first time in the Ukrainian justice system, a Review of the Court of Justice of the European Union case law

(April–July 2023) (“Огляд практики,” 2023). Unfortunately, this tool remains relatively unknown in the national system, and its utilization is underdeveloped. The Supreme Court, acknowledging this on its official Facebook page, emphasized the growing significance of understanding European Union law and the practices of the Court of the European Union in the context of European integration.

To disseminate this crucial knowledge, the Supreme Court compiled an overview of the Court of Justice of the European Union's case law based on materials from the court's bulletins, which provide insights into its key decisions. However, one peculiar comment mentioned in the Facebook post, where the overview was published, concerns. The statement, “We would be grateful for feedback on the feasibility of preparing such reviews, as well as on their format³,” (Верховний Суд, Facebook, 2023) seems to suggest uncertainty about the necessity of these reviews. Such uncertainty contradicts our commitment to align with the EU, its standards, and requirements. As Ukraine strives to exceed expectations in its journey toward EU integration, it becomes imperative to synchronise with other Member States, emphasising the need for awareness of the mandatory jurisdiction of the CJEU. This alignment not only underscores our commitment to EU standards but also facilitates our position alongside other Member States.

Conclusion and Future Work. To summarise, there is no doubt that the RoL development in Ukraine is ongoing. Delivering justice, particularly by the highest courts, is one of the key instruments for accomplishing the RoL. As a result, there is some rivalry between the Ukrainian Constitutional Court and the Supreme Court, causing jurisdictional competition. The significance of these issues is evident, given continuing reformation concerns and extant gaps in current legislation. Their complexities, however, demand additional scientific research backed up by legislative will.

The study contends that the Supreme Court played an essential role in ensuring the observance and respect for the RoL, which does not contradict international perspectives on similar proceedings. Even though the study revealed the strengths and weaknesses of present development in this field, Ukraine may be said to have an original approach. Because various other factors must be considered, determining whether something is an advantage or a disadvantage is complicated. Considering the foregoing, a more in-depth analysis of the legal instruments of the Supreme Court, with the help of which it ensures the unity and stability of case law, may be a possible option for future research.

Скідан Н. Роль Верховного Суду у забезпеченні дотримання та поваги до верховенства права

Верховенство права є основою сучасних демократичних правових систем, а також важливою умовою їх подальшого існування. На законодавчому рівні воно було визнане в Україні з моменту прийняття Конституції України у 1996 році, і процес установлення демократичних цінностей триває й донині. У цій науковій статті досліджуються розвиток та дотримання та поваги до верховенства права через судовий процес для досягнення його мети щодо здійснення правосуддя. Незважаючи на те, що в більшості розвинених європейських країн загальною визнана правова традиція, за якою конституційна юрисдикція має перевагу над загальною юрисдикцією, а отже, Конституційний Суд над Верховним Судом. Однак правова реальність України свідчить про те, що в державі сформувався протилежний сценарій. Однак, як було продемонстровано авторкою, український підхід, хоча і дуже самобутній, не суперечить міжнародним принципам щодо забезпечення верховенства права судами. Крім того, основні законодавчі положення повністю відповідають критеріям міжнародного та європейського права. Проте у дослідженні резюмовано, що надмірна активність Верховного Суду здається помітним недоліком через занадто великий обсяг його судової практики. Наприклад, протягом першої половини 2023 року Верховний Суд розглянув загалом 63 406 апеляційних та судових справ, включаючи 5 433 у сфері кримінальної юстиції та 7 174 з урахуванням справ та матеріалів, які не були розглянуті у попередньому році (Верховний Суд, Аналіз здійснення правосуддя). Це є причиною, чому українська правова система стикається з проблемою встановлення правової визначеності, яка є однією з ключових характеристик сталого та демократичного правосуддя (Consultative Council of European Judges, 2017). У статті визначено, що наразі не тільки ця проблема залишається невирішеною українським законодавцем, а також наголошено на важливості та необхідності визначення статусу судової практики в країні загалом, так само як і впливу Верховного Суду на забезпечення верховенства права. На думку авторки, існують кілька варіантів для подолання цих викликів, які повинні бути вирішені негайно з огляду на триваючу війну та майбутній вступ України до Європейського Союзу. За результатами дослідження, представленими у цій статті, пропонується прийняти дві законодавчі пропозиції. По-перше, визнати

