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The rule of law as a principle of protection of violated civil rights

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Abstract: This article examines the rule of law as both a philosophical and practical standard for civil rights within the judicial system. This research employs the six-component framework established by the Venice Commission. The components include legality, clarity, prohibition of arbitrariness, access to justice, respect for human rights, and equality before the law. In comparative analysis, guiding principles are converted into evaluative categories. A total of 148 court opinions were analyzed. The sample included cases from the ECHR, CJEU, Spain, and

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Ukraine. Supranational courts consistently apply all six essential components. This guarantees procedural fairness and the protection of rights. Spanish case law consistently establishes proportionality, equality, and access to justice throughout the legal system. Actual guarantees represent manifestations of abstract notions. Ukrainian practice demonstrates merely superficial integration. The Supreme Court and Constitutional Court frequently utilize proportionality and legal certainty in their rulings. Political interference, inadequate law enforcement, and neglect by subordinate courts contribute to the fragmentation and unpredictability of the judicial system. The research contextualizes the data within theoretical frameworks and comparative analyses. The rule of law framework established by the Venice Commission exhibits greater analytical rigor compared to earlier definitions. Numerous modifications have been suggested for Ukraine. This legislation establishes a Spanish-style proportionality review, enhances law enforcement, initiates pilot monitoring programs in lower courts, and incorporates six elements into judicial education. The comprehensive application of the Venice Commission method to both national and supranational contexts represents a significant scientific contribution. This approach is pragmatic, as it suggests reform measures aimed at legitimizing the judicial system and aligning transitional systems with European principles. This study highlights the significance of the Ukrainian experience within Spanish and European academic discourse. The challenges and opportunities of implementing the rule of law in transitional democracies are outlined herein.

Keywords: Rule of law; Venice Commission; Civil rights protection; Legal certainty; Proportionality; Access to justice; Judicial independence; European Court of Human Rights (ECHR); Court of Justice of the European Union (CJEU); Spanish Constitutional Court; Ukrainian judiciary; Comparative constitutional law; Enforcement of judgments; Equality before the law; Transitional democracies.

1. Introduction

Effective protection of citizens' rights is the foundation of democratic governance. It is also one of the key responsibilities of states operating under the rule of law. In transitional democracies, including Ukraine, this principle is not only a constitutional ideal. It is a practical necessity to ensure legitimacy, predictability, and fairness in the administration of justice. At the same time, a number of challenges, including political interference, contradictory legal reasoning, weak enforcement of court decisions, and unequal access to legal protection, continue to undermine citizens' trust in the judiciary.

The concept of the rule of law has long been the subject of various interpretations. Classical approaches, in particular A.W. Dicey's ideas on legality and F. Fuller's concept of the "internal morality of law," have considerable theoretical value. However, they do not provide an operational framework capable of effectively guiding judicial practice. Against this background, the Venice Commission model, consisting of six elements—legality, legal certainty, prohibition of arbitrariness, access to justice, respect for human rights, and equality before the law—offers a structured and generally accepted benchmark.[2] This model is widely used by supranational courts, in particular the European Court of Human Rights (ECHR) and the Court of Justice of the European Union (CJEU), as a criterion for assessing compliance with European standards.[3] That is why it is particularly relevant for the analysis of the Ukrainian legal system.

[2] VENICE COMMISSION REPORT. "Annual Reports", 2021. Available at https://www.coe.int/en/web/venice-commission/annual-reports

[3] WORLD JUSTICE PROJECT. "What is the rule of law?", 2025. Available at https://worldjusticeproject.org/about-us/overview/what-rule-law

The comparative dimension of the study is complemented by an analysis of Spanish case law. Spain, as an EU member state and a jurisdiction of the continental legal tradition, plays a key role in the development of the doctrines of proportionality, equality, and consumer protection. The Constitutional Court and the Supreme Court of Spain have enshrined the principles of the Venice Commission at various levels of judicial review. This creates valuable benchmarks for Ukraine. At the same time, this aspect is of direct importance to the readers of Revista Jurídica Portucalense, since Spain occupies a central place in European discussions on the rule of law.
The article aims to investigate the functioning of the rule of law as a doctrinal principle and a practical judicial standard for the protection of civil rights. For this purpose, the Venice Commission system is used, which is applied to 148 decisions of the ECHR, the Court of Justice of the EU, and Spanish and Ukrainian courts. Particular attention is paid to how the principles of legality, legal certainty, proportionality, and equality are interpreted and applied in these decisions.
The study has three objectives:
1. To analyze the doctrinal and normative foundations of the rule of law in the European and Ukrainian civil law systems.
2. To assess the application of the six elements of the Venice Commission by supranational and national courts, including the courts of Spain and Ukraine, in civil rights disputes.
3. To identify institutional problems and formulate proposals for reforms to strengthen the legitimacy of the judiciary and law enforcement mechanisms in Ukraine.
The scientific novelty of the study lies in using the Venice Commission system as a tool for comparative judicial analysis. This allows expanding its application from doctrinal discourse to empirical assessment of judicial practice. The practical significance of the study lies in formulating proposals for reforms. Among them are the training of judges, strengthening the monitoring of the implementation of decisions, procedural innovations, and taking into account the Spanish experience. Such measures can contribute to increasing Ukraine's compliance with European standards for the protection of civil rights.

2. Literature review

In both national and supranational settings, the rule of law is a fundamental value that must be adhered to ensure the full fulfillment of civil rights. Despite contemporary legal studies acknowledging their multifaceted character, there is often disagreement on the most appropriate way to define it. Throughout the course of history, the issue has been influenced by competing paradigms, such as Dicey's emphasis on formal legality or Fuller's concept of the "inner morality of law." On the other hand, these methods tend to prioritize either the formality of the procedure or the moral content. Still, they do not provide a framework for the practical structure of judicial evaluation. Against this backdrop, the six-element framework that was developed by the Venice Commission (legality, legal clarity, prohibition of arbitrariness, access to justice via independent courts, respect for human rights, and equality before the law) offers a standard that is one of a kind in terms of its functionality. The model developed by the Commission, in contrast to other more abstract theories, translates normative principles into specific evaluation criteria that can be used in comparative analysis. Consequently, this is the reason why it is often adopted by both the European Court of Human Rights (ECHR) and the Court of Justice of the European Union (CJEU). As a result, it is

especially ideal for evaluating the fragmented application of rule of law criteria in transitional legal systems like Ukraine.[4]

To a varying degree, the existing body of study addresses these six components. In this study, Maloko and colleagues emphasize the contradictions that exist in Indonesia between religious traditions and fundamental human rights. rights.[5] This highlights the need for legal clarity and non-discrimination, even if the study is conducted outside of the European setting.

