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# Aspects of Expanding the Interaction between the State and Civil Society

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## Abstract

The aim of this study was a holistic analysis of aspects of expanding the interaction between the state and civil society on the example of the experience of foreign countries, namely Austria, Belgium, France, Italy, and Poland. The research involves such methods as sociological analysis, systemic and case study methods, structural and comparative methods, as well as the dialectical method. The factors of expanding the interaction of the judiciary as a representative of the state, which protects the rights and interests of civil society, were identified in accordance with the results of the study. As a result, conclusions were drawn on the need for the judiciary, as a representative of the state, to use methods to expand the interaction between the state and society, in the person of every citizen. The use of those factors in relation to such interaction will further help increase public confidence in the state, which will ensure effective protection of the rights and interests of society.

**Keywords:** Human rights; interaction of the state; judicial authorities; justice; protection of rights.

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## Aspectos de la Ampliación de la Interacción entre el Estado y la Sociedad Civil

### Resumen

El objetivo de este estudio fue un análisis holístico de los aspectos de la expansión de la interacción entre el Estado y la sociedad civil sobre el ejemplo de la experiencia de varios países a saber: Austria, Bélgica, Francia, Italia y Polonia. La investigación involucra métodos tales como análisis sociológico, métodos sistémicos y de estudio de casos, métodos estructurales y comparativos, así como el método dialéctico. Los factores de ampliación de la interacción del Poder Judicial como representante del Estado, que protege los derechos e intereses de la sociedad civil, fueron identificados de acuerdo con los resultados del estudio. Como resultado, se extrajeron conclusiones sobre la necesidad de que el Poder Judicial, como representante del Estado, utilice métodos para ampliar la interacción entre el Estado y la sociedad, en la persona de cada ciudadano. El uso de esos factores en relación con dicha interacción contribuirá aún más a aumentar la confianza pública en el Estado, lo que garantizará la protección efectiva de los derechos e intereses de la sociedad en general.

**Palabras clave:** derechos humanos; interacción del estado; autoridades judiciales; justicia; protección de derechos.

### Introduction

The problems of expanding aspects of the interaction between the state and civil society are directly related to public administration, namely the judiciary, which creates one of the fundamental paradigms of the national science of public administration.

Analysis of current research of European scholars shows that the science of public administration by judicial authorities in advanced European countries focuses on studying current trends in the national civil service, in particular, their (judicial authorities) joint work with society, peculiarities and unique features, assessing the prospects of European universal models for expanding the civil service of the judicial authorities, which could bring civil society closer to the state as the most important prospect for future public administration.

As of 2021, Ukraine is at the stage of developing an effective expansion of interaction between the state and society, which would clearly regulate the activities of the judiciary and be able to guarantee the protection of the rights and interests of every citizen.

The object of the study is the social relations that have developed in the process of expanding the interaction between the state and civil society.

The subject of the study is the interaction of the judicial authorities, as a representative of the state, with society.

So, the main objectives include:

- analysis of the interaction of the judicial authorities, as a representative of the state, with society, as well as the practice of expanding the powers of the judiciary for the effective protection of the rights of civil society as a whole.
- determining the level of effectiveness of laws and regulations to expand the interaction of the state, represented by the judicial authorities and civil society in foreign countries.

The term “human rights” has been mentioned seven times in the United Nations Charter, which makes the promotion and protection of human rights a key goal and guiding principle of the Organization (United Nations, 1945).

The Universal Declaration of Human Rights introduced by the United Nations (1948) laid down the principles that brought human rights into the realm of international law. Since then, the Organization has diligently protected human rights through legal instruments and field measures.

Besides, the International Covenant on Economic, Social and Cultural Rights the International Covenant on Civil and Political Rights (United Nations, 1976a, b), both entered into force in 1976 and are the main legally binding instruments for the global protection of citizens’ rights by the judicial authorities.

It should also be added that the Convention on the Rights of the Child (United Nations, 1990) recognizes that children also have human rights and that they need special protection to ensure their full development, survival, and best interests.

Therefore, in order to expand cooperation between the judiciary and the public interest as a protection of their civil rights, it is necessary to comprehensively analyse the current stage of communication between the state and society as a whole.