³ As well, the same last statement was included in the post alongside the publication of three other overviews of the Court of Justice of the European Union's case law on March 7, 2024, <https://www.facebook.com/supremecourt.ua/posts/pfbid02uVEKU9XmGWUzHCMWD43msbukZb3nr5LKABDSfuCNVEsUeHJYgT3KJi2TQ7H9HQzI>.

судову практику джерелом права, а саме правові позиції, встановлені в рішеннях Верховного Суду. По-друге, вони повинні бути опубліковані у визначеній формі, щоб розглядатися як джерело права. Для чіткої ідентифікації рішень Верховного Суду, що містять юридичні висновки і є джерелом права, у дослідженні запропоновано обрати підхід їх окремого опублікування від інших рішень, які такого статусу не мають. До прикладу, це може бути їх окреме видання у відповідних документах/збірках тощо, які призначені з цією метою. Більше того, авторкою резюмовано, що такий інструмент вже існує, хоча і офіційно не вважається таким. Відповідно до результатів цього дослідження, огляди та дайджести судової практики Верховного Суду є наглядним прикладом саме цього інструменту.

Ключові слова: верховенство права, Україна, Конституційний Суд України, Верховний Суд, судова практика.

Bibliography:

1. About the Consultative Council of European Judges. *Consultative Council of European Judges*. URL: <https://www.coe.int/en/web/ccje/about-the-ccje> (Last accessed: 13.11.2023).
2. Case law, Czech Republic. European Justice. URL: https://e-justice.europa.eu/6/EN/national_legislation?CZECH_REPUBLIC&member=1 (Last accessed: 10.01.2024).
3. Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE. 5-29 June 1990. URL: <https://www.osce.org/files/f/documents/9/c/14304.pdf> (Last accessed: 17.01.2024).
4. European Commission Opinion on Ukraine's application for membership of the European Union. COM(2022) 407 final, Brussels, 17 June 2022.
5. European Commission Staff Working Document. "Ukraine 2023 report". SWD(2023) 699 final, Brussels, 8 November 2023.
6. European Council conclusions. EUCO 1/23, Brussels, 9 February 2023. URL: <https://data.consilium.europa.eu/doc/document/ST-1-2023-INIT/en/pdf> (Last accessed: 11.01.2024).
7. European Council conclusions. EUCO 24/22, Brussels, 23-24 June 2022. URL: <https://www.consilium.europa.eu/media/57442/2022-06-2324-euco-conclusions-en.pdf> (Last accessed: 11.01.2024).