Although Kolobylina's research on Ukrainian civil contracts and judicial review sheds light on internal difficulties to legal certainty, it fails to take into account transnational standards, which restrict its applicability across international borders.[6] In a similar manner, Dobosh investigates the judicial monitoring of administrative acts in Ukraine.[7] While he does discuss arbitrariness, he does not anchor this study within the European doctrinal tradition. In spite of the fact that these studies demonstrate the significance of the six components, they are not able to methodically organize them into a cohesive analytical framework.

Similar to the last example, research that focuses on procedural guarantees of access to justice is also biased. Matytsyn investigates investment issues, but she does not take into account the concept of equality before the law.[8] Stepin's investigation of private autonomy, on the other hand, does not take into account legality and proportionality.[9] Shabalin contributes to the understanding of remedies and proportionality but neglects to emphasize the independence of the judiciary.[10] The limitations of state action are emphasized in Chu's study of Chinese law enforcement; nevertheless, this concept does not apply to the circumstances of European countries.[11]

Despite the fact that Buletsa correctly identifies legal ambiguity as an obstacle to rights fulfillment inside Ukraine, his research is not tied to the case law of the Constitutional Court and the Supreme Court, which is where such concerns are most prevalent.[12] The strategy that Tsampi takes, on the other hand, is the one that most closely aligns with the comprehensive approach proposed by the Venice

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[4] VENICE COMMISSION REPORT. "Annual Reports", 2021. Available at https://www.coe.int/en/web/venice-commission/annual-reports

[5] MALOKO, M. T.; CHOTBAN S.; FUADY M. I. N.; HASDIWANTI. "Analyzing the prohibition of interfaith marriage in Indonesia: Legal, religious, and human rights perspectives", *Cogent Social Sciences*, v. 10, n. 1, 2024, p. 1-12. https://doi.org/10.1080/23311886.2024.2308174

[6] KOLOBYLINA, O. O. "Civil contract as an institution of civil law", *Bulletin of Kharkiv National University of Internal Affairs,* v. 103, n. 4, 2023, p. 74–79. https://doi.org/10.32631/v.2023.4.06

[7] DOBOSH, Z. "Peculiarities of application of judicial control in the activities of the public administration", *Uzhhorod National University Herald Series Law*, v. 68, 2022, p. 148–152. https://doi.org/10.24144/2307-3322.2021.68.24

[8] MATYTSYN, D. E. "Defense of rights and interests of participants of remote investment transactions", *Journal of Law and Administration*, v. 18, n. 3, 2022, p. 32–38. https://doi.org/10.24833/2073-8420-2022-3-64-32-38

[9] STEPIN, O. B. "Civil rights protection limits: Issues of the theory and practice", *Civil Law*, v. 1, 2021, p. 11–14. Available at https://elibrary.ru/item.asp?id=44647231

[10] SHABALIN, A. "Judicial procedural issues of choosing an effective method of legal protection in civil cases", *Theory and Practice of Intellectual Property*, v. 3, 2021, p. 67–75. https://doi.org/10.33731/32021.239585

[11] CHU, X. "Reflections on police law enforcement and civil rights protection based on constitutional perspective", *Frontiers in Humanities and Social Sciences*, v. 3, n. 6, 2023, p. 104–109. https://doi.org/10.54691/fhss.v3i6.5151

[12] BULETSA, S. "Features of regulation of invalidity of the agreement in the Civil Code of Ukraine", *European Integration Studies*, v. 18, n. 1, 2022, p. 50–69. https://doi.org/10.46941/2022.e1.50-69

Commission.[13] Tsampi expressly combines civil society monitoring with ECHR accountability procedures.

Quantitative research, such as that conducted by Berggren and Bjornskov, establishes a connection between the quality of the rule of law and the welfare of society.[14] However, these studies fail to adequately conceptualize legal indicators such as the independence of the judiciary and the absence of prejudice. This is especially troublesome for transitional systems such as Ukraine, where discrepancies in judicial reasoning are not only doctrinal but institutional as well. These inconsistencies have their origins in political intervention, inadequate procedural safeguards, and inadequate enforcement mechanisms. Because of this, the existing body of research continues to be mostly descriptive and does not provide enough critical analysis of these systemic causes.

It is important to note that the majority of studies concentrate on supreme or constitutional courts, ignoring the function of first-instance and appellate courts, which are often the places where limitations on access to justice are most severe. As a result of this lacuna in the literature, practical insights into the manner in which the rule of law is (or is not) being achieved in ordinary civil litigation are diminished.

Particularly noteworthy in the field of comparative legal studies is the absence of the jurisprudence of Spanish courts, which is directly pertinent to the publication in question. The practice of the Spanish constitutional and supreme courts exemplifies how the six components of the rule of law are operationalized in a mature EU member state that has a history of civil law. In cases involving social rights and procedural guarantees, for example, the Spanish Constitutional Court has repeatedly invoked proportionality and equality before the law. On the other hand, the Supreme Court of Spain has refined doctrines of good faith and consumer protection in accordance with the jurisprudence of the Court of Justice of the European Union (for example, in the case of Aziz v. Catalunyacaixa).[15] Because both nations share civil law traditions and are confronted with the task of harmonizing national jurisprudence with supranational principles, these developments offer Ukraine useful benchmarks. It is also made clear why the trajectory of Ukraine is of relevance to Spanish and larger European studies by the inclusion of the Spanish experience. This is because it demonstrates how transitional democracies may adopt European norms of the rule of law while simultaneously overcoming different institutional shortcomings.

The lack of a systematic application of the Venice Commission's six-element framework; insufficient comparative engagement with the European Court of Human Rights, the Court of Justice of the European Union, and Spanish and Ukrainian case law; and limited analysis of lower-court practices and institutional factors that perpetuate inconsistencies are the three major gaps that are revealed by contemporary research, although it sheds light on aspects of civil rights and legal protection.

By adopting the framework of the Venice Commission as a uniform norm, applying it to 148 judgments spanning supranational and Ukrainian jurisdictions, and putting Ukraine's experience within a comparable European context, particularly the Spanish background, this study solves the deficiencies that have been identified.

