

To reach sustainable justice with Millennials: example of Ukraine¹

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Abstract

Sustainable development became an essential part of our world since we realized the fragility and limits of our system, dangerous of resource exhaustion, and insistently looking for the way to stabilize our life and life of our descendents, to restrict risks of collapses. Last years' catastrophes – the pandemic of COVID-19 and the war in Ukraine, both are still existed, show us undoubtedly that we have to be more careful using our resources and develop our relations in economics and politics. In this article authors made an attempt to reconsider the approaches to understanding judiciary in Ukraine, using the new coordinates – generation born since 1980 till 1996 so called Millennials (generation Y), dictating new requests to life, and, in our opinion, to justice and judiciary development. Analysis of the impact of Millennials (generation Y) on the development of the judicial system is a complex process for a number of reasons. First, the lack of formal information about the age of the parties makes it impossible to substantiate the conclusions with empirical data. Secondly, despite some generalized traits, the characteristics of Millennials differ depending on the region and country of origin, which determines their economic, social, political, and cultural differences. A striking example of this are the ex-Soviet Union's states. In majority of these countries, Millennials have become the first generation sufficiently aware of their rights, the legal ways to protect them and the role of the court as an effective tool for such protection. Their formation was accompanied by the changes in ideology, political regime and economic instability. In this article authors argue how Millennials change the judiciary in the ex-Soviet society, taking into account the specifics of the latter. The study suggests two interrelated aspects: the impact of Millennials on the development of the court as consumers of judicial services; the impact of Millennials, who come to work in the judicial system, as judges. The article substantiates the necessity of modernization of the courts, which is associated with the high technology of this generation and its vital need for information, as well as their consumerization aimed to create more sustainability justice and to answer the request of Millennials by changes of goals, by limits of expenses and by introducing the culture of peaceful and strong institutions in judiciary.

Keywords: Millennials, Generation Y, IT, profession of judge, judicial system.

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1. Introduction

The problems of the organization and efficiency of the judicial system of different countries are quite often analyzed as a phenomenon in itself, without taking into account the peculiarities of the social environment, in which this system operates. At the same time the characteristics of society, the type of which corresponds to a certain historical time of development and which is the primary source of judicial power in the state are neglected. However, today more and more studies devoted to the regional specific of judiciary functioning, with the particular attention to the sustainable context⁴.

Approaches to the justice vision in current world changes not only due to the historical background or regional specifics⁵, we are trying to argue, that new generation of people require reconsidering and reshaping the traditional judiciary vision due to its environment – new reality that impact their everyday lives. And this is particularly visible on the example of ex-Soviet states, as Ukraine, where during last 30 years the independence was restored and international standards of rule of law were introduced. Last months it was undoubtedly show how the lack of freedom and culture of rule of law may pervert society in another ex-Soviet state. This is also helpful to additionally argued the necessity of reshaping the vision of justice to reach sustainability.

Today, the Millennials (Generation Y) are changing the world - people who were born in the period 1981-1995 (according to other sources – up to 2000), characteristics of which allow sociologists, demographers, philosophers, political scientists, journalists to talk about a totally new generation with completely different ideas about the world and themselves in the world. It is customary to speak of Millennials as creative, independent, ambitious, information motivated and technologically oriented people. Their generation is mentioned as the most educated one⁶. These characteristics play a significant role in the social and state development.

At the same time, it is true that the characteristics of Millennials may vary depending on the political, economic, social and other conditions of the state. They naturally affect the formation of human consciousness, its actions and motivation.

In the post-Soviet countries formation of generation Y coincided with the formation of independent states, which was accompanied by various cataclysms and

⁴ Laura Ervo, *Sustainability in East-Nordic Procedural Law*. In: *Law and Sustainable development: Swedish Perspectives* / [ed] Eleonor Kristoffersson; Mais Qandeel, Uppsala: Iustus förlag, 2021, pp. 215-233.

⁵ See more about Ukrainian judiciary development in *Ivanna Matseliukh* 'The Evolution of Ukrainian Justice Under the Influence of the Church: For the 30th Anniversary of Ukraine's Independence' 2021 3(11) *Access to Justice in Eastern Europe* 8-22. DOI: 10.33327/AJEE-18-4.3-a000068 and Izarova Iryna. *Judicial Reform of 1864 on the Territory of the Ukrainian Provinces of the Russian Empire and Its Importance for the Development of Civil Proceedings in Ukraine* // *Russian Law Journal*, 2014, Vol. II, Issue 4, Pp. 114–128.

⁶ Derek Thompson, *The Unluckiest Generation: What Will Become of Millennials?* *The Atlantic*. April 26, 2013. <https://www.theatlantic.com/business/archive/2013/04/the-unluckiest-generation-what-will-become-of-millennials/275336/>.

a significant change in ideology. It is quite obvious that there is a huge difference between the ideas of Soviet generation of their rights, ways to protect them, as well as a fair independent court and those of Millennials. It is very important to understand their expectations, aspirations and hopes. Will young people go to court or resolve conflicts in a non-judicial way? Will the profession of judge continue to be a popular and authoritative profession? The answers to these questions will enable predicting with a high degree of probability the direction of development of the judicial system in the state, to determine its potential and effectiveness. They will also be important for the system of legal education in the state, determining the need for adjusting the educational programs for training future lawyers

It should be noted that such an aspect as the relations between the Millennials and the courts are generally poorly researched, and has not been substantially considered concerning the post-Soviet countries. Even in the American society, for example, much attention is paid to the study of the characteristics of education⁷ and job⁸ of this generation, its impact on the economy of the state⁹. But only in some places there are separate studies of Millennials' attitudes to the courts and the judicial process¹⁰, their characteristics as jurors¹¹.