8. Follow-up Opinion to the Opinion "On the Draft Law "On amendments to certain legislative acts of Ukraine on improving the procedure for the selection of candidate for the position of judge of the Constitutional Court of Ukraine on a competitive basis," CDL-AD(2023)022, adopted by the Venice Commission at its 135th Plenary Session, Venice, 9-10 June 2023. URL: [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2023\)022-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2023)022-e) (Last accessed: 15.01.2024).
9. Geoffrey De Q Walker. *The Rule of Law: Foundation of Constitutional Democracy*. Melbourne: Melbourne University Press, 1988. 475 p.
10. Hanna Suchocka. Are the Venice Commission's Standards on the Rule of Law Still Valid?. In *Venice Commission – Thirty year quest for democracy through law*, edited by S. Granata-Menghini, Z. Caga Tanyar, 643-644. Lund: Juristförlaget i Lund, 2020.
11. K. Tuori. The Common Core of the Rule of Law and the Rechtsstaat. *Право України*. 2013. № 4. С. 14–17.
12. Luis López Guerra. The Judiciary and the Separation of Powers. *Conference for Constitutional and Supreme Court Judges from the Southern African Region* (Siavonga, Zambia, 12–13 February 2000), CDL-JU (2000)21. [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-JU\(2000\)021-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-JU(2000)021-e) (Last accessed: 25.12.2023).
13. McCorquodale (ed.). *The Rule of Law in International and Comparative Context*. BIICL, 2010. 272 p.
14. Nataliia Skidan. Correlation between the categories of 'sources' and 'forms' of law in the criminal procedural study of case law in Ukraine. *Другий аспірантський круглий стіл за курсом «Форми (джерела) права»*, Національний юридичний університет імені Ярослава Мудрого, Харків, 17 червня 2022. С. 56–60. URL: https://www.academia.edu/83398714/Correlation_between_the_categories_of_sources_and_forms_of_law_in_the_criminal_procedure_study_of_case_law_in_Ukraine?source=swp_share (Last accessed: 25.12.2023).
15. Nejvyšší soud. Role of the Court. URL: https://www.nsoud.cz/Judikatura/ns_web.nsf/Edit/AbouttheCourt~RoleoftheCourt?Open&area=About%20the%20Court&grp=Role%20of%20the%20Court&lng=EN (Last accessed: 29.01.2024).
16. Rachit Garg, Tejaswini Kaushal. Separation of Powers. *iPleaders*, 3 October 2022. URL: <https://blog.ipleaders.in/separation-of-powers/> (Last accessed: 27.11.2023).
17. Report on the Rule of Law, CDL-AD(2011)003rev, adopted by the Venice Commission at its 86th plenary session, Venice, 25–26 March 2011.
18. Rule of Law, *Black's Law Dictionary*, 2nd Ed. URL: <https://thelawdictionary.org/case-law/> (Last accessed: 13.11.2023).