It is important to add that there was a need to regulate the protection of human rights through the adoption of new legislation during the Covid-19 period. These include the Statement on human rights considerations relevant to the COVID-19 pandemic, issued by the Committee on Bioethics of the Council of Europe (2020), which places a fundamental requirement on the judiciary to respect human dignity and protect human rights. In addition,

in the context of a pandemic, the Council of Europe Convention on Human Rights and Biomedicine (Council of Europe, 1997) became relevant as a binding international legal instrument concerning the protection of human rights in the field of biomedicine. It provides a unique framework for the protection of human rights, including those interpreted in the context of crisis and emergency management, to guide decision-making and practice in both the clinical and scientific fields.

It should be noted that, according to European Commission (2020a), well-functioning and fully independent justice systems can have positions that have a significant impact on investment and thus help increase productivity and competitiveness. As is well known, the judicial authorities must also take into account any obstacles that may arise and, on the basis of analysis and evaluation, look for ways to implement new effective interactions between the state and society by protecting their rights.

In the framework of the European Semester, evaluations are conducted for each country through a bilateral dialogue with national judicial authorities and stakeholders. Where the identified shortcomings affect the macroeconomic environment, this may lead the EU Commission to propose to the Council to adopt country-specific recommendations for improving national justice systems (or justice in general) in individual countries.

It should be noted that all domestic and foreign countries provide for the right to a fair trial by the Constitution and other laws. The Constitution of Ukraine (Verkhovna Rada of Ukraine, 1996), Article 55, states that everyone has the right to protection of their rights and interests. The Constitution of France (Conseil Constitutionnel, 2008), which, according to Section XI BIS of Article 71-1, provides everyone with a person (Advocate) who guarantees respect for the rights and freedoms of every citizen by state administrations, local self-government bodies, state institutions and any other bodies. The Constitution of Poland (Sejm Rzeczypospolitej Polskiej, 1997), where Section IX of Article 208 mentions the Commissioner for Human Rights, who is the protector of human, as well as civil rights and freedoms defined by the Constitution and other regulations (Ombudsman), etc.

Despite the large number of seemingly exhaustive legal frameworks governing the protection of the rights and interests of society through the judicial authorities, the level of the expansion and interaction of the state and civil society is not high in many countries. This is natural, on the one hand, because society is constantly changing and needs other methods and approaches to such cooperation between the state and society, and on the other - determines the readiness of states to find new ways to restore and gain the trust of every citizen by protecting their rights.

## **1. Methods and Materials**

The activity of several countries in this field is analysed, they include such countries as: Austria, Belgium, France, Italy, and Poland. These countries regulate the activities of the judicial authorities in completely different ways to expand the methods of interaction with society, which allows a more specific approach to the study of this issue.

However, despite the specific considerations of this study from the perspective of these five countries, the experience of other foreign countries was also comprehensively analysed to assess the interaction between the individual state and society.

So, statistics on the activities of the judicial authorities in the European Union were analysed, summarizing issues that are under discussion and those that are already working in the justice system of the EU Member States. Besides, a comparative analysis of five countries that differ in the level of effectiveness of the judicial authorities in dealing with civil society is made. We determined the effectiveness of such interactions between the judicial authorities and citizens for each of the studied countries based on the factors that contribute to the expansion of aspects of interaction between the state and society.

Particular attention should be paid to methods of expanding the interaction of judicial authorities and society in France. A number of factors were studied that should be taken into account when analysing the need to expand such interaction, which is carried out in accordance with current legislation and analysis of statistics on the activities of the judicial authorities in France in 2020 (United States Department of State, 2020).

This analysis was based on official analytical data, so it fully corresponds to the aspects of expanding the interaction of the state represented by the judicial authorities and civil society in terms of protection of the rights and freedoms of every citizen in general.

The study involved sociological analysis, which contributed to the generalization of international practice of expanding the interaction of state and civil society through the judicial authorities, as well as the analysis of empirical information.

A case study method allowed to determine the effectiveness of the judicial authorities in the protection of human rights and society in general on the basis of particular statistics. The systemic analysis helped to consistently identify possible methods of expanding the interaction between the judicial authorities and civil society upon establishing structural links.

Structural and comparative methods allowed studying the expansion of the interaction between the state and civil society by the judicial authority

in compliance with legislation that protects the rights and freedoms of a citizen or society as a whole.