In our study, we proceed from two interrelated arguments: first, we argue that the influence of Millennials on the judicial system is carried out from the outside – as consumers of judicial services; second, we insist that Millennials change the judicial system from the inside when they come to work as judges. This differentiation, in our opinion, needs to be studied, as it will allow us to form a general perspective of the development of a new generation of courts in the post-Soviet countries.

2. Features of formation of the attitude of Millennials to the courts in the post-Soviet space

The formation of the former Soviet republics as independent states was accompanied by radical transformations in various fields. The transition from a state-controlled to a market economy, from socialism to capitalism required a radical reorientation of legal and judicial institutions, were under the total control of the executive power which in the Soviet period, implementing plans and carrying out

⁷ Chris Gurrie, Group Work: A Millennial Myth – Improving Group Work in the Basic Course and Beyond. *International Journal of Social Science and Humanity*, 2015, 5(11): 962–965. DOI: 10.7763/IJSSH.2015.V5.587

⁸ PwC's NextGen: A Global Generational Study, 2013, <http://www.pwc.com/gx/en/hr-management-services/pdf/pwc-nextgen-study-2013.pdf>.

⁹ Aime Williams, *Best of Money: Why millennial's go on holiday instead of saving*. *Financial Time*, Feb. 12, 2016. <https://www.ft.com/content/94e97eee-ce9a-11e5-831d-09f7778e7377#axzz4BYMG0nJ2>.

¹⁰ Morley Winograd & Michael D. Hais, 2011. *Millennial Momentum: How a New Generation Is Remaking America*. 2011: 296.

¹¹ Stephen P. Laitinen & Merrie Jo Pitera, 2017. The Millennial Factor in Jury Selection. *Commercial Litigation*. July 2017: 48–84.

the instructions of the government. In fact, the post-Soviet countries have entered a stage of development, which is commonly referred to as *transitional law*¹² or *transitional justice*¹³⁻¹⁴. As is known, this period is characterized by a divergence in the paces of institutional change and changes in norms, values and ways of human behavior. The dissonance of formal and informal norms gives rise to crisis phenomena.

The crisis that has engulfed all spheres of social life in the post-Soviet countries dictated the need for radical change. Society demanded and expected change.

However, according to World Bank experts, the focus was primarily on the need for political change, macroeconomic stabilization and structural reforms (including privatization), rather than on the long-term goals of building or strengthening institutions. In the current volatile environment, the establishment or strengthening of legal and judicial institutions played a secondary role compared to the adoption of laws and decrees aimed at supporting and implementing macroeconomic and structural reforms¹⁵.

Despite this, the ideas of the rule of law and rule-of-law state have become not just relevant, but crucial in the formation of a new ideology in the development policy of the state and large-scale reforms.

It is worth noting that in post-socialist countries there have been two general trends in the policy of building law enforcement and judicial institutions since the late 1980s. The first trend was that Ukraine and Baltic countries sought to return to their pre-Communist beginnings and abandon all Soviet heritage incredibly stronger than for instance Belarus or Russia. As an example, it is advisable to cite the institution of lustration, which played a significant role in a number of countries in Eastern Europe and Estonia in the transition to democratic principles of both the entire political system and the judiciary and prosecution bodies¹⁶. The second trend

¹² Jean-Pierre Massias, 1998. *Justice constitutionnelle et transition démocratique en Europe de l'Est*. Presses Universitaires de la Faculté de droit de Clermont, 1998: 458.

¹³ Neil J. Kritz, ed., *Transitional Justice: How Emerging Democracies Reckon with Former Regimes*. Washington, D.C.: United States Institute for Peace, 1995:672; Neil J. Kritz, *Policy Implications of Empirical Research on Transitional Justice/Assessing the Impact of Transitional Justice: Challenges for Empirical Research*, ed. Hugo van der Merwe, Victoria Baxter & Audrey R. Chapman, 2009: 13-23.

¹⁴ Mihr, Anja, Transitional Justice and the Quality of Democracy. *International Journal of Conflict and Violence*, 2013, 7 (2): 298 – 313.

¹⁵ James H. Anderson, David S. Bernstein & Cheryl W. Gray, *The judiciary in transition. Assessment of the past and future prospects*, 2005. TheWorldBank. Washington. DOI: 10.1596/978-0-8213-6189-4

¹⁶ See more in Iryna Izarova, Vytautas Nekrošius, Vīgita Vēbraītē, Yurii Prytyka, *Legal, Social and Cultural Prerequisites for the Development of ADR Forms in Lithuania and Ukraine*. Teise (Law), Vol. 116 (2020) P. 8-23. <https://doi.org/10.15388/Teise.2020.116.1>; *Legal Developments During 30 Years of Lithuanian Independence* ed. By Gintaras Švedas, Donatas Murauskas, Springer Cham, 2021, 315 p., <https://doi.org/10.1007/978-3-030-54783-7>; Mhamed, A.A.S., Vārpiņa, Z., Dedze, I., Kaša, R. (2018). Latvia: A Historical Analysis of Transformation and Diversification of the Higher Education System. In: Huisman, J., Smolentseva, A., Froumin, I. (eds) *25 Years of Transformations*

concerned the fact that the Eastern European and Baltic countries sought to enter the European Union as full members, that is, they expressed their full readiness to adopt the entire experience of building a judicial system and legislation on a democratic basis, which also differed from others at that time. This led to a further different institutional pace of development of the post-Soviet states¹⁷.