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[13] TSAMPI, A. "The role of civil society in monitoring the executive in the Case-Law of the European Court of Human Rights: Recasting the rule of law", *Utrecht Law Review*, v. 17, n. 2, 2021, p. 102–115. https://doi.org/10.36633/ulr.671

[14] BERGGREN, N.; BJØRNSKOV, Ch." Does legal freedom satisfy?", *European Journal of Law and Economics*, v. 55, n. 1, 2022, p. 1–28. https://doi.org/10.1007/s10657-022-09753-6

[15] AZIZ V. CAIXA D'ESTALVIS DE CATALUNYA, TARRAGONA I MANRESA (CATALUNYACAIXA). "Case C-415/11, Court of Justice of the European Union", 2013, 14 March. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62011CJ0415

3. Method

3.1. Research procedure

A multidimensional legal approach is used in this investigation. This technique incorporates doctrinal research, comparative law, case law examination, and legal hermeneutics. The operationalization of the six-element framework developed by the Venice Commission (legality, legal clarity, prohibition of arbitrariness, access to justice, respect for human rights, and equality before the law) into quantifiable analytical categories is the methodological innovation that has been implemented. Each element was transformed into a set of interpretative indicators: for example, legality was evaluated through the clarity of legislative references and compliance with procedural law; legal certainty was assessed through consistency and enforceability of judgments; prohibition of arbitrariness was tested against judicial reasoning and proportionality analysis; access to justice was evaluated by reference to procedural guarantees and remedies; human rights were measured through alignment with ECHR case law; and equality was examined in terms of both non-discrimination and equal procedural treatment.

On the other hand, previous research has treated the rule of law as an abstract notion without using it as an evaluation tool. This systematic operationalization is what differentiates the current study from previously conducted research. Specifically, the six-element framework was selected above other conceptualizations (such as Dicey's formal legality or Fuller's "inner morality of law") due to the fact that it offers an institutionalized norm that is supported by the Council of Europe and is extensively used in European jurisprudence. Because of this, it is particularly well-suited for comparative research that involves both supranational and national courts (Figure 1).

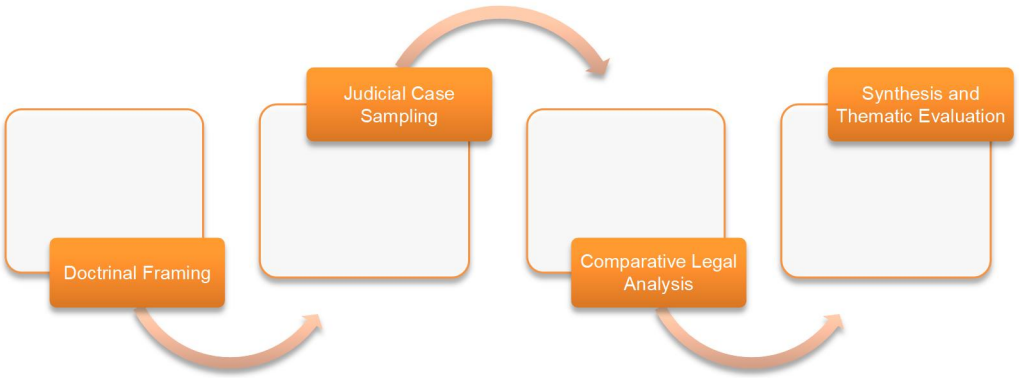

Figure 1. Research stages.
Source: developed by the author based on MiniTAB data[16].

The research procedure was conducted in three stages (March 2024–February 2025):

1. Selection of judicial decisions through purposive sampling from official databases (HUDOC, EUR-Lex, Unified State Register of Court Decisions of Ukraine, Constitutional Court of Ukraine portal).
2. Doctrinal structuring of the six elements into coding categories for analysis of judicial reasoning.
3. Comparative synthesis of supranational, Spanish, and Ukrainian jurisprudence, with emphasis on similarities, divergences, and institutional drivers behind them.

[16] MINITAB. "Data analysis, statistical & process improvement tools", 2025. Available at https://www.minitab.com/en-us/

3.2. Sample formation

The empirical basis of this study consists of 148 judicial decisions, including:
1. European Court of Human Rights (55 cases): focusing on violations of Articles 5, 6, and 13 of the Convention, with emphasis on legal certainty, access to justice, and prohibition of arbitrariness.
2. Court of Justice of the European Union (28 cases): centering on consumer protection, proportionality, and procedural fairness under Directive 93/13/EEC and related EU law.
3. Supreme Court of Ukraine (42 cases): addressing civil proceedings, proportionality, enforcement of judgments, and references to the rule of law principle in the constitutional context.
4. Constitutional Court of Ukraine (23 cases): evaluating the constitutionality of laws in light of legality, proportionality, and legal certainty.
5. Spanish Constitutional Court and Supreme Court (selected cases from 2010–2024): particularly those that applied proportionality in social rights cases, ensured equality before the law, or implemented CJEU guidance on consumer protection (e.g., Aziz v. Catalunyacaixa). Spanish jurisprudence was included to strengthen the comparative dimension and demonstrate how the Venice Commission's framework functions in a mature EU member state.
Lower-instance Ukrainian courts were not systematically included in the dataset due to resource constraints and access to case law. However, their role is acknowledged methodologically as critical for understanding barriers to access to justice, and their future inclusion is proposed as a priority for subsequent research. doctrine.[17]

3.3. Methods

The doctrinal approach involves the analysis of constitutional provisions, European legal instruments, and case law. It aims to identify the presence or absence of guarantees of legality, legal certainty, and protection of human rights.
The comparative law method is based on a systematic comparison of decisions of Ukraine, Spain, the European Court of Human Rights, and the Court of Justice of the European Union. Particular attention is paid to institutional differences in the implementation of six key elements.
The method of case law analysis consists of a detailed study of the motivational part of the majority decisions and separate opinions of judges. The main emphasis is placed on the standards of evidence, the principle of proportionality, and the independence of the judiciary.
Legal hermeneutics is used to interpret judicial texts. It allows assessing their coherence, normative assumptions, and consistency in the application of the principles of the rule of law.
The combination of these approaches forms a comprehensive methodology. It provides doctrinal depth and practical comparability. This approach allows us to consider Ukraine's transitional experience in a European context, which is of particular value for Spanish and broader European Union legal scholarship.

4. Results

4.1. European Court of Human Rights (ECHR): Ensuring legal certainty, access to justice, and protection from arbitrariness

[17] PRESIDENT OF UKRAINE. "Constitution of Ukraine: Chapter I. General principles", 2025. Available at https://www.president.gov.ua/ua/documents/constitution/konstituciya-ukrayini-rozdil-i

The European Court of Human Rights (ECHR) has consistently applied the six elements identified by the Venice Commission as operational standards for assessing the rule of law. From 2015 to 2024, the Court delivered 55 judgments against Ukraine. In 85% of these cases, it found violations. This confirms the systemic nature of the shortcomings of the domestic legal system.