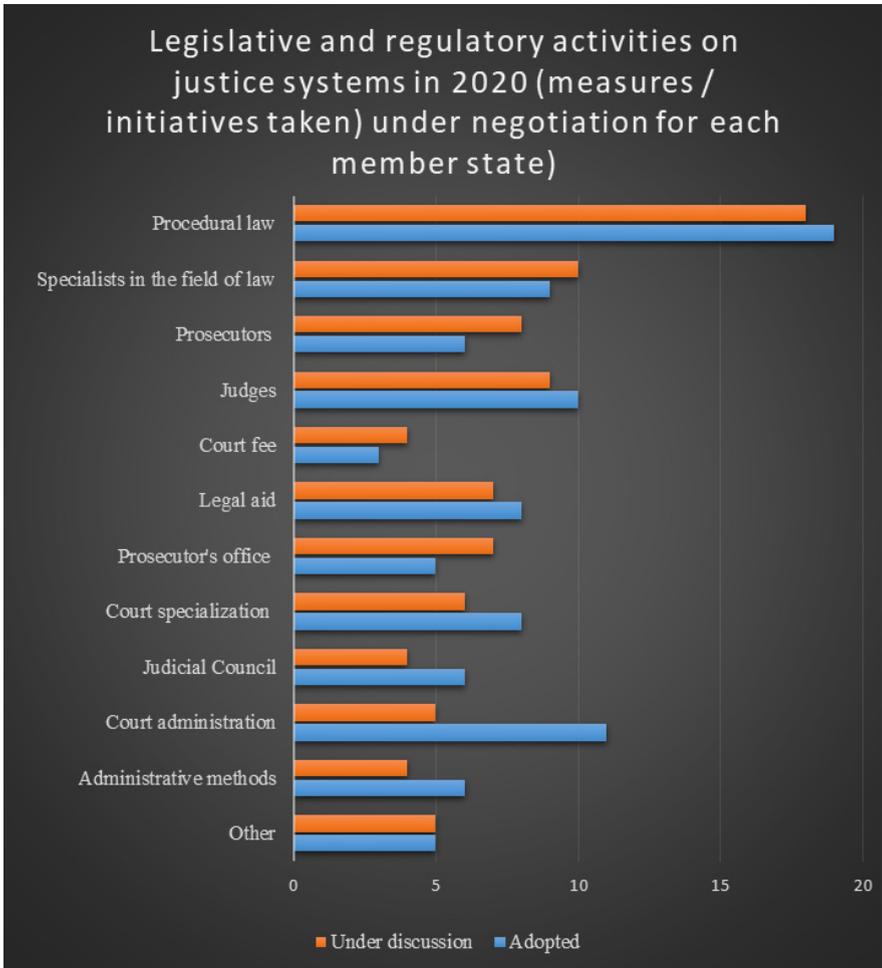
The dialectical method was used in considering the studied problems and determining the main directions of the development of interaction between the state and civil society through the judicial authorities by protecting human rights.

The theoretical background for the study were the scientific works of domestic and foreign scholars, analytical data, statistics on aspects of expanding the interaction between the state and civil society through the judicial authorities by the protection of human rights.

## **2. Results**

Issues arising from the perspective of ways to expand the interaction between the state and civil society are becoming increasingly important. That is why we propose to consider the legislative and regulatory activities of the justice system used by the European Union during 2019-2020, and further assess the effectiveness of the adopted changes in one area or another, and assess the need to implement those changes that are still under discussion.

According to the information collected in collaboration with a group of contact persons on the national justice systems of the 26 Member States, the judiciary needs major reforms today, as it has the lowest position in all EU countries (Figure 1). That is, despite the fact that the procedural law is most fully and comprehensively enshrined in the EU, this process is slowed down at the stage of court proceedings.



**Figure 1: Legislative and regulatory activities on justice systems in 2020 (measures / initiatives taken) under negotiation for each member state). Source: European Commission (2021).**

Thus, in 2020, procedural law continued to be the focus in a large number of Member States with a significant current or planned legislative activity.

There has been increased activity to implement a reform on the status of judges and rules for lawyers. Besides, a number of Member States are

in the process of implementing legislation on the use of information and communication technologies (ICT) in their justice systems.