However, a social-psychological problem, which concerns the need to overcome legal nihilism, became characteristic of the entire society of the post-Soviet space, which consisted of the need to all nihilism, which reached a critical limit. This problem covered several aspects.

First, the legal consciousness of a large part of society was not ready to accept and realize that the highest form of violated rights is judicial, and the court decision is the law, which is subject to execution through the state enforcement mechanisms; judicial procedure for resolving disputes is the only way to resolve the conflict; pressure on the court is illegal and immoral; review of the judgment is possible only in the courts, and not in any other public authority.

Secondly, the legal consciousness of the representatives of the judiciary, who were under the pressure of incompetent demands of the representatives of the deputies, the press, the street revolutionary crowd, required change. Judges had a serious psychological breakdown - on the one hand, the feeling of humiliation (as a consequence of the Soviet past) has not yet been overcome, on the other – there was a significant increase in the volume of rights, and consequently, social and legal responsibility for the decision.

The judicial systems of the post-Soviet countries experienced a significant staff shortage. The expansion of the jurisdiction of the courts required an increase in judiciary and its highly qualified training, which certainly affected the problems of legal education. The profession of lawyer in 1990-2000 becomes quite scarce. Higher education institutions are experiencing an influx of those wishing to get a legal education, the market for legal services is developing rapidly.

It is natural that the formation of the former Soviet Union republics as independent states oriented to the democratic regime was accompanied by large-scale judicial reforms. Their ideological basis was the idea of building the rule of law, the development of civil society, awareness of the self-worth of the individual, the search for an effective mechanism for the protection of human rights. It was during this period that the policy of forming an independent judiciary in the state was proclaimed. The latter was evident thanks to the provisions of the Constitutions

of Higher Education Systems in Post-Soviet Countries. Palgrave Studies in Global Higher Education. Palgrave Macmillan, Cham. https://doi.org/10.1007/978-3-319-52980-6_10; Ernits, M. et al. (2019). *The Constitution of Estonia: The Unexpected Challenges of Unlimited Primacy of EU Law*. In: Albi, A., Bardutzky, S. (eds.) *National Constitutions in European and Global Governance: Democracy, Rights, the Rule of Law*. T.M.C. Asser Press, The Hague. https://doi.org/10.1007/978-94-6265-273-6_19 etc.

¹⁷ Based on this peculiarity, which favourably distinguished the Baltic States (Estonia, Latvia and Lithuania) in comparison with other Soviet republics, for the purposes of this article the term "post-Soviet countries" or "post-Soviet space" will be used in relation to the remaining twelve republics of the Soviet Union.

adopted by all countries without exception in 1992 (Estonia, Lithuania, Latvia, Turkmenistan, Uzbekistan), 1993 (Kyrgyzstan), 1994 (Belarus, Moldova, Tajikistan), 1995 (Armenia, Azerbaijan, Georgia, Kazakhstan), 1996 (Ukraine)¹⁸. Most of them proclaim the separation of powers into the legislative, executive and judicial branches, giving the latter independence and autonomy. It was the need for their protection that determined further reformative steps and legislative initiatives, becoming one of the most difficult tasks of the transition to democracy¹⁹.

It should be noted that international standards of human rights and the administration of justice are becoming particularly relevant for all post-Soviet countries²⁰. The intensification of international relations has allowed the active participation of international organizations in the process of reforming the judicial system, which has made it possible to carry out and develop various educational programs with their support. This gradually changed the positivist attitude to justice, the court and the personality of the judge.

During this period there was an active development of radio programs, television programs and talk shows, designed for a wide target audience, which explained the population their rights and freedoms, opportunities and ways to protect them, peculiarities of application of legal norms.

Thus, in the post-Soviet space Millennials are assumed to become the first generation to be educated in the spirit of awareness of the value of man, aware of their rights, with established ideas about the court as a civilized way to protect them, and the willingness to use it to protect their interests. The next challenge of making justice more sustainable²¹, in particular in part of judiciary standards.

¹⁸ Rett R. Ludwikowski, 1993. *Constitution Making in the Countries of Former Soviet Dominance: Current Development*. Georgia Journal of International and Comparative Law, 1993, 23(2): 155-267.

¹⁹ Supra note 10.

²⁰ Ukraine, Georgia, Armenia and Azerbaijan become member-states of the Council of Europe <https://www.coe.int/en/web/portal/46-members-states>. See inter alia European judicial systems CEPEJ Evaluation Report 2020 Evaluation cycle (2018 data) <https://rm.coe.int/evaluation-report-part-1-english/16809fc058>; tools and guides help to improve national judiciary of these states <https://www.coe.int/en/web/cepej/cepej-work/quality-of-justice>. Nevertheless, the impact of the European convention on human rights and the European court of human rights' decisions on development rule of law in these states are far beyond: even despite the problems of enforcement of these decisions, see more in Izarova, S Kravtsov, *About the Special Issue on the Occasion of the 70th Anniversary of the European Convention on Human Rights*, 2021 1(9) Access to Justice in Eastern Europe 5–7. <https://doi.org/10.33327/AJEE-18-4.1-n000043>; Iryna Izarova, Henriette Christine Boscheinen-Duursma, *Towards sustainable civil justice: Lessons from Ukraine and Austria*, Revista Jurídica Portucalense N.o Especial | 2022 Civil Procedural Law - The Challenges of Global and Digital Sustainable Development, pp. 55-80, <https://revistas.rcaap.pt/juridica/article/view/26310>.