Most of the violations concerned unlawful deprivation of liberty under Article 5 of the European Convention on Human Rights. A significant number of judgments pointed to the excessive length of trials and the lack of independent and impartial courts under Article 6. In addition, the Court has repeatedly found the lack of effective domestic remedies, which constitutes a violation of Article 13.

These structural problems are vividly reflected in landmark cases. These include the cases of *Kharchenko v. Ukraine (No. 40107/02)*[18], *Shabelnyk v. Ukraine (No. 16404/03)*[19], and the pilot judgment in *Ivanov v. Ukraine (No. 40450/04).*[20] They demonstrate persistent shortcomings in the execution of court decisions and the provision of procedural guarantees at the national level.

A critical analysis of these findings shows that the violations are not isolated in nature. They are manifestations of deeper institutional problems. Key factors include political interference, chronic underfunding of the judicial system, and limited resources of law enforcement agencies. These problems reduce the level of legal certainty, undermine public trust in the judiciary, and lead to non-fulfillment of international human rights obligations.

4.2. Court of Justice of the European Union (CJEU): proportionality, fairness, and consumer protection

The CJEU primarily advances the rule of law through private law, especially consumer protection. Of the 28 cases analyzed, most revolved around fairness, proportionality, and interim relief. The landmark decision in *Aziz v. Catalunyacaixa (C-415/11)*[21] invalidated Spanish provisions that barred suspension of eviction proceedings, confirming the primacy of procedural fairness and effective remedies. Similarly, *Mostaza Claro v. Centro Móvil Milenium (C-168/05)*[22] *and Messner v. Krüger (C-489/07)*[23] emphasized proportionality and judicial review even in private contractual contexts.

For Ukraine, these cases demonstrate that consumer and contractual disputes are not "private" in a narrow sense but are laboratories for applying core rule of law principles. The CJEU's practice shows that proportionality and good faith are not optional standards but binding guarantees of fairness applicable in everyday civil disputes.

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[18] EUROPEAN COURT OF HUMAN RIGHTS. "Spraha 'Kharchenko proty Ukrainy' (Zayava N 40107/02) [Case No. 40107/02]", Official Gazette of Ukraine, 2011, February 10. Available at https://zakon.rada.gov.ua/laws/show/974_662#Text

[19] EUROPEAN COURT OF HUMAN RIGHTS. "Shabelnyk v. Ukraine (Application No. 16404/03)", 2009, February 19. Available at https://zakon.rada.gov.ua/laws/show/974_457#Text

[20] EUROPEAN COURT OF HUMAN RIGHTS. "Case "Yurii Mykolaiovych Ivanov v. Ukraine" (Application No. 40450/04)", 2009, October 15. Available at https://zakon.rada.gov.ua/laws/show/974_479#Text

[21] AZIZ V. CAIXA D'ESTALVIS DE CATALUNYA, TARRAGONA I MANRESA (CATALUNYACAIXA). "Case C-415/11, Court of Justice of the European Union", 2013, 14 March. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62011CJ0415

[22] COURT OF JUSTICE OF THE EUROPEAN UNION. "Opinion of Mr Advocate General Tizzano delivered on 27 April 2006 (Case C-168/05)", 2006, April 27. Available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62005CC0168

[23] MESSNER V. FIRMA STEFAN KRÜGER, CASE C-489/07. "Judgment of the Court (First Chamber)", 2009, September 3. Available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62007CJ0489

4.3. Spanish constitutional court and supreme court—concrete doctrines of proportionality, equality, and access to justice

Spanish jurisprudence illustrates how the Venice Commission's elements are embedded across multiple judicial levels in a civil law context aligned with EU and ECHR norms:

1. Equality in application of law: The Spanish Constitutional Court in decision 103/1984 emphasized that the principle of equality encompasses both equality before the law and equality in its consistent application. The Court requires that case law adhere to strict criteria — facts, parties, and court identity — to ensure coherent application and fairness.[24]

1. Workers' rights, single-parent equality: In Judgment 140/2024, the Constitutional Court reviewed provisions in the Workers' Statute and Social Security Law regarding maternity leave for single-parent families. Although it did not find the norms unconstitutional, the Court underscored the need for legislative refinement to enhance substantive equality and non-discrimination.[25]

2. Proportionality in public law: The Constitutional Court's crisis jurisprudence (e.g., Judgment 8/2015) demonstrates clear deployment of a tripartite proportionality test (suitability, necessity, and proportionality in the strict sense) when assessing legislative interferences with collective agreements and employment rights.[26]

3. VAT penalty proportionality: The Supreme Court's decision of 3 September 2023 annulled a 10% VAT penalty mechanism for procedural errors, ruling it disproportionate under EU law, as the infraction did not harm revenue.[27]

4. Defining 'consumer' in judicial practice: In STS 2885/2024, the Supreme Court redefined the concept of 'consumer,' clarifying the primacy of professional activity over final use in applicable jurisprudence — a pragmatic move aligned with EU standards and fairness.[28]

These Spanish examples vividly demonstrate how Venice Commission principles — equality, proportionality, legal clarity, and access to justice—are actively integrated across judicial levels. This operability strengthens the case for using Spain as a comparator and provides practical models for Ukraine's courts.

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[24] EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION). "CDL-REF(2017)001-e: Spain – Constitutional Court Judgment on Unconstitutionality Appeal No. 229-2016, Brought by the Basque Government." Official Publication, 2 January 2017. Available at https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2017)001-e

[25] SPANISH CONSTITUTIONAL COURT. Judgment No. 140/2024 Question of Unconstitutionality Promoted by the Social Chamber of the High Court of Justice of Catalonia Regarding Articles 48(4), 48(5), 48(6) of the Workers' Statute and Article 177 of the General Social Security Act, 6 November 2024.
Available at https://fra.europa.eu/en/caselaw-reference/spain-spanish-constitutional-court-judgment-1402024

[26] FROSECCHI, G. Constitutional Balancing and Fundamental Labour Rights: An Analytical Approach to the Italian and Spanish Case Law on Post-Crisis Reforms, 2018, p. 39–44. Doctoral thesis, University of Trento. Available at https://1library.net/article/judgment-crisis-case-law-spain-crucial-cases-interpretation-2.zl5kpnlq?utm

[27] BDO GLOBAL. "Spain – Supreme Court Rules on Proportionality of Penalties Related to the Reverse Charge," BDO Indirect Tax News, October 6, 2023. Available at https://www.bdo.global/en-gb/insights/tax/indirect-tax/spain-supreme-court-rules-on-proportionality-of-penalties-related-to-the-reverse-charge

[28] CONSEJO GENERAL de la ABOGACÌA ESPAÑOLA. "El TS redefine el concepto de consumidor: prioridad de la actividad profesional" (Judgment of May 20, 2024, Roj: STS 2885/2024). Official Blog of the Spanish Bar Association, September 25, 2024. Available at https://www.abogacia.es/en/publicaciones/blogs/blog-de-derecho-de-los-los-consumidores/el-ts-redefine-el-concepto-de-consumidor-prioridad-de-la-actividad-profesional/

4.4. Ukrainian supreme and constitutional courts—emerging but fragmented engagement

The analysis of 42 Supreme Court judgments revealed direct invocation of the rule of law in 21 cases and indirect reliance in 13 more. Key themes included enforcement of judgments, proportionality in state–citizen relations, and references to ECHR precedents.[29]

Cases such as *Decision No. 757/5351/21-ts* (lease dispute) and *No. 826/13123/19* (pension enforcement) show growing reliance on proportionality and fairness.