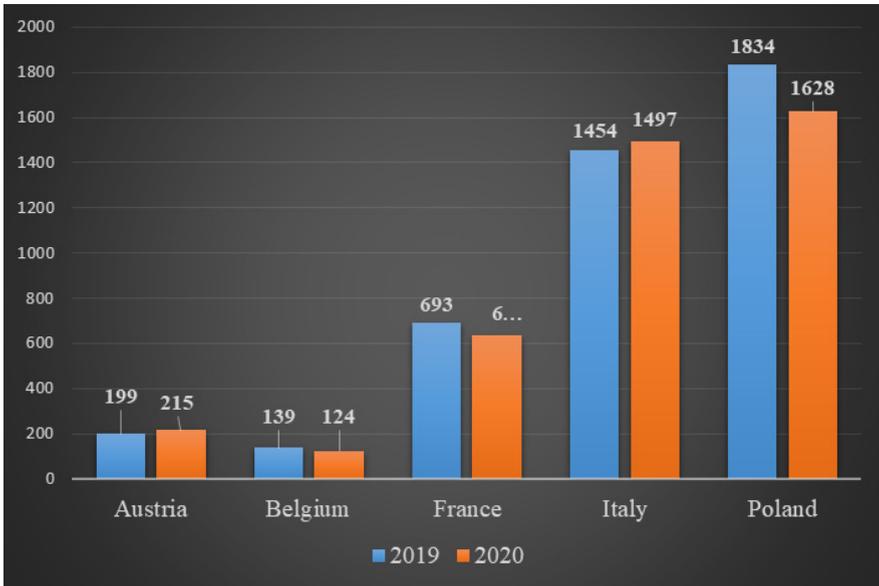
The impetus from previous years for court administration measures continued in 2020. Activities in other areas, such as methods, alternative dispute resolution (ADR) rules for the prosecutor's office or court fees, have slowed down.

Some Member States are already actively using or planning to use artificial intelligence in their justice systems, but this is the case in countries that have quite successful judicial authorities.

This review confirms the observation that judicial reforms take time – sometimes several years – from their announcement to the adoption of legislative and regulatory measures and their actual implementation in the field.

It should be added that the COVID-19 pandemic has created new challenges that have emphasized the importance of accelerating reforms to digitize the justice system. In this context, several Member States have taken new measures to ensure the regular functioning of the courts, ensuring continuous and easy access to justice for all, in particular by adapting procedural rules.

In order to understand the differences between countries and the activities of their judicial bodies from the standpoint of the judiciary, we propose to consider the number of applications that are referred to the judiciary on the example of several foreign countries that differ in the intensity of their filing (Figure 2).



**Figure 2: Dynamics of the number of applications filed to the judiciary during 2019-2020. Source: European Court of Human Rights (2021)**

As we can note, Austria and Belgium are the countries where the judiciary operates effectively, France is neutral among these countries, while Italy and Poland show the highest rates of applications filed to the judicial authorities, indicating the need to enlarge cooperation between the state and society, because the current activities of the judiciary cannot be considered effective. Ukraine is one of the countries that need to improve the judicial branch, the number of applications to the judiciary in 2019 was 3,991, and in 2020 this figure grew to 4,271.

It should also be borne in mind that the indicators should be divided by population distribution, so we propose to consider Table 1 with the indicators of the countries we study, where you can consider the ratio of population to the number of applications.

**Table 1. Indicators of the ratio of population to the number of applications filed to the judicial authorities**

Country	Population as of 01.01.2019 (1000)	Population as of 01.01.2020 (1000)	2019	2020
Austria	8,859	8,901	0.22	0.24
Belgium	11,455	11,550	0.12	0.11
France	67,013	67,099	0.10	0.10
Italy	60,360	60,245	0.24	0.25
Poland	37,973	37,958	0.48	0.43

Source: European Court of Human Rights (2021).

Among the indicators that correlate the number of applications filed to the judicial authorities and the judiciary in general, the best indicators in France and Belgium are worth noting. While Belgium has a small number of applications relative to a small population, France is in a leading position, which, despite a large number of applications relative to a large population, is able to show some of the best performance in the judiciary as a whole.

In general, the French Ministry of Justice is taking a new step in modernizing justice by launching an online referral service on January 4, 2021. For proceedings without coercive representation by a lawyer, a person involved in the case (a person who can be heard or summoned to court) can sue in a dematerialized form available from the justice website, to which they can attach their supporting documents (Maison de Justice et du Droit, 2021). In Ukraine, the Ministry of Justice is also trying to launch digitization processes, as this helps to greatly simplify the work of the judicial authorities.