²¹ Stumpf, Klara Helene and Baumgärtner, Stefan and Becker, Christian U. and Sievers-Glotzbach, Stefanie, *The Justice Dimension of Sustainability: A Systematic and General Conceptual Framework* (June 9, 2015). Sustainability 2015, 7, 7438-7472; doi:10.3390/su7067438.

3. Millennials as consumers of judicial services

There are no studies in the post-Soviet countries, which would consider the issues of interest of Millennials to the judicial form of protection of their rights. It is very difficult to collect empirical data in this regard, since under the current procedural legislation of these countries, plaintiffs are not required to indicate their age when applying to the court. However, some scientific research on this subject allows us to formulate a number of assumptions about some of the laws that are inherent in all countries of the world without exception²².

What essentially important for our study, that this conclusions about the nature of modern court with the views of society requests: "Two main goals exist, namely procedural fairness and substantial satisfaction. There has even been a change from formal justice towards a perceived procedural justice and from judicial power towards a court service, which means that it is not enough to follow normative fairness, but the parties should additionally feel that the procedure was pleasant and even this kind of perceived fairness is nowadays a significant factor in due procedure. The adjudication can now be called court service"²³.

We agree with authos, that today, the main function of civil proceedings is conflict resolution instead of traditional dispute resolution (sanction mechanism) or legal protection, this idea was reflect even in legislation²⁴; millennials requests analyses help to clearly understand why this is happened and how judiciary should be rebuild according to this request.

Millennials are focused on the social values, which makes their generation thirsty for change. The crisis of social institutions has the consequence, among others, of a crisis of confidence in the judicial system, not only in post-Soviet countries. Back in 2015, the American media began to say that young people did not trust the courts. This is despite the fact that the US is traditionally considered as one of the most litigious countries. And it is not about manifestations of nihilism, but about rational claims about secrecy and corruption²⁵.

For the post-Soviet countries, such accusations against the courts have become commonplace. And this is due not only to the characteristics of a particular generation, but also to the peculiarities and problems that accompany the judicial systems of the transitional period. Thus, the crisis of confidence is considered to be one of the main consequences of totalitarian and authoritarian regimes, in which the lack of political openness and pluralism led to the fragmentation and "privatization" of the society. The researchers argue that in the societies that have experienced a

²² Laura Ervo, *Sustainability in East-Nordic Procedural Law*. In: *Law and Sustainable development: Swedish Perspectives* / [ed] Eleonor Kristoffersson; Mais Qandeel, Uppsala: Iustus förlag, 2021, pp. 215-233.

²³ Ibid, pp. 215-233.

²⁴ Code of Civil Procedure of Quebec C-25.01 updated to 1 April 2022 <https://www.legisquebec.gouv.qc.ca/en/document/cs/c-25.01>.

²⁵ Andrey Dovbenko, 2017. *Prishel'tsy iz budushchego: kak millenialy menyayut Ukrainu* (Aliens from the future: how millennials change Ukraine). <https://www.andreydovbenko.com/ru/rus-prysheltsy-iz-budushcheho-kak-myllenyaly-meniaiut-ukraynu/>

transition from undemocratic regimes, it is the lack of trust that is one of the most serious obstacles to the consolidation of democracy²⁶. In relation to the courts in the post-Soviet countries, the problem of trust in them is closely related to the paradoxical dependence on the government, which formally proclaims their independence, but in reality continues to exert pressure on them in various ways²⁷.

Thus, the distrust of the Millennials of the post-Soviet space in the courts is a twofold one: subjective due to the psychological characteristics of the people of this generation, and objective, due to the social environment (political, economic and social conditions) of their upbringing and life.

Under such circumstances, it is natural that Millennials tend to avoid litigation and tend to prefer more peaceful types of conflict resolution²⁸. The fact that mediation is one of the modern trends in the development of dispute settlement in the post-Soviet space is obvious due to the review of legislation and active scientific development of this issue in these countries. For example, Moldova adopted a law on mediation in 2007, which was replaced by a new law in 2015²⁹. Separate laws on mediation have also been adopted in Kazakhstan (2011), Uzbekistan (2018). In Kyrgyzstan, Tajikistan and Armenia mediation is developed outside the legislative regulation³⁰. The legislations of these countries do not directly provide for it. In Ukraine the law on mediation was adopted only in 2021 despite the significant growth of the culture of mediation in society and practice³¹.

Millennials are a generation in the life of which a special role is given to technology that provides unlimited access to information and simplifies their lives. In fact, the use of information technologies determines their peculiarity relative to

²⁶ Christian W. Haerpfer, Patrick Bernhagen, Ronald F. Inglehart & Christian Welzel, *Democratization*. Oxford University Press. 2009: 452.

²⁷ Armen Mazmanyanyan, 2015. *Judicialization of politics: The post-Soviet way*. International Journal of Constitutional Law, 2015, 13(1): 200–218; M. Popova, 2010. *Political Competition as an Obstacle to Judicial Independence: Evidence from Russia and Ukraine*. Comparative Political Studies, 2010, 43(10): 1202-1229.

²⁸ Shawna Benston & Brian Farkas, 2018. *Mediation and Millennia's: A Dispute Resolution Mechanism to Match a New Generation*. Journal of Experiential Learning, 2018, 2(2). <https://digitalcommons.tourolaw.edu/jel/vol2/iss2/3>.

²⁹ Ion Tesa, *Mediation in Moldova Ars Aequi*, Universul Juridic, Vol. 6(1), Pp. 153-158.

³⁰ Abiyev Y, Sheryazdanova G, Byulegenova B, Rystina I, Gabdulina B. *Mediation in the Multicultural Society of Kazakhstan: Tradition and Modernity. Utopía y prax. latinoam.* [Internet]. 18 de septiembre de 2020 [citado 5 de septiembre de 2022];25(1):14-2. Disponible en: <https://produccioncientificaluz.org/index.php/utopia/article/view/33668>.