19. Serhiy Holovaty. Promoting the Rule of Law in Ukraine: Hanna Suchocka's Contribution. URL: https://ccu.gov.ua/sites/default/files/holovaty_s_promoting_the_rule_of_law_in_ukraine_hanna_suchockas_contribution_2023_0.pdf (Last accessed: 05.12.2023).
20. The Rule of Law Checklist, adopted by the Venice Commission at its 106th plenary session, Venice, 11-12 March 2016. URL: https://www.venice.coe.int/images/SITE%20IMAGES/Publications/Rule_of_Law_Check_List.pdf (Last accessed: 19.01.2024).
21. Urgent Follow-up Opinion to the Opinions "On the Law "On amendments to certain legislative acts of Ukraine to clarify the provisions on the competitive selection of candidate for the position of judge of the Constitutional Court of Ukraine," CDL-PI(2023)022, Issued on 25 September 2023 pursuant to Article 14a of the Venice Commission's Rules of Procedure, 25 September 2023.
22. What Is the Rule of Law? World Justice Project. URL: <https://worldjusticeproject.org/about-us/overview/what-rule-law> (Last accessed: 19.01.2024).
23. Аналіз здійснення правосуддя Касаційним кримінальним судом у складі Верховного Суду у першому півріччі 2023 року. Верховний Суд. URL: https://supreme.court.gov.ua/userfiles/media/new_folder_for_uploads/supreme/ogliady/Analiz_statistika_KKS_1_pivr_2023.pdf (дата звернення: 12.01.2024).
24. Верховний Суд. Facebook, 6 листопада 2023. URL: https://www.facebook.com/photo.php?fbid=742480594586500&set=a.341097734724790&type=3&ref=embed_post (дата звернення: 10.11.2023).
25. Верховний Суд. Facebook, 7 березня 2024. URL: <https://www.facebook.com/supremecourt.ua/posts/pfbid02uVEKUH9XmGWUzHCMWD43msbukZb3nr5LKABDSfuCNVEsUeHJYgT3KJi2TQ7H9HQz> (дата звернення: 07.03.2024).
26. Звіт про здійснення правосуддя Верховним Судом за перше півріччя 2023 року. Верховний Суд. https://supreme.court.gov.ua/userfiles/media/new_folder_for_uploads/supreme/zvi/1_Zvit_1_VS_pivr_2023_1.pdf (дата звернення: 12.01.2024).
27. Конституція України: Закон від 28.06.1996 р. № 254к/96-ВР.
28. Кримінальний процесуальний кодекс України: Закон України від 13.04.2012 № 4651-VI.
29. Огляд практики Суду Європейського Союзу. Верховний Суд. URL: https://supreme.court.gov.ua/userfiles/media/new_folder_for_uploads/supreme/ogliady/Oglyad_SES_04_07_2023.pdf (дата звернення: 12.01.2024).
30. Про виконання рішень та застосування практики Європейського суду з прав людини: Закон України від 23.02.2006 р. № 3477-IV.
31. Про доступ до судових рішень: Закон України від 22.12.2005 р. № 3262-IV.
32. Про місце судової влади та її відносини з іншими гілками влади в сучасних демократіях: Висновок № 18 Консультативної ради європейських суддів від 16 жовтня 2015 року. *Documents of the Consultative Council of European Judges = Документи Консультативної ради європейських суддів* : оф. видання / упоряд. А. О. Кавакін. 3-тє вид., допов. Київ : Видавничий Дім «Ратіо Деціденді», 2020. С. 741–772.
33. Про роль національних суддів у забезпеченні ефективного застосування міжнародного та європейського права: Висновок № 9 Консультативної ради європейських суддів від 10 листопада 2006 року. *Documents of the Consultative Council of European Judges = Документи Консультативної ради європейських суддів* : оф. видання / упоряд. А. О. Кавакін. 3-тє вид., допов. Київ : Видавничий Дім «Ратіо Деціденді», 2020. С. 411–423.
34. Про роль судів у забезпеченні єдності застосування права: Висновок № 20 Консультативної ради європейських суддів від 10 листопада 2017 року. *Documents of the Consultative Council of European Judges = Документи Консультативної ради європейських суддів* : оф. видання / упоряд. А. О. Кавакін. 3-тє вид., допов. Київ : Видавничий Дім «Ратіо Деціденді», 2020. С. 827–844.
35. Про судоустрій і статус суддів: Закон України від 02.06.2016 р. № 1402-VIII.
36. Про якість судових рішень: Висновок № 11 Консультативної ради європейських суддів від 18 грудня 2008 року. *Documents of the Consultative Council of European Judges = Документи Консультативної ради європейських суддів* : оф. видання / упоряд. А. О. Кавакін. 3-тє вид., допов. Київ : Видавничий Дім «Ратіо Деціденді», 2020. С. 497–516.
37. Щодо окремих статистичних результатів діяльності Конституційного Суду України – запит до: Конституційний Суд України. Доступ До Правди. URL: https://dostup.pravda.com.ua/request/shchodo_okremikh_statistichnikh (дата звернення: 22.12.2023).