However, there is currently no single way to measure the quality of justice systems. In 2021, the EU continues to study the factors that are generally considered relevant for better interaction between the state and society. Therefore, we propose to consider them on the example of 5 studied foreign countries in Table 2, where “+” means a high rate, and “-” a low rate.

**Table 2. Factors for better interaction between the state and society**

Factors	Austria	Belgium	France	Italy	Poland
Access to justice for citizens and businesses	+	+	+	+	+

Adequate financial and human resources	+	+	+	+	+
Introduction of evaluation tools	+	+	+	-	-
Digitization	-	-	+	-	-

Source: Author.

Analysing the data shown in Table 2, we can understand why France has the best indicators of justice — this country uses all possible factors that help better interact with the state and society, as a result — the effective operation of the judicial authorities.

It should be added that states need to allocate at least 20% of the budget for the digital transformation, because this is what improves the better interaction of the state with society in the context of quarantine restrictions. Therefore, the proposal for the restoration and resilience of the state provides an opportunity to formulate country-specific recommendations for particular national justice systems, and to accelerate national efforts to complete the digital transformation of the justice system (European Parliament and the Council of the European Union, 2021).

States can benefit from the technical support of the EU Commission, available through the Directorate-General for Structural Reform Support (DG REFORM) under the Technical Support Instrument (TSI) (European Commission, n. d.).

The use of information and communication technologies (ICTs) can strengthen states' justice systems and make them more sophisticated, more efficient, sustainable, and ready to meet current and future challenges.

The COVID-19 pandemic has negatively affected national justice systems and identified a number of issues affecting the functioning of the judiciary. For example, previous editions of the EU Justice Scoreboard have provided comparative data on some aspects of ICT in justice systems. As reported by European Commission (2020b), additional data on digitization in the states were substantially supplemented. This should provide deeper monitoring of progress and unresolved challenges.

It should be added that the Ministry of Justice of Ukraine (n. d./a) positions itself as a body that protects a person, their rights and property, while ensuring the fulfilment of contracts, reducing recidivism and providing free legal protection to a person in a difficult life situation.

To expand the interaction between the state and society by the Ministry of Justice of Ukraine, it is necessary to first determine an effective action plan, as for several years the Ministry of Justice has been creating an

action plan for the medium term, but it includes the same provisions for different periods. For example, the goals of state policy and main tasks of the Ministry of Justice of Ukraine for 2022-2024 (Ministry of Justice of Ukraine, n.d./b) have already been defined, although the action plan of the Ministry of Justice for 2021-2023 (Ministry of Justice of Ukraine, 2020) is still in force, which contains the same goals and objectives. This means that the justice of Ukraine does not carry out its activities effectively, which confirms the need to expand the interaction between the state and society.

For example, the factors we study in Table 2 show that none of the factors is implemented at the appropriate level in Ukraine. That is, although the state is trying to finance adequate financial and human resources but this funding is not enough; assessment tools are not effective, as the situation remains unchanged for several years; the accessibility of justice for citizens needs to be improved, as the system of access to justice cannot be called easily accessible; and digitisation, despite the implementation of certain steps towards such changes, is still not brought to the expected result.

Based on the above, it should be noted that it is necessary to improve the activities of the Ministry of Justice of Ukraine, as it will significantly expand the interaction of the state with society, which will further lead to improved statistics that will satisfy both the interests of the state and each citizen.

### 3. Discussion

Having conducted research in the field of aspects of expanding the interaction between the state and civil society, it should be noted that it is difficult to call it unambiguous. Poland and Italy prefer to adhere to already known methods of human rights protection through the judicial authorities, and some countries consider them ineffective, and as a result seek methods for better organization of the judiciary in a country, for effective protecting the rights of its citizens, thereby raising public confidence in the state, such as France.

We agree that the duty of the state to respect, promote, protect and enforce the rights of citizens takes precedence over the responsibilities of regional or international courts in this matter and is essential, especially when the state knowingly or regularly violates rights (Brander *et al.*, 2020).