³¹ See more about mediation in Ukraine here O Drozdov, O Rozhnov, V Mamnitskyi, 'Mediation and Court in Ukraine: Perspectives on Interaction and Mutual Understanding' 2021 3(11) *Access to Justice in Eastern Europe 181–190*. DOI: 10.33327/AJEE-18-4.3-n000082; I. Izarova, A. Krychyna, J. Mucha, A. Tsibulko, *On the way to implementing the principle of the best interests of a child during mediation: Ukrainian experience* // Bulletin of Taras Shevchenko National University of Kyiv. Legal Studies, 2022; 1 (120): 40-50. DOI: <https://doi.org/10.17721/1728-2195/2022/1.120-8>; Izarova I, Krychyna A. *Towards the best interests of the child principle implementation in judicial and extrajudicial matters: Ukrainian experience* in *Realizacja zasady dobra dziecka w mediacji w sprawach dotyczących wykonywania władzy rodzicielskiej i kontaktów* ed. by professor Joanna Mucha. – Poland, Wolters Kluwer, 2021, 516 p., pp. 121-133.

previous generations. They grew up with open and unrestricted access to communications. As a rule, they are highly technological and can not imagine life without round-the-clock access to information³². Recent research shows that the vast majority of Millennials are seeking and trying to obtain the necessary information, including legal information, through the Internet³³. Compared to information resources such as libraries or personal consultations, online resources are overwhelmingly dominant. The most popular among them are web forums, official web pages of courts, web publications, blogs, social networks.

According to the information presented in the report "Digital in 2018"³⁴ of the international Agency "We are social", which specializes in media research, in the post-Soviet countries on average 71% of the population uses the Internet (Azerbaijan – 80 %, Armenia – 73 %, Moldova and Belarus – 71 %, Georgia – 63 %, Ukraine – 58 %). The top three most popular searches in these countries included Google, Youtube and social networks (Facebook in Ukraine, Georgia and Armenia). The most popular social networks are among the population, aged 25-34.

Understanding the source of information is important for the popularization of judicial activity in the post-Soviet space by placing the necessary content in the world information network. This method is an adequate mechanism for the development of transparency of the judicial system, which has become a completely new concept for the post-Soviet countries. The categories of openness, transparency, visibility and publicity of judicial activity are still more accessible to the vast majority of the population. At the same time, it should be borne in mind that information about the activities of the court, which is distributed via the Internet, is produced by various actors: government officials, the media, public organizations and anyone. This feature distinguishes the Internet from other information resources, providing an opportunity for the general public to express their own positions and views, express personal opinions on certain events, comment on certain actions and the like. In this sense, the Internet is well characterized by L. Solum as a self-regulating space of individual freedom beyond state control³⁵.

The above requires the activation of judges, who in the modern world should not just administer justice, but personally inform society about this process, bring to its attention information that will testify to the fairness of the court in its broad sense (fairness of the procedure, fairness of the court decision, fairness of punishment). This is an opportunity that allows the judicial system to independently, guided by its own policy, position itself in society through information and create a positive image so necessary for it today, the lack of which entails low indicators of the level of public trust. It is this need that "intuitively" led to the emergence of speaker judges

³² Supra note 7.

³³ *Millennials, Technology and Access to Justice in Ontario*, 2017. The Action Group on Access to Justice (TAG). https://theactiongroup.ca/wp-content/uploads/2015/08/TAG_Millennials_Technology_and_Access_to_Justice_in_Ontario.pdf

³⁴ *Digital in 2018: World's Internet Users pass the 4 billion mark*. <https://wearesocial.com/blog/2018/01/global-digital-report-2018>.

³⁵ L.B. Solum, *Models of Internet governance* in L.A. Bygrave & J. Bing (eds.), *Internet governance: infrastructure and institutions*. New York: Oxford University Press, 2009: 48–91.

in Ukraine and Georgia, which allowed to a certain extent to establish communication with society. In this case, the chances of overcoming the crisis of legitimacy of the judicial system increase significantly.

Thanks to information technology, Millennials are not only aware of their rights regardless of their education, but they are also able to exercise them and protect them with the help of existing technologies. The fact that technological development, the era of the information society are pushing the courts for modernization, does not need to be proved today. It is enough to pay attention to the information about the opening of Internet courts in the advanced countries³⁶.

However, this issue remains a definite prospect for the court in the post-Soviet countries. Although in many of these countries there are policy documents providing for the introduction of electronic court (the Concept of electronic court of Ukraine³⁷, etc.). However, it is more correct to speak today about the informatization of justice, which takes place taking into account the economic capabilities of the state, but is an irreversible and inevitable process. As a rule, it is a system access to court decisions, tracking court cases and automation of court records.

Functioning of various information systems and technologies that provide to people access to court decisions, information about the proceedings and its participants, is inherent in all countries of the study region without exception. In most of them, information technologies are also used in court proceedings for the purpose of audio and video recording. At the same time, the system of electronic filing of documents has not yet been properly developed, though Millennials need it first and foremost, as they seek to save their time and not spend it on the presence in the court when filing documents. Although countries such as Azerbaijan and Ukraine are on the verge of its introduction into national civil processes.