However, critical inconsistencies persist. Many rulings remain declarative, invoking the "rule of law" without unpacking its six elements. In politically sensitive cases, the Court often avoids explicit reliance on equality before the law or judicial independence. These inconsistencies reflect broader institutional pressures: judicial appointments subject to political influence, uneven quality of legal reasoning, and systemic weaknesses in the enforcement of judgments. Thus, while the Supreme Court is converging toward European standards, progress remains fragmented and reactive.

The Constitutional Court plays a doctrinal role in strengthening legality and proportionality. In *Decision No. 3-rp/2019 (Preventive Detention),* it struck down provisions permitting extended detention without oversight.[30] *Decision No. 1-r(II)/2025 (Environmental Rights)* reaffirmed legal certainty and the primacy of constitutional norms. These rulings illustrate strong doctrinal alignment with Venice Commission principles.

Yet, the Court's jurisdictional limits — focusing on abstract review rather than individual complaints — restrict its ability to ensure access to justice or equality before the law in specific cases. This explains why constitutional doctrine in Ukraine remains normatively strong but practically limited in guaranteeing effective remedies.

Table 1 contains comparative data on 148 judicial decisions across four jurisdictions: ECHR, CJEU, the Supreme Court of Ukraine, and the Constitutional Court of Ukraine. The frequency of complete satisfaction, partial satisfaction, and rejection of claims in cases of protection of civil rights, in particular regarding the principle of the rule of law, is reflected.

Table 1. Summary of case outcomes analyzed by jurisdiction (2015–2024).

Court	Total number of cases analyzed	Complete satisfaction	Partial satisfaction	Rejected claims
ECtHR	55	37	10	8
CJEU	28	16	7	5
Supreme Court of Ukraine	42	21	13	8
Constitutional Court of Ukraine	23	-	-	-

Source: developed by the author drawing on the data from the Supreme Court of Ukraine,[31] Pro Justice,[32] European Court of Human Rights)[33].

[29] EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS. "European Convention on Human Rights – Article 6", 2025. Available at https://fra.europa.eu/en/law-reference/european-convention-human-rights-article-6

[30] CONSTITUTIONAL COURT OF UKRAINE. "Decision No. 3-r/2019", 2019. Available at https://ccu.gov.ua/docs/2749

[31] SUPREME COURT OF UKRAINE. "Supreme Court Plenum received information on the activities of the judicial system", 2025, February 17. Available at https://court.gov.ua/eng/supreme/pres-centr/news/1752242/?utm

[32] PRO JUSTICE. "Ukraine ranked 89th in 2023 according to the Rule of Law Index", 2024, April 2. Available at https://pro-justice.com.ua/en/ukraine-ranked-89th-in-2023-according-to-the-rule-of-law-index/?utm

The European Court of Human Rights (ECHR) considered 55 cases, of which 37 (67%) ruled in favor of the applicants. The predominant violations pertained to Articles 5, 6, and 13 of the Convention - unlawful detention, protracted trials, and ineffective domestic remedies. In 10 cases (18%), the decisions were partial, while in 8 cases (15%), rulings were denied due to procedural violations. These decisions point to systemic deficiencies within the Ukrainian justice system and establish guidelines for national jurisprudence.

The Court of Justice of the European Union (CJEU) considered 28 cases, with 16 (57%) were in favor of the applicants. The principal issues revolved around consumer protection, transparency, and good faith. In 7 cases (25%), the decisions were partial, and in 5 cases (18%), decisions were refused due to compliance of national legislation with EU standards or insufficient evidence. The Supreme Court of Ukraine (SCU) reviewed 42 cases, overturning or amending decisions from lower courts in 21 instances (50%), particularly regarding social security and procedural violations. Partial satisfaction was found in 13 cases (31%), while refusals were noted in 8 (19%).

The Constitutional Court of Ukraine (CCU) considered 23 cases within the framework of abstract constitutional control. Its decisions, in particular regarding indefinite detention, possess binding force and exert considerable influence on the legal system.

Evidence suggests that supranational courts, particularly the European Court of Human Rights, consistently adhere to the six fundamental elements of the rule of law identified by the Venice Commission. The Court of Justice of the European Union aligns with these principles in terms of compliance. Conversely, Ukrainian courts, while exhibiting a gradual alignment with European standards, remain marked by fragmentation, the influence of political factors, and a deficiency in effective mechanisms for ensuring the implementation of court decisions.

Table 2 illustrates the principal legal principles concerning the protection of civil rights across the ECHR, CJEU, Supreme Court of Ukraine, and Constitutional Court of Ukraine. These principles encapsulate key aspects of the rule of law and are intrinsically linked to relevant categories of legal disputes and procedural contexts.

Table 2. Legal principles most commonly applied in civil rights cases.

Legal principle	**Jurisdictions most involved**	**Typical context of the appeal**
Legal certainty	ECtHR, SCU, CCU	Non-implementation of decisions, unclear laws
Fair trial (Article 6 ECHR)	ECtHR, SCU	Procedural delays, lack of impartial courts
Access to justice	ECtHR, SCU, CJEU	Unavailable remedies, arbitration clauses
Good faith	CJEU, SCU	Unfair contract terms, civil liabilities
Proportionality	CCU, ECtHR	Detention, property restrictions, constitutional review
Independence of the judiciary	ECtHR, CCU	Systemic deficiencies in the structure of courts

[33] EUROPEAN COURT OF HUMAN RIGHTS. "HUDOC – Case-law database: Grand Chamber & Chamber", 2025. Available at https://hudoc.echr.coe.int/#{%22documentcollectionid2%22:%5B%22GRANDCHAMBER%22,%22CHAMBER%22%5D}

Source: developed by the author based on the data from the Parliamentary Assembly of the Council of Europe,[34] Organization for Security and Co- operation in Europe, Office for Democratic Institutions and Human Rights,[35] Council of Europe[36].

