
Role of Confidence and Supply Chain Strategy during Legitimization of Justice in Countries of Transitional Period

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Abstract— In recent years representatives of various sciences began to pay attention to the problems of legitimacy of power, making them the subject of scientific and political discussions by considering the supply chain strategy. At the same time, geopolitical changes in the world put on the agenda the search for effective ways of transition to democracy, which was the impetus to the development of the concept of "transit society" and its separate direction - "transit justice". Instability, as a characteristic feature of this stage of social development, bring significant attention to the legitimacy of power and its institutions. Indeed, this question largely determines the perspectives for stabilizing society. It becomes relevant in relation to justice and court system that represents it. The legitimization of court acts as a prerequisite for the legitimization of other authorities and democratic processes in the state. In the most widespread definition of institutional confidence is an integral element of legitimacy and supply chain provides the process for its better transparency. In regard to court it implies faith in the fairness of its actions and decisions as well as public recognition of its authority. In this article we studied key questions about the role of confidence in the legitimization of justice in the countries of transitional period. We argued that the level of confidence in justice in society is directly proportional to the level of its civil consciousness. The informational nature of both predetermines the need of using of information methods for building confidence in court as a necessary condition for legitimizing justice in transitional society.

Keywords— *legitimacy of power, transitional justice, transitional society, supply chain strategy, legitimization, justice.*

1. Introduction

The challenge to integrate environmental and social issues into the management of supply chains has grown significantly over the last two decades. The entire history of mankind of the twentieth century is a mosaic consisting of a variety of processes in the path of its evolution. Wars, revolutions, the collapse of totalitarian and authoritarian regimes, democratization of the majority of the continents naturally drew attention to the issue of humanism and human rights. It has become central to the study of politics, economics, law and other spheres. Scientists began paying attention to finding answers to questions about the dependence of condition of human rights on political power in the state, economic stability, social consciousness, historical and cultural values and traditions, as well as other factors. In that way the concept of "transitional society" or "democratic transit" [1], emerged, which include the transformation of post-totalitarian societies, covering all segments of social relations: politics, economy, law, culture, governance, social infrastructure and the spiritual sphere. As an expression of its adoption and its development in the late 1990s, a trend (that was studying justice of transitional period) called "transitional justice", appeared. Its popularity extends both geographically and doctrinally, involving more and more representatives of various sciences (jurisprudence, philosophy, sociology, political science) from different countries. Typically, existing literature studies the issues of the moral and institutional nature of the transitional justice with a different understanding of its content. Some scientists limit the scope of this definition as the courts which operate in the country, while others, in their predominant majority, prefer to

apply it as a variety of national institutional mechanisms of human rights protection and their effectiveness [2-4]. In any of the proposed options as a key issue remains the level and effectiveness of protecting of human rights, in meaning of a certain strategy for the transformation of certain functions of the state and society. And, in the latter case, various initiatives are being developed, such as the International Center for Transitional Justice (ICTJ), which is aimed at increasing access to justice, recovering respect to the rule of law, developing the foundations for reconciliation and preventing conflicts. In the case of a state, the greatest attention is paid to court.

Traditionally, court, as an institution of state power, acts as the primary legal subject of the human rights protection. In developed democracies its legitimacy and independence are not questioned. At the same time, transitional society is characterized by global sociocultural transformations.

Such a period is characterized by a difference in speed of institutional transformations and of changes in norms, values and ways of human behavior. Dissonance of formal and informal norms generates crisis phenomena, which lead to stagnation of development both of democracy and society. That is a crisis of confidence in state bodies, including court system. It is still confidence that defines a classic notion of legitimacy, which implies that society as a whole consider existing political institutions to be the most acceptable, regardless to the opinion of specific people who are empowered at the moment. Confidence is a necessary basic component of such a socio-economic organization as the state, along with the categories of responsibility, tolerance and solidarity. World practice proves that the higher the level of common confidence in society, the more often people are engaged in some activities for free, as well as demonstrate other forms of civil consciousness, thus overcoming the transit condition, proceeding to a qualitatively new level of development [5].