In Ukraine, digitalization of justice can only be considered successful in the last few years, mostly due to “DIIA” (comes from the words “The State and I” – ‘Derghava i Ia’), which is the most successful mobile application for government agencies and citizens in Ukraine since 2020³⁸. Identification documents are stored here and a range of public services may be access like birth certificates, business registrations, tax payments, etc.³⁹ At the end of 2021, it was being used by 12 million

³⁶ Law and Business, 09/13/2018. In China, opened a second online court. http://zib.com.ua/ru/134440-v_kitae_otkrili_vtoroy_internet-sud_dlya_sporov_onlayn.html.

³⁷ The concept of e-justice has been circulated around ten years in Ukraine and at first the "electronic court" was developed in 2012 by the state enterprise "Information Judicial Systems" in 2012. However in 2010 the Council of Judges of Ukraine approved the Regulation on the automated court document management system, which contains rules for maintaining electronic archives, electronic digital signatures, electronic copies of court decisions, and more. See more here Maika M., *The Implementation of E-justice within the Framework of the Right to a Fair Trial in Ukraine: Problems and Prospects*, 2022 3(15) Access to Justice in Eastern Europe 249-262. <https://doi.org/10.33327/AJEE-18-5.2-n000320> and A Naichenko 'E-evidence and e-court in the Context of the Covid-19 Pandemic: A Study from Ukraine' 2021 4 (12) *Access to Justice in Eastern Europe* 163–181. DOI: 10.33327/AJEE-18-4.4-n000091.

³⁸ <https://plan2.diia.gov.ua>, consulted on 1.10.2022.

³⁹ <https://plan2.diia.gov.ua/projects>, consulted on 1.10.2022.

consumers⁴⁰.

The most important step in the digitalization of the judiciary in Ukraine was the consolidation of the Unified Judicial Information and Telecommunication System (hereinafter – UJITS or the System)⁴¹ during the great procedural reform of 2017. Starting from October 5, 2021, three ESITS subsystems (modules) will be officially operational: the Videoconferencing Subsystem, the E-Cabinet, and the E-Court. At the same time, the huge size of the state and the number of employees involved in the field of justice do not allow plans to be implemented quickly⁴².

In particular, according to the SJA (State Judicial Administration) report, as of December 2021, the average level of computer equipment (personal computers, server equipment, office equipment, equipment for audio, video recordings of court hearings, video conferences) is about 82%. These are 673 local and appellate courts of Ukraine and 52 institutions in the justice system, 7,201 judges, 19,533 staff in courts and institutions, and 844 buildings⁴³.

Anyway, Ukraine is among the top three countries with the most rapid pace of computerization of the judiciary, according to the CEPEJ report⁴⁴. “DIIA” brings the necessary new solutions, such as enforcement, summons, etc., and, as was said, it even helps attend hearings through this app which perhaps the better meet requests of Millennials.

But the introduction of innovations is accompanied by a number of complications. Conditionally among them there are three aspects:

– legal and regulatory aspect: provides for the modernization of the procedural legislation of the state for the adaptation and legalization of information technologies as well as dangerous of single access to the digital court system amid wartime;

– organizational: provides for the restructuring of existing information systems and technological processes. It also covers the need for sufficient funding and subject interaction;

– technological: involves the selection of the most efficient technology for the national judicial system, ensuring its smooth operation and maintenance⁴⁵.

However, all of them are derived from one tectonic problem of the post-Soviet countries: the target orientation, traditionally inherent in any state apparatus (when a person exists for the state, and not vice versa). "Under such conditions, the judicial system is put at a great disadvantage due to the slowness of the legislator. It becomes partially (and in some cases completely) unfit for legal proceedings in

⁴⁰ <https://www.ukrinform.ua/rubric-ato/3374555-kilkist-koristuvaciv-dii-za-rik-zrosla-majze-u-pat-raziv-fedorov.html>, consulted on 1.10.2022.

⁴¹ Law of Ukraine "On the Judiciary and the Status of Judges" <https://zakon.rada.gov.ua/laws/show/2147a-19#n783>.

⁴² Maika M. 'The Implementation of E-justice within the Framework of the Right to a Fair Trial in Ukraine: Problems and Prospects' 2022 .3(15) Access to Justice in Eastern Europe 249-262. <https://doi.org/10.33327/AJEE-18-5.2-n000320>.

⁴³ <https://zakon.rada.gov.ua/rada/show/n0001750-22#Text>, consulted on 1.10.2022.

⁴⁴ <https://rm.coe.int/rapport-evaluation-partie-1-francais/16809fc058>, consulted on 1.10.2022.

⁴⁵ Expert report and results of the meeting: Working Group “e-justice”/The draft regional dialogue on judicial reform in the countries of the Eastern Partnership. December 7-11, 2015. <https://rm.coe.int/1680700f18>.

public relations, mediated by the latest information technologies"⁴⁶.

In any case, the introduction and use of the latest technologies in judicial activity is a natural and logical process of evolution of the judicial system in the information society. This ensures its stability. Thanks to information technologies, the principles and guarantees of the functioning of the judicial power in the state are developing - independence, transparency, legitimacy, specialization, reasonableness of the terms of the case and others.

As we stated in one of the previous study, sustainable development requires more safety and less waste and loss of life and resources, therefore, in performing justice, we should also try to find the most peaceful ways of protecting rights with fewer expenses in particular dispute prevention and resolution without enforcement with the facilitation of a judge and other bodies. This may be the most effective way to perform justice sustainably and reduce costs for parties and the state as well. It is also help to rebuild the justice system in a more resilient and flexible regarding time and fees, as well as prepares it for and makes it resilient to challenges – from conflicts to pandemics⁴⁷.