The principle of legal certainty is fundamental to the rule of law, ensuring the clarity, predictability, and stability of norms, as well as their uniform application. The jurisprudence of the European Court of Human Rights (ECHR) concerning Ukraine documents violations of this principle, particularly attributable to the non-enforcement of final judicial decisions. The Supreme Court invokes legal certainty when considering cases characterized by ambiguity in administrative and civil procedures. In a similar vein, the Constitutional Court employs this principle to evaluate the constitutionality of legislation, especially in the absence of explicit provisions.

The right to a fair trial encompasses access to an independent judiciary, the conduct of proceedings within a reasonable timeframe, and the principle of equality of arms. The ECHR has repeatedly recorded violations in Ukraine related to the protracted duration of legal proceedings and instances of judicial partiality. The Supreme Court duly considers the standards established by the ECHR in civil and administrative proceedings.

The right to access justice, as delineated in Articles 6 and 13 of the ECHR, mandates the provision of effective judicial protection. The Court of Justice of the European Union is advancing methodologies for the oversight of administrative decisions and consumer rights protection. In Ukraine, violations are prevalent in contexts such as pension entitlements, housing disputes, as well as administrative disputes.

The principle of good faith underpins the integrity and transparency of legal relationships (Directive 93/13/EEC). The Supreme Court applies this principle in evaluating contractual provisions. Furthermore, the principle of proportionality necessitates that state intervention be justified and commensurate. The ECHR actively employs this principle in cases pertaining to detention and freedom of expression, while the Constitutional Court scrutinizes it within the realms of criminal law and socio-economic restrictions.

Concerns regarding judicial independence in Ukraine have been repeatedly highlighted by both the ECHR and the Constitutional Court in the context of judicial reform. The evidence suggests that legal certainty, the right to a fair trial, and access to justice are paramount across all four jurisdictions examined. At the same time, the principles of non-discrimination and equality before the law remain inadequately developed within Ukrainian judicial practice, which underscores the existence of a regulatory gap.

The Ukrainian Supreme Court shows partial doctrinal engagement with principle-based reasoning (e.g., proportionality and fairness), yet often employs declarative references to the "rule of law" without detailed structuring or substantive articulation.

Institutional pressures—such as politicized judicial appointments, weak enforcement, and variable reasoning quality—continue to dilute consistent application of Venice Commission elements.

The Constitutional Court provides doctrinal clarity in legality and legal certainty but remains limited in practical reach, especially in individual access to remedies.

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[34] PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE. "Report Doc. 15893. Council of Europe", 2023. Available at https://pace.coe.int/en/files/33193/html?utm

[35] ORGANIZATION FOR SECURITY AND CO- OPERATION IN EUROPE, OFFICE FOR DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS. "Legal opinions and comments", 2025. Available at https://www.osce.org/odihr/legal-opinions-and-comments?utm

[36] COUNCIL OF EUROPE. "European Convention on Human Rights", 2025. Available at https://www.coe.int/en/web/human-rights-convention

4.5. Comparative synthesis—fragmentation versus systematic application

The enhanced comparative analysis now emphasizes:
1. ECHR—Robust and systematic application of all six principles.
2. CJEU – Expansion into private-law spheres (consumer fairness, proportionality).
3. Spanish courts—Operationalize Venice Commission principles across contexts:
Equality requires consistent application, not just abstract parity.
Proportionality rigor in employment and public law.
Access to justice through clear definitions and procedural fairness.
4. Ukraine – Partial alignment yet largely reactive and inconsistent, with institutional vulnerabilities.
This richer layering highlights how mature systems (ECHR, CJEU, Spanish judiciary) embed rule-of-law norms both doctrinally and procedurally—offering benchmarks for Ukraine's legal development.

5. Discussion

The findings confirm the central hypothesis of this study: the systematic application of the six elements of the rule of law, as formulated by the Venice Commission, is indispensable for the effective protection of civil rights.[37] Yet, the results also reveal significant divergence across jurisdictions in how these principles are understood and operationalized.

5.1. ECHR and CJEU: External correction and normative guidance

The European Court of Human Rights (ECHR) remains the most consistent guarantor of legality, legal certainty, and access to justice, functioning as an external corrective mechanism for states such as Ukraine. Its jurisprudence demonstrates that formal compliance is insufficient: without enforcement, rights remain theoretical. Similarly, the Court of Justice of the European Union (CJEU) shows how fairness and proportionality can be mainstreamed even in ostensibly private disputes, particularly consumer contracts. Both courts reinforce that the rule of law is not confined to constitutional rhetoric but is an operational standard embedded in judicial practice. The aforementioned cases illustrate that the principle of equality before the law, in its dynamic interpretation, necessitates proactive judicial oversight in order to avert covert manifestations of arbitrariness that can be embedded into the terms of private contracts.[38]

5.2. Spain: A model of systematic integration

Spanish jurisprudence offers a practical illustration of how the six elements can be institutionalized across judicial levels. The Constitutional Court's use of proportionality in social rights cases (e.g., Judgment 8/2015) and equality in application of law (Decision 103/1984)[39] shows a doctrinally coherent and

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[37] VENICE COMMISSION REPORT. "Annual Reports", 2021. Available at https://www.coe.int/en/web/venice-commission/annual-reports
[38] COURT OF JUSTICE OF THE EUROPEAN UNION. "Opinion of Mr Advocate General Tizzano delivered on 27 April 2006 (Case C-168/05)", 2006, April 27. Available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62005CC0168
[39] EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION). "CDL-REF(2017)001-e: Spain – Constitutional Court Judgment on Unconstitutionality Appeal No. 229-2016, Brought by the Basque Government." Official Publication, 2 January 2017. Available at https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2017)001-e

consistent approach. The Supreme Court's rulings on VAT penalties (2023)[40] and consumer definition (STS 2885/2024)[41] further exemplify how rule-of-law principles are applied in everyday disputes.