References:

1. Black's Law Dictionary. (n.d.). *Case law*. <https://thelawdictionary.org/case-law/>.
2. Consultative Council of European Judges. (2006). Opinion No. 9 of the Consultative Council of European Judges to the attention of the Committee of Ministers of the Council of Europe on the role of

- national judges in ensuring an effective application of international and European law. CCJE (2006)1, Strasbourg, November 10, 2006.
3. Consultative Council of European Judges. (2008). Opinion No. 11 of the Consultative Council of European Judges to the attention of the Committee of Ministers of the Council of Europe on the quality of judicial decisions. CCJE(2008)5, Strasbourg, December 18, 2008.
 4. Consultative Council of European Judges. (2015). Opinion No. 18 of the Consultative Council of European Judges to the attention of the Committee of Ministers of the Council of Europe on the position of the judiciary and its relation with the other powers of state in a modern democracy. CCJE(2015)4, Strasbourg, October 16, 2015.
 5. Consultative Council of European Judges. (2017). Opinion No. 20 of the Consultative Council of European Judges to the attention of the Committee of Ministers of the Council of Europe on the role of courts with respect to the uniform application of the law. CCJE(2017)4, Strasbourg, November 10, 2017.
 6. Consultative Council of European Judges. (n.d.). About the Consultative Council of European Judges – Consultative Council of European Judges. *Council of Europe*. <https://www.coe.int/en/web/ccje/about-the-ccje>.
 7. De Q Walker, G. (1998). *The Rule of Law: Foundation of Constitutional Democracy*. Melbourne: Melbourne University Press.
 8. Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE. (1990). June 5-29. <https://www.osce.org/files/f/documents/9/c/14304.pdf>.
 9. Dostup Do Pravdy [Access to the Truth]. (n.d.). Shchodo okremykh statystychnykh rezultativ diialnosti Konstytutsiinoho Sudu Ukrainy – zapyt do: Konstytutsiinyi Sud Ukrainy [Regarding certain statistical results of the activity of the Constitutional Court of Ukraine – request to: Constitutional Court of Ukraine]. https://dostup.pravda.com.ua/request/shchodo_okriemikh_statistichnykh.
 10. European Commission. (2022). Opinion on Ukraine’s application for membership of the European Union. COM(2022) 407 final, Brussels, June 17, 2022. <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-06/Ukraine%20Opinion%20and%20Annex.pdf>.
 11. European Commission. (2023). Staff Working Document. “Ukraine 2023 report”. SWD(2023) 699 final, Brussels, November 8, 2023. https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_699%20Ukraine%20report.pdf.
 12. European Council. (2022). European Council conclusions. EUCO 24/22, Brussels, June 23–24, 2022. <https://www.consilium.europa.eu/media/57442/2022-06-2324-euco-conclusions-en.pdf>.
 13. European Council. (2023). European Council conclusions. EUCO 1/23, Brussels, February 9, 2023. <https://data.consilium.europa.eu/doc/document/ST-1-2023-INIT/en/pdf>.
 14. European Justice. (n.d.). Case law, Czech Republic. https://e-justice.europa.eu/6/EN/national_legislation?CZECH_REPUBLIC&member=1.
 15. Garg, R., & Kaushal, T. (2022). Separation of Powers. *iPleaders*. <https://blog.ipleaders.in/separation-of-powers/>.
 16. Holovaty, S. (2023). Promoting the Rule of Law in Ukraine: Hanna Suchocka’s Contribution. https://ccu.gov.ua/sites/default/files/holovaty_s_promoting_the_rule_of_law_in_ukraine_hanna_suchockas_contribution_2023_0.pdf.
 17. Konstytutsiia Ukrainy [Constitution of Ukraine], June 28, 1996, No. 254к/96-BP.
 18. Kryminalnyi protsesualnyi kodeks Ukrainy [Code of Criminal Procedure of Ukraine], April 13, 2012, No. 4651-VI.
 19. López Guerra, L. (2000). The Judiciary and the Separation of Powers. *Conference for Constitutional and Supreme Court Judges from the Southern African Region* (Siavonga, Zambia, 12-13 February 2000), CDL-JU (2000)21. [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-JU\(2000\)021-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-JU(2000)021-e).
 20. McCorquodale (Ed.). (2010). *The Rule of Law in International and Comparative Context*. BIICL.
 21. Nejvyšší soud. Role of the Court. https://www.nsoud.cz/Judikatura/ns_web.nsf/Edit/AbouttheCourt~RoleoftheCourt?Open&area=About%20the%20Court&grp=Role%20of%20the%20Court&lng=EN.
 22. Skidan, N. (2022). Correlation between the categories of ‘sources’ and ‘forms’ of law in the criminal procedural study of case law in Ukraine. https://www.academia.edu/83398714/Correlation_between_the_categories_of_sources_and_forms_of_law_in_the_criminal_procedure_study_of_case_law_in_Ukraine?source=swp_share.
 23. Suchocka, H. (2020). Are the Venice Commission’s Standards on the Rule of Law Still Valid? In S. Granata-Menghini & Z. Caga Tanyar (Eds.), *Venice Commission – Thirty year quest for democracy through law* (pp. 643–644). Lund: Juristförlaget i Lund.
 24. Tuori, K. (2013). The Common Core of the Rule of Law and the Rechtsstaat. *Law of Ukraine*, 4, 14–17.