We declare that confidence is the key for legitimizing justice in transitional societies, arguing its value and usefulness. We also make the thesis that the level of confidence in justice in society is directly proportional to the level of its civil consciousness, which predetermines the need for using information methods for its formation and support. Arguing our inferences, we will connect these provisions together by studying in the logical chain of the interconnections of the features of transitional society, transitional justice, legitimacy of the "transit" court and confidence as the necessary tool for resolving the crisis and transformation.

2. Results & Discussions

2.1 Society of Transitional Period

As any phenomenon, Transitional Justice has not arisen from nowhere, although it has become an independent object of research. The origins of this concept are connected with the features of post-totalitarian societies which have the same features, regardless to the overcome political regime, a particular country, or the person who headed it. In the understanding of the UN, there are post-conflict societies or repressed societies that need to restore the rule of law, reconciliation with widespread human rights abuses in the context of an institutional crisis and exhaustive resources, reduced security and the problems of separation among the population [6].

To date, sustainable supply chain management (SSCM) research has largely focused on monitoring as a set of activities employed by firms to account for sustainable operations and performance in their supply chains. "Transit" is an independent phenomenon in a global society, and the period of social development, defined by the framework of a particular state, and the process that means transformation of all spheres of social relations. It can be characterized as the borderline state of society, which acquired certain features of new political regime, not having completely got rid of the institutions and mechanisms of the previous one.

In such societies, public power is in deep crisis, experiencing institutional insolvency. State apparatus operates under conditions of instability, when the "old" is no longer valid, and the "new" is not yet known what will lead to. The state's infrastructure is not capable to get rid of the methods and officials of the repressive regime (the "era of conflict"), feeling the acute need of large-scale systemic reforms, which, in turn, are having the lack of economic, material and human resources.

In "transit" societies, first of all, there is a need to resolve the following issues: 1) the state is obliged to investigate human rights violations with the subsequent prosecution of the perpetrators; 2) the human right to know the truth about past violations and about the fate of people who have disappeared while the previous (repressive) power was; 3) the right to compensation for victims of human rights violations should be implemented; 4) the state is obliged to avoid repeating such human rights violations in the future by means of various mechanisms [7]. All these conditions will subsequently be elements of the content and broad understanding of the category of Transitional Justice. But it is only a legal component, which is not the only one in the characteristics of a society experiencing a "turning point" in the path of

evolution. Its political, economic and social features, which are inextricably interconnected, are important.

In the studies devoted to the concept of "transit", the L.W. Pye approach has become more popular. Thanks to it in the scientific circulation appeared a list of key features of the political process in non-Western countries. In essence, he has formed a model for a certain group of countries in the process of social transformation. This list consists of 17 points, which allow making comparative analysis, and in that way determining the stage of development of society as a transitional one. These include: 1) the separation of the political sphere from social and personal relationships; 2) political parties usually act as representatives of a certain worldview, a certain way of life; 3) the political process is characterized by a presence of a large number of cliques (group); 4) the leaders of political groups are given a very high degree of freedom in choosing both a long-term and a short-term strategy; 5) opposition parties and pretending to power elites often become the initiators of revolutionary actions; 6) lack of integration of the participants in the political process is a consequence of the absence of unified system of communication in society; 7) high speed of recruitment of new politicians; 8) serious differences in political views of different generations; 9) practically no unanimity regarding the legitimacy of goals and means of political action; 10) the process of political decision-making is weakly dependent on the intensity and the scope of political discussions; 11) high interchangeability of political roles; 12) the presence of a relatively small number of organized interest groups with a functionally defined role; 13) leaders seek to achieve popularity in the whole society, not dividing it into groups; 14) the amorphous nature of the political process contributes to the fact that the positions of their leaders on the issues of international relations are more clearly defined than on internal politics; 15) the emotional and expressive aspects of politics often prevail over the process of resolving problems and defining public policy; 16) the dominant type of leadership is charismatic; 17) non-Western political systems function mainly without the participation of political "brokers" (facilitators, clarifying and demarcating the distribution of needs and interests in society for their harmonization and maximizing the degree of satisfaction) [8].

Mentioned political patterns give some chaos features to the transitional period of the development of society. Often, the subjective factor becomes dominant, and state policy is based on political conjuncture and populist slogans.