For Ukraine, Spain's experience underscores two lessons. First, rule-of-law principles must permeate all levels of jurisdiction, not only constitutional or supreme courts. Second, judicial practice must be proactive, ensuring substantive fairness and proportionality rather than deferring to legislative ambiguity. Spain's systematic approach provides a benchmark for how transitional systems can evolve toward full integration of European standards.[42] This perspective aligns with the approach proposed by Kolobylina and resonates with prevailing trends increasingly acknowledged in the contemporary doctrine of procedural constitutionalism within EU law.[43]

5.3. Ukraine: Fragmented integration and institutional obstacles

Ukrainian courts show partial but fragmented engagement with the Venice Commission framework. The Supreme Court increasingly invokes proportionality and fairness, yet often relies on declarative references to the "rule of law" without unpacking its six components. The Constitutional Court contributes doctrinal clarity on legality and legal certainty but remains constrained by its abstract review function. As pointed out by Chu and Matytsyn, this constraint epitomizes a structural characteristic of post-Soviet constitutional courts, which predominantly emphasize abstract rather than individualized protection of rights.[44]

The persistence of inconsistencies is not accidental but institutional:

Political interference in judicial appointments undermines independence and impartiality.

Weak enforcement mechanisms prevent judgments from being implemented, eroding legal certainty.

Variability in legal reasoning reflects a lack of structured application of Venice Commission principles in judicial training.

Exclusion of lower courts from analysis conceals the acute problems of access to justice and procedural guarantees faced by ordinary litigants.

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[40] BDO GLOBAL. "Spain – Supreme Court Rules on Proportionality of Penalties Related to the Reverse Charge," BDO Indirect Tax News, October 6, 2023. Available at https://www.bdo.global/en-gb/insights/tax/indirect-tax/spain-supreme-court-rules-on-proportionality-of-penalties-related-to-the-reverse-charge

[41] CONSEJO GENERAL de la ABOGACÌA ESPAÑOLA. "El TS redefine el concepto de consumidor: prioridad de la actividad profesional" (Judgment of May 20, 2024, Roj: STS 2885/2024). Official Blog of the Spanish Bar Association, September 25, 2024. Available at https://www.abogacia.es/en/publicaciones/blogs/blog-de-derecho-de-los-los-consumidores/el-ts-redefine-el-concepto-de-consumidor-prioridad-de-la-actividad-profesional/

[42] TSAMPI, A. "The role of civil society in monitoring the executive in the Case-Law of the European Court of Human Rights: Recasting the rule of law", *Utrecht Law Review*, v. 17, n. 2, 2021, p. 102–115. https://doi.org/10.36633/ulr.671

[43] KOLOBYLINA, O. O. "Civil contract as an institution of civil law", *Bulletin of Kharkiv National University of Internal Affairs,* v. 103, n. 4, 2023, p. 74–79. https://doi.org/10.32631/v.2023.4.06; STASIUK, N. "Particular aspects of legal prevention and counteraction to domestic violence in Ukraine", *European Political and Law Discourse*, v. 7, n. 4, 2020, p. 185–189. https://doi.org/10.46340/eppd.2020.7.4.28

[44] CHU, X. "Reflections on police law enforcement and civil rights protection based on constitutional perspective", *Frontiers in Humanities and Social Sciences*, v. 3, n. 6, 2023, p. 104–109. https://doi.org/10.54691/fhss.v3i6.5151; MATYTSYN, D. E. "Defense of rights and interests of participants of remote investment transactions", *Journal of Law and Administration*, v. 18, n. 3, 2022, p. 32–38. https://doi.org/10.24833/2073-8420-2022-3-64-32-38

These factors explain why Ukraine's jurisprudence, despite gradual convergence, remains vulnerable to arbitrariness and selective application of standards. As observed by Dobosh and Stepin, judicial discretion within Ukraine remains susceptible to institutional pressures.[45] The absence of a cohesive judicial rationale poses a significant threat to legal certainty.

5.4. Cross-jurisdictional comparison

The comparative analysis thus reveals a spectrum of integration:
ECHR—fully operationalizes all six elements as enforceable standards.
CJEU—extends rule-of-law principles into private law domains.
Spain—demonstrates coherent integration across judicial levels, ensuring equality and proportionality in practice.
Ukraine exhibits partial adoption, hindered by institutional weaknesses and the limited scope of judicial reform.
The results obtained correlate with the conclusions drawn from the research conducted by Berggren and Bjornskov and the OSCE report.[46]

5.5. Directions for reform

The discussion highlights the need for specific reforms tailored to Ukraine:
1. Judicial education—embedding the six Venice Commission elements into curricula and ongoing professional development.
2. Enforcement mechanisms—establishing independent monitoring bodies to ensure compliance with judgments.
3. Lower-court integration—systematically incorporating first-instance and appellate courts into rule-of-law assessments.
4. Procedural innovations—adopting interim relief mechanisms and proportionality review, modeled on ECHR, CJEU, and Spanish practices.
These challenges resonate with the separate opinion articulated in the Decision of the Constitutional Court of Ukraine No. 1-r(II)/2025.[47] By drawing on supranational guidance and Spanish experience, Ukraine can transition from declarative to substantive implementation of the rule of law, thereby strengthening judicial legitimacy and public trust.

5.6. Limitation

Despite the comprehensive comparative analysis and thorough examination of 148 judicial decisions, it is imperative to acknowledge several limitations inherent to the study:
1. Jurisdictional coverage. The study predominantly concentrates on four principal judicial institutions - the European Court of Human Rights, the Court of Justice of

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[45] DOBOSH, Z. "Peculiarities of application of judicial control in the activities of the public administration", *Uzhhorod National University Herald Series Law*, v. 68, 2022, p. 148–152. https://doi.org/10.24144/2307-3322.2021.68.24; STEPIN, O. B. "Civil rights protection limits: Issues of the theory and practice", *Civil Law*, v. 1, 2021, p. 11–14. Available at https://elibrary.ru/item.asp?id=44647231

[46] BERGGREN, N.; BJØRNSKOV, Ch." Does legal freedom satisfy?", *European Journal of Law and Economics*, v. 55, n. 1, 2022, p. 1–28. https://doi.org/10.1007/s10657-022-09753-6; ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE, OFFICE FOR DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS. "Legal opinions and comments", 2025. Available at https://www.osce.org/odihr/legal-opinions-and-comments?utm

[47] CONSTITUTIONAL COURT OF UKRAINE. "Decision No. 1-r(II)/2025 [Decision]", 2025. Available at https://ccu.gov.ua/docs/7127

the European Union, the Supreme Court of Ukraine, and the Constitutional Court of Ukraine. However, it does not cover lower courts in Ukraine, which play a pivotal role in ensuring legal certainty and prohibiting arbitrariness. This omission is particularly salient in light of the Venice Commission Report, which underscores the significance of such elements of the rule of law as legality and access to justice.[48]

2. The abstract nature of constitutional review. The Constitutional Court of Ukraine primarily engages in abstract control over legal norms, which constrains its capacity to address individual violations of rights. Consequently, this diminishes its contribution to facilitating access to justice and actualizing the principle of equality before the law. Although the Court emphasizes the doctrinal interpretation of the principle of legality, its decisions do not invariably exert a direct influence on the practical protection of civil rights.