25. Venice Commission. (2011). Report on the Rule of Law, CDL-AD(2011)003rev, adopted by the Venice Commission at its 86th plenary session, Venice, March 25-26, 2011.
26. Venice Commission. (2016). The Rule of Law Checklist, adopted by the Venice Commission at its 106th plenary session, Venice, 11–12 March 2016. https://www.venice.coe.int/images/SITE%20IMAGES/Publications/Rule_of_Law_Check_List.pdf.
27. Venice Commission. (2023). Follow-up Opinion to the Opinion “On the Draft Law “On amendments to certain legislative acts of Ukraine on improving the procedure for the selection of candidate for the position of judge of the Constitutional Court of Ukraine on a competitive basis.” CDL-AD(2023)022, adopted by the Venice Commission at its 135th Plenary Session, Venice, June 9–10, 2023, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2023\)022-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2023)022-e).
28. Venice Commission. (2023). Urgent Follow-up Opinion to the Opinions “On the Law “On amendments to certain legislative acts of Ukraine to clarify the provisions on the competitive selection of candidate for the position of judge of the Constitutional Court of Ukraine.” CDL-PI(2023)022, Issued on 25 September 2023 pursuant to Article 14a of the Venice Commission’s Rules of Procedure, September 25, 2023. [https://www.venice.coe.int/webforms/documents/?pdf=CDL-PI\(2023\)022-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-PI(2023)022-e).
29. Verkhovnyi Sud [Supreme Court]. (2023, November 6). Facebook. https://www.facebook.com/photo.php?fbid=742480594586500&set=a.341097734724790&type=3&ref=embed_post.
30. Verkhovnyi Sud [Supreme Court]. (2024, March 7). Facebook. <https://www.facebook.com/supremecourt.ua/posts/pfbid02uVEKUH9XmGWUzHCMWD43msbukZb3nr5LKABDSfuCNVEsUeHJYgT3KJi2TQ7H9HQzl>.
31. Verkhovnyi Sud [Supreme Court]. (n.d.). Analiz zdiisnennia pravosuddia Kasatsiinym kryminalnym sudom u skladi Verkhovnoho Sudu u pershomu pivrichchi 2023 roku [Analysis of the dispensation of justice by the Cassation Criminal Court as part of the Supreme Court in the first half of 2023]. https://supreme.court.gov.ua/userfiles/media/new_folder_for_uploads/supreme/ogliady/Analiz_statistika_KKS_1_pivr_2023.pdf.
32. Verkhovnyi Sud [Supreme Court]. (n.d.). Ohliad praktyky Sudu Yevropeiskoho Soiuzu [Review of the case law of the Court of the European Union]. https://supreme.court.gov.ua/userfiles/media/new_folder_for_uploads/supreme/ogliady/Oglyad_SES_04_07_2023.pdf.
33. Verkhovnyi Sud [Supreme Court]. (n.d.). Zvit pro zdiisnennia pravosuddia Verkhovnym Sudom za pershe pivrichchia 2023 roku [Report on the dispensation of justice by the Supreme Court in the first half of 2023]. https://supreme.court.gov.ua/userfiles/media/new_folder_for_uploads/supreme/zvi/1_Zvit_1_VS_pivr_2023_1.pdf.
34. World Justice Project. (n.d.). What Is the Rule of Law? <https://worldjusticeproject.org/about-us/overview/what-rule-law>.
35. Zakon Ukrainy ‘Pro dostup do sudovykh rishen’ [Law of Ukraine ‘On the Access to Court Decisions’], December 22, 2005, No. 3262-IV.
36. Zakon Ukrainy ‘Pro sudoustrii i status suddiv’ [Law of Ukraine ‘On the Judiciary and the Status of Judges’], June 2, 2016, No. 1402-VIII.
37. Zakon Ukrainy ‘Pro vykonannia rishen ta zastosuvannia praktyky Yevropeiskoho sudu z prav liudyny’ [Law of Ukraine ‘On the Implementation of Decisions and Application of the Case Law of the European Court of Human Rights’], February 23, 2006, No. 3477-IV.

Стаття надійшла до редакції 25.03.2024

Стаття рекомендована до друку 27.05.2024