The loss of the former benchmarks and the uncertainty of the future make us to turn to the experience of developed democracies, appealing to

international standards. In that case, there is a reorientation from the internal needs of society to world practice. On the one hand, it is explained by the natural aspiration of people to live better, on the other - the hope that if "it has already worked somewhere, it will work again". This predetermines the development of many spheres of transitional societies in the way of standardization and unification. In other words, the social, legal, and economic systems of society are modernized by the introduction (transplantation) of institutions from the advanced countries. In the economy, this feature of transitional societies has become a special subject of study, known as transition economy or transitional economy and is widely popular among researchers. Within its framework various temporal strategies for the transformation of the economic system were developed and applied: "shock therapy" [9, 10], (used in Poland, the Czech Republic, Estonia, Latvia and Lithuania) and, in contrast, "gradualism" [11-13], (a staged reform that dominated the Hungary, Southeastern Europe and most of the former Soviet Union). Despite their contrast, the presence of supporters and the opponents, for many analysts, the interconnection between democratization, market, politics, and institutional environment has become evident [14]. The latter has a special meaning, predicting the dependence of the process of transformation on the historical past, on the traditions and culture of society, on its civil consciousness primarily [15].

It is still the civil consciousness that determines in many ways both the methods and the speed of transformation of the transitional society. It expresses a definite spiritual condition of society at such a stage of its development, when democratic norms and values become the fundamental foundations of its activity. Civil consciousness acts as an active factor in social transformations: accelerates social development, the system of self-awareness and support of society, and becomes a mechanism for the self-changing of society, as it is connected with the representation of people that encourage them for active civil action. Civil consciousness is open to nature and is characterized by constant readiness for perception of new ideas. However, new elements are included in its content rather slowly, gradually, only after proving its organicity and vitality for a particular sociopolitical system [16]. The latter peculiarity in the transit society, among other things, is connected with the fact that its characteristic feature is total misconfidence (low level of confidence) to the institutes of power and the policy of the state. Instability, which accompanies this stage of social development, is accompanied by social conflicts, which have resulted mass disappointments and disconfidence of people.

The lack of common confidence is considered to be the one of the main heritages of totalitarian and authoritarian regimes, in which the lack of political openness and pluralism led to fragmentation and "privatization" of society. The inability to believe those who are not members of the inner circle of family and friends, firmly rooted in mass values and attitudes, is often mentioned as the main barrier to the formation of a strong liberal democracy. It is believed that in societies experiencing the transition from undemocratic regimes, it is still the lack of confidence that is one of the most serious obstacles to the consolidation of democracy [17].

2.2 Transitional Justice and Court

The humanistic-legal side of the transformation of the societies of the "transitional" period became the basis of the formation of a theory called "Transitional Justice" [18], which still has a different interpretation of its content. In recent years, this term has began to mean the field of academic research, as well as political practices related to the consequences of conflicts and large-scale violations of human rights. It is considered as a retrospective (investigation of crimes and punishment of guilty people in mass violations of human rights), as well as a perspective (preventing future repetition of the situation) point of view [19].

Despite the huge amount of existing approaches to understanding of Transitional Justice, it is still necessary to note a definite pertinent vision of its main components (discussion of their place and relationship continues). Typically, it's about: 1) investigating offenses during the period of conflict or repression, restoration of truth and justice; 2) prosecution and punishment of those responsible for mass violations of human rights; 3) reparations; 4) institutional reforms as a guarantee that it will not happen again [20, 21].

Nevertheless, the instruments and mechanisms of Transitional Justice are being paid considerable attention. One of them is the effective national system of court protection. Why it is still the court, in our opinion, which is the key (but not the only) study object within the framework of the theory of Transitional Justice? There are several reasons for this.

First of all, it is still court system in a democratic society traditionally which acts as the legal subject of resolving conflicts in a legal way. It is still judicial, and not any other, persecution of officials of the repressive regime, bringing them to justice for crimes committed through the courts, is a necessary element of the transition to democracy. It is a number of features of human psychology as a heart of it. Thus, court trials of criminals of the «past» have an educational effect, demonstrating to the society in what way the rule of law contributes

to the establishment of democracy [22]. Court trials perform a preventive role, warning the representatives of the new government that their actions will not remain impunity. Being a representative of official institution called to restore justice, they are also able to provide in society a sense of justice and moral satisfaction. Sociologists and conflict management experts argue that court trials prevent collective guilt or aggression towards large groups of society (for example, ethnic or religious), represented by the person responsible for crimes against human [23].