3. Limited comparative analysis. The comparative examination with the judicial systems of Germany, Portugal, the Netherlands, and Poland predominantly emphasizes facets of procedural fairness. However, a more expansive comparison that incorporates elements such as the prohibition of discrimination, the protection of human rights, and institutional safeguards against judicial arbitrariness could significantly enhance the analytical depth of the study.

4. Chronological constraints. The study encompasses the period from 2015 to 2024 and does not account for the potential consequences of ongoing judicial and legal reforms initiated after 2024. In particular, subsequent measures aimed at bolstering the independence of the judiciary and increasing the efficacy of law enforcement mechanisms remain outside the analytical focus.

5. Language and information barriers. The limited access to English-language versions of the decisions ruled by the Court of Justice of the EU and the Supreme Court of Ukraine poses challenges for a comprehensive analysis. This, in particular, makes it difficult to assess the critical components of the rule of law, such as the adherence of procedures to the principle of legality and the transparency of judicial deliberations.

5.7. Recommendations

Based on the results of the study and a comparative analysis of the case law of the ECHR, the Court of Justice of the EU, Spain, and Ukraine, a number of specific recommendations can be formulated to strengthen the protection of civil rights by ensuring the rule of law in Ukraine.

5.7.1. Training and education of judges

It is necessary to integrate the approaches of the Venice Commission into the training programs for judges. Continuous professional education should include all six elements of the rule of law: legality, legal certainty, prohibition of arbitrariness, access to justice, human rights, and equality. The case law of Spain and the Court of Justice of the EU can be used as a training tool. It provides examples of the application of the principles of proportionality, equality, and fairness in the daily work of judges.

5.7.2. Enforcement and monitoring mechanisms

It is advisable to create specialized bodies or expand the functions of existing judicial inspections. Their task will be to monitor the implementation of decisions, guided by the Spanish experience of applying the principle of proportionality (in particular, the VAT fines case, 2023). Indicators of the effectiveness of the

[48] VENICE COMMISSION REPORT. "Annual Reports", 2021. Available at https://www.coe.int/en/web/venice-commission/annual-reports

implementation of decisions should be developed. These could include deadlines for implementation and regular publication of reports on their implementation.

5.7.3. Integration of lower courts

It is recommended to launch pilot projects in the first and the appeal courts. They aim to empirically monitor compliance with access to justice and procedural guarantees. An important step will be the introduction of transparency. The publication of anonymous decisions of lower courts will allow for the assessment of consistency and legal certainty in practice.

5.7.4. Procedural innovations

Interim protection mechanisms should be provided for. They will allow for the suspension of the implementation of decisions in cases of risk of disproportionate harm. This is in line with the case law of the ECJ in Aziz v. Catalunyacaixa and Spanish approaches in housing disputes. Courts should be encouraged to use the three-step proportionality test. It includes the tests of suitability, necessity, and proportionality in the narrow sense. This method has been consistently applied by the Spanish Constitutional Court.

5.7.5. Institutional dialogue and comparative platforms

It is advisable to organize judicial exchange programs between Ukraine, Spain, and other EU countries. This will contribute to the dissemination of practical experience in the application of the rule of law principles. With the support of the EU, it is necessary to develop interpretative guides for Ukrainian courts. They should take into account the principles of the Venice Commission in key areas of civil justice, such as housing, pensions, and consumer disputes.

5.7.6. Legislative improvement

It is worth amending the Ukrainian civil procedural legislation. They should ensure the enforcement of court decisions within the established time limits and provide for sanctions in case of their non-enforcement by public authorities. It is also necessary to strengthen the provisions on equality. To this end, clear provisions on the prohibition of discrimination should be included in civil and procedural codes. The experience of Spain and the case law of the ECHR are useful in this regard.

6. Conclusion

This study confirms that the rule of law, interpreted through the six-element system of the Venice Commission, performs a dual function. It is a doctrinal basis and, at the same time, a practical judicial standard for the protection of civil rights.
An analysis of 148 decisions of the ECHR, the CJEU, and Spanish and Ukrainian courts demonstrates that effective protection of rights does not depend on declarative references to the "rule of law." It requires the systematic operationalization of this principle in judicial reasoning and the enforcement of decisions.
A comparative analysis revealed clear patterns of application. The ECHR and the CJEU consistently implement the principles of legality, certainty, proportionality, and access to justice. Spanish courts demonstrate the institutionalization of these elements at all levels. The Constitutional Court is developing practice in the field of proportionality and equality. The Supreme Court insists on fairness in consumer protection and tax disputes.
Ukrainian practice remains fragmented. The Supreme Court periodically applies the principles of proportionality and fairness. The Constitutional Court strengthens

legality and certainty. At the same time, lower courts are often excluded from the systematic use of these approaches. The situation is negatively affected by political interference, weak law enforcement, and institutional imbalances.

The results of the study allow us to single out three key conclusions:

1. Institutional factors are decisive. The problems of Ukrainian judicial practice are not only doctrinal but also structural in nature. They are caused by the dependence of the judiciary, gaps in law enforcement, and a lack of professional training.

2Comparative experience can be adapted. The example of Spain confirms the possibility of integrating the six elements into daily judicial activity. This creates a benchmark for Ukrainian reforms.

3. The Venice Commission model is optimal. Unlike abstract theories of the rule of law, it offers operational criteria for a systematic inter-jurisdictional assessment of national and supranational courts.

Specific steps are proposed to improve the effectiveness of judicial protection of civil rights in Ukraine: integration of the six elements into judicial training programs and the system of continuing education; establishing independent monitoring bodies to ensure the implementation of decisions; expanding the analysis to lower and appellate courts, where access to justice problems most often arise; introducing procedural mechanisms for proportionality checks and interim protection, modeled on the practice of the ECHR, the Court of Justice of the EU, and Spanish courts.

Ukraine's experience is important both for Spain and for European legal science in general. It demonstrates how transitional democracies adapt European standards in the face of political instability and structural challenges. While Spain has developed balanced doctrines of proportionality, equality, and fairness within the framework of the mature EU system, the gradual integration of these approaches in Ukraine shows the difficulties and, at the same time, the potential for transformation in transitional systems.

Thus, the Venice Commission model offers a unified analytical tool for assessing the successes and problems of judicial protection of civil rights. Placing Ukraine in a European comparative context, in particular next to Spain, broadens the academic discourse and contributes to the formation of practical reforms. This increases the legitimacy of the judiciary, strengthens democratic governance, and brings national systems closer to European standards.

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