It should be noted that such scientists as Hetman and Hetman (2019) carried out an analysis of the judicial authorities of Ukraine and France, where they identified certain similarities and distinctions between Ukraine and France in conducting their activities through the judiciary. Although Ukraine has some similarities with the French judicial authorities, there are many gaps that Ukraine is not yet ready to close. Here, we are mostly

talking about funding and the unpreparedness for full digitalization, which are currently defined as the most effective methods of expanding the interaction of the state with society.

Di Martino and Prilleltensky (2020) concluded in their research on the relationship of EU member states with society that the development of the state should never stop (including the development of the judicial authorities), as it directly affects the satisfaction of citizens. In our research we can see that countries that do not particularly expand the interaction of judicial authorities and society do not have clear positive indicators (we are talking about such countries as Poland, Italy).

Franck (2018), who examined the balance between the EU judicial authorities and its legislative authorities and the changes they use, noted that without the application and extension of new methods for the relationship between the state and society, this is immediately reflected in the statistics that indicate sufficient or insufficient level of development.

Van Elsuwege and Gremmelprez (2020) examined the protection of the rule of law in the legal order of the European Union, where they explicitly stated that the state cannot be separated from society. That is, the state must expand its powers to act for the benefit of its citizens.

The same position is held by Lenaerts (2020), who also emphasizes the new opportunities for the rule of law in the EU, that is focuses on the need to progress the judicial authorities to maximize the protection of civil society.

We fully support Ovádek's (2021) position that the judicial authorities should also use its institutional role to promote European integration. Thus, he defines that justice, which gives limited access to its citizens (rather than full – that is, without the expansion of interaction between state and society) makes it quite difficult to talk about the benefits of such a system. This confirms the fact that the countries that maximize such cooperation have much better statistics, and the citizens of such countries are satisfied with the activities of the state as regards justice.

The analysis of Saurugger and Terpan (2019, 2020) can be considered quite comprehensive. They carried out a comprehensive analysis of the structural and politically-related legal assessment of the activities of the judicial authorities and paid special attention to the transformation of the judicial authorities in order to expand the relationship between the state and society. Besides, they analysed the interaction of individual judicial authorities with society in the context of the crisis in the Eurozone and Covid-19. The study showed that crisis situations create stress for political systems and their management, but the introduction of changes for their expansion is a necessary condition for the effective operation of the judicial authorities in cooperation with society as a whole.

Rieter and Zwaan (2021) generally define the expansion of the state's interaction with society as an urgent prerogative, as they emphasize human rights as a value that the judicial authorities cannot ignore. Therefore, the study focused on the procedure for the activities of the judicial authorities and the need for new innovations for them.

Based on the above research, it should be noted that the expansion of aspects of interaction between the state and civil society through the judicial authorities attracts much attention.

### **Conclusions**

Today, aspects of expanding the interaction of the state with civil society through the judicial authorities in terms of the protection of their rights is undeniably important for each country and society as a whole. That is why the topic of this article attracts the attention of researchers and scholars who are ready not only to theoretically consider this topic, but also to provide their recommendations for improving the interaction between the state and society.

Based on a study of foreign and, above all, European experience, we considered the functioning and activities of the judicial authorities to protect the rights and interests of civil society, including such countries as Australia, Belgium, France, Italy and Poland.

Having made a comprehensive analysis of aspects of expanding cooperation between the judiciary as a representative of the state and civil society on the example of foreign countries, it should be noted that a serious attitude to the expansion of interaction between the state and society, namely the introduction of new aspects of the activities of the judicial authorities, allows carrying out the activities of the judiciary in relation to society much more effectively. As a result, this is directly reflected in the statistics and reports that are compiled to analyse the activities of countries, including the activities of the judicial authorities, which allows us to realistically assess the situation in a particular country in this context.

The obtained results can be used in research, law-making, law enforcement and educational process. For example, research provides a background for further theoretical research to expand the interaction between the state and civil society, which are aimed at improving the system of justice as a means of protection of citizens' rights. It is worth taking into account the results obtained in lawmaking, because the study contains the proposals to improve the interaction of the judicial authorities as representatives of the state for the protection of the rights and interests of civil society. Application in law enforcement will provide an opportunity to

improve the practice of the judicial authorities, increase the effectiveness of the introduction of methods to expand the interaction of state and society. The use of this study in the educational process is equally important, as the results of the study can be used in classes in law and other educational institutions to study subjects that involve the study of justice as a means of protecting the rights of civil society.

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