It should be pointed out that Generation Y was formed at a time when the Internet became dominant among the media and social networks (Facebook, Twitter, Instagram, etc.) became very popular. Statistical data on them are cited above. The dissemination of information via the Internet gave impetus to the development of freedom of speech in the post-Soviet countries, including the activities of the judiciary. This was the impetus for the emergence of new forms of public control in the functioning of the judicial system among Millennials. It should be noted that the development of public control in the field of justice in general is a characteristic feature of the post-Soviet countries. Countries of stable democracy, in which the court is a priori independent and authoritative, do not need the development of this sphere of public life. Conversely, in the region under study, public control in the sphere of judicial power acts as a necessary external regulator of the processes of development of the judicial system, directing them in line with the relevant public expectations, and aligning with the interests of society at each historical stage of its development. This ensures the evolution of the judicial system and its relationship with society. In addition, public control acts as a mechanism that is able to prevent the emergence of negative, destructive phenomena in the judicial system or respond to them in a timely manner, improving the parameters of the functioning of the judicial system, bringing it to qualitatively new levels and stages of development, which is the basis of its evolution.

So, we focused on the emergence of new forms of social control among the Millennials, due to the development of information technology and freedom of

⁴⁶ Bryntsev, O.V., 2016. «Elektronnyy sud» v. Ukrayini. Dosvid ta perspektyvy («Electronic court» in Ukraine. Experience and perspectives). Kh.: Law, 2016: 20-22.

⁴⁷ Iryna Izarova, Henriette Christine Boscheinen-Duursma, *Towards sustainable civil justice: Lessons from Ukraine and Austria*, Revista Jurídica Portucalense N.º Especial | 2022 Civil Procedural Law - The Challenges of Global and Digital Sustainable Development, pp. 55-80. <https://revistas.rcaap.pt/juridica/article/view/26310>.

speech in the post-Soviet countries. A unique example of this is the experience of Ukraine, where a project called "Open Court" has been operating since 2015⁴⁸. Its peculiarity is "live" and which provides for video recording of court hearings. Videos of court hearings are posted on the project's website, on the YouTube channel "Vidkrytyi Sud" ("Open Court") and distributed by social networks to millions of citizens. The appearance of the project "Open Court" in Ukraine became possible due to the changes in the legislation, that guaranteed the possibility of taking photographs, video and audio recordings in the courtroom using portable video and audio equipment without obtaining a separate permission of the court.

The dualistic nature of its goals is noteworthy. On the one hand, the project envisages the creation of a dossier of professional activities of thousands of judges, prosecutors, lawyers, exposing unprofessional, obviously illegal acts and corruption in the courts that harm the interests of the state, citizens and business. On the other hand, the project aims to support and highlight the high level of professionalism of judges, prosecutors and lawyers, the establishment and enforcement of high standards of justice in Ukraine. But the realization of both of them pursues one goal - to create high standards of justice and the inevitable responsibility for deviations from them.

In the post-Soviet transit society this initiative, among other things, performs functions that are quite important for the effectiveness of the judicial system and judicial reform - preventive, disciplinary, protective, educational. Video recording of court hearings and their public exposure warn and deter judges, lawyers and prosecutors from actions that can discredit them, encourage them for improvement of their professional level and proper preparation for participation in the case. At the same time, the demonstration of trials allows the person to form their own unbiased opinion about its participants, which protects them from groundless criticism. In addition, it contributes to the formation of ideas about the standards of the profession of judge, lawyer, prosecutor, their specificity, which generally develops awareness, legal culture of the population. Demonstration of trials allows a person to form their own unbiased opinion of its participants, which protects them from baseless criticism. In addition, it contributes to the formation of ideas about the standards of the profession of judge, lawyer, Prosecutor, their specificity, which generally develops awareness and legal culture of the population.

4. Millennials in the judiciary

Millennials are characterized by ambition and desire for conscious self-realization⁴⁹. Therefore, the position of judge remains traditionally desirable and popular among professions that are chosen by a new generation in the post-Soviet space⁵⁰.

⁴⁸ Project «OpenCourt». <http://open-court.org/about/>, consulted on 1.10.2022.

⁴⁹ Supra note 4.

⁵⁰ Jean M. Twenge, 2018. Pokoleniye selfi. Kto takiye millenialy i kak nayti s nimi obshchiy yazyk (Selfie Generation. Who are the millennials and how to find a common language with them). Moscow: Eksmo, 2018: 336.

The work of Millennials as judges transforms the judicial system from the inside. Researchers in the various fields note such a feature of this generation as a focus on the result, the desire to return on their work and the desire to participate in decision-making. They seek to adjust working conditions to their lives, not the other way around⁵¹. The advantages for the judicial system in this case are obvious. They are all related to the same features that we have described above, but have a different interpretation.

Judges of the new generation a priori have the skills to work with information resources and technologies, which optimizes the decision-making process, giving it dynamism and cost-effectiveness.

Constant and quick access to information is no less important for them than the possession of information. Internet resources provide this access to a variety of data: from official databases of legal acts to the information resources of the international community. Thus, it is possible for the court to consume necessary, continuous, prompt, relevant, complete, reliable and objective information. In other words, the Internet effectively meets the internal information needs of the court. And this optimizes the processes of judicial administration: makes it fast and cost-effective in terms of minimizing personnel costs.

Millennials strive for self-improvement and are open to new knowledge. Education and training of this generation of judges in the post-Soviet space took place during the intensification of international relations, the exchange of international experience, the active implementation of international programs in the field of justice. They grew up when there was an active promotion of human rights and international standards of justice. Having less life experience, in comparison with colleagues of the older generation, Y judges are nevertheless deprived at the level of subconsciousness of the positivist understanding of the law which was a characteristic feature of justice of the Soviet period.

Improving their skills is for Millennials judges a tribute to the modern pace of life and the development of public relations, and is not caused by the requirements of the legislation only. More and more today, representatives of the new generation come to the judicial system with an existing academic degree, or begin to receive it.

Millennials in the judiciary take an active role in representing and protecting both their own interests and those of the judicature. The absence of idols, as a characteristic feature of this generation, makes them independent in judgment and free in expression of opinion. The thirst for participation in decision-making and the desire to lead their own lives determines the initiatives and vigorous participation of new-generation judges in judicial self-government.

They value freedom of speech and the ability to speak freely about the issues that concern them. This focuses on the development of the independence of the courts, which is an ongoing and urgent problem for post-Soviet countries.

A characteristic feature of Millennials is the dominance of non-material or "post-material" values, which makes it difficult to stimulate and motivate them by

⁵¹ Alsop Ron, 2008. *The Trophy Kids Go to Work*. The Wall Street Journal. Retrieved 2008-10-24. <https://www.wsj.com/articles/SB122455219391652725>.

traditional means of improving work efficiency⁵². This specificity of value orientation predetermines two things in relation to judges. First. It is important for them that the work brought not only money, but also pleasure. That is, the material component (the amount of judicial remuneration) is not decisive. "They're more interested in people than in money⁵³". Second. This generation attaches great importance to the social purpose of the functioning of the system in which they work⁵⁴. Together, this strengthens the value basis of judicial activity, prevents the outflow of judicial personnel and contributes to the stability of the judicial system. The latter is important because in the post-Soviet countries the courts are permanently reformed with different intensity. And judicial reforms can focus on the forced change of personnel, as, for example, occurred in Ukraine during 2014-2017.

Generation Y judges are aware of the importance of diverse communication between the judiciary and society. They are the active participants of various information platforms, forums and other events. They actively position themselves in the information space, sharing information, including in social networks, representing the judicial system to the general public.

They strive for professional and career growth, which encourages competition, which in its positive value contributes to self-improvement and theoretically allows the most professional judge to fill the vacant position.

A lot of factors, not fewer than those that we have cited above, oppose to optimism about the impact of Millennials on the development of the judicial system. In addition to the crisis phenomena in the transitional society, the state, its politics and economy, it is significant that the corporate culture formed by previous generations is so far traditional for the judicial system. When they get into it, Millennials are forced to adapt, overcoming bureaucratic decision-making procedures and solving the psychological conflict of generations.

T. Erickson believes that misunderstandings between generations at work are usually associated with four main points: choosing where and when to work; communication between team members; general meetings; finding information and learning new things⁵⁵. It is obvious that everything is relevant to the community of judges except the first one, since neither Millennials nor judges of the previous generation have a choice regarding the place and time of work.

Communication between different generations of judges is connected with the same psychological and personal characteristics that we mentioned above. Generation Y judges exchange information, communicate via messengers, social networks and expect a quick response to their questions. But the older generation is used to working with paper media. Instead of digital communication, they prefer

⁵² M Novy, M I Smith, T Katrnak, *Inglehart's scarcity hypothesis revisited: Is postmaterialism a macro- or micro-level phenomenon around the world?*, International Sociology 32 (6) 10.1177/0268580917722892.

⁵³ Francesca Dalla-Volta, 2018. *What do millennial litigators want?* International Litigation News. October 2018:15-16.

⁵⁴ Supra note 7.

⁵⁵ Tammy Erickson, 2009. *The Four Biggest Reasons for Generational Conflict in Teams*. Harvard Business Review, February 16, 2009. <https://hbr.org/2009/02/the-four-biggest-reasons-for-i>.

personal communication. Incompatibility of methods unbalances the pace of collaboration.

Millennial judges are much less than their senior colleagues gravitate to planning, which can irritate the latter. They are more flexible in the use of time and are able to respond quickly to changing circumstances, effectively using their potential. Planning, like the legacy of the Soviet system, is habitual for the older generation, depriving them of mobility.

Millennials are always open to new information and seek new knowledge. They are not afraid to ask a question in the search for an answer. The judges of the previous generation have a tendency to rely on their own life experience, which prevents the perception of the new.

But despite the differences, different generations of judges, working together, influence each other, sharing judicial experience and learning new technologies, which generally creates the illusion of progress.

5. Conclusion

New generation of Millennials can change the judiciary significantly, and we all witness it even without noticed it. This is very clear in the post-Soviet countries, as Ukraine, where judiciary rebuilds slowly according to the new society requests, especially in the light of digitalization and transparent and openness of the court functioning. This is an irreversible process of evolution caused by the change of generations.

New challenges as war and pandemic make these transformations more complicated and require more attention to the very idea of equal justice for all. The very notion of what we want to achieve in close future can be useful. The goal of peace and strong institutions implemented in national judiciary may be the right answer for the request of Millennials, who take good care of nonmaterial values, rule of law and openness of society.

Although generation Y is characterized by a tendency to resolve conflicts out of court, there is no reason to argue about a decrease in public demand for judicial services in post-Soviet society in the near future. Despite the crisis of legitimacy inherent in the transitional society, the court traditionally remains the authority to which Millennials, like previous generations, turn for protection of violated rights. But such a cultural characteristic of this generation modernizes the court, as well as stimulates the development of alternative procedures in the legal systems of post-Soviet states, gradually becoming formalized.

Changes of aim of litigation and the vision of adjudication for more satisfactory results for parties may help to rebuild judiciary of ex-soviet post authoritarian states and support the idea of sustainable justice implementation.

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