The mentioned above applies to both international and national courts. But it is still the national courts that represent the whole dialectic of Transitional Justice.

Representating as an instrument for the restoration of justice, the national court, as the body of the former state power, also has its vices. Judges are considered as officials of the previous regime. In that case, the issue of the independence and transparency of the court, the influence and the possibility of pressure on it by the political elite and its connections with the previous government are having paramount importance. If national courts were involved in the process of human rights violations, as it was in Ukraine during the so-called 2014 Dignity Revolution, the courts become not an instrument but a primary object of institutional reforms, taking the main beat and dissatisfaction of society. Such situation was also in Georgia and Serbia.

In the opinion of the researchers of transitional justice, the more independent and openly the courts can act, the more their influence on changes in society and the functionality of democratic institutions is. The publicity of court trials in the context of "transitional justice" is vital for this process. At the same time, it is still the independence of the judicial power and the rule of law that is perhaps the most complex mechanism for the creation and consolidation of young democracies [24]. The risk is that during the first years after the regime's change, the court as an instrument of transitional justice can be used for legitimizing a new political elite and new political order.

Political conditions of transitional societies, as we have already mentioned, differs by a large number of competing political entities (parties). Intense political competition, according to the Theory of Strategic Pressure by M. Popova, is a barrier to the independence of the judiciary. The bottom line is that in the countries of electoral democracy, which includes the majority of post-communist countries, the political elite has sufficiently significant incentives and advantages in order to maintain the dependence from courts and politics. The arguments are: 1) in the "weak" democracies, the newly elected political elite has a great temptation

to use pressure on the court in order to stay in power in the future. Court system becomes an instrument of political elections, providing the necessary result to the power through the means of its decisions; 2) pressure on the court does not require additional expenses. Political elite can effectively influence on the judiciary power by reducing its funding, canceling the guarantees provided for judges by law, and similar measures; 3) in electoral democracies, political competition produces the effect of "politicization of justice". Courts are increasingly involved into politics, and the results of their activities depend on the priorities of the current government. During the election period, the number of court trials, which may affect the chances of success of politicians in power. The increased attention to the judicial cases which are connected with the re-election, causes the politicization of a much larger number of trials, because in order to cling to power, the "weak" power interferes with others, for example, economic disputes between the entities that may possibly finance the opposition. The more court trials is politicized, the more judges are being pressurized [25].

Thus, there are high risks that the institutional environment of transitional justice will become a prerequisite for establishing a new undemocratic regime or new conflict. Especially, taking into account that the necessary strategic reforms are being developed and implemented by the newly elected power. In other words, the mechanisms of transitional justice can play a catalyst role both towards the development and consolidation of democracy, and in the opposite direction.

In such a situation, the issues of the independence of the court, its ability under conditions of instability to accept fair decisions, which will be fulfilled by all without any exception, have significant importance. In that way citizens will be assured of a fair trial, a conviction in resolving the conflict in a legal way, and thereby confidence in the court as a democratic institution is increasing [26]. The legitimization of the court acts as a prerequisite for the legitimization of other authorities and democratic processes in the state. It will allow the society to stabilize and overcome the condition of "transit".

2.3 Legitimacy of court of transitional justice

During the period of instability and crisis, the problem of legitimizing power becomes particularly relevant. But firstly we should understand what this concept means regarding the court?

It is commonly believed that the theme of the legitimacy of power came from M. Weber, although the problem of correct, good, reasonable,

just and skillful governance was raised even by Plato, and Hegel used "legitimacy" to the state and its ruler, in meaning of recognition by the people and other states. But it is still the works of M. Weber, where the legitimacy of power acquired the kind of concept that provides justification and recognition of the claims of persons claiming domination, authority, the right to exercise power, the leadership of the state, and depends on the factors that ensure the establishment of the subordination of human behavior to such persons. That is, legitimacy acquires meaning close to the concept of "prestige". "That order is legitimate," wrote M. Weber, "which owns a prestige, by virtue of which it dictates unshakable demands and sets an example of behavior [27]." Thus, the sociocultural context appears and is praised, as opposed to the formal-legal interpretation of "legitimacy" (from lat. "legitimus"), which means from Latin legal, legitimate, and in relation to the court means the functioning of the institutionalized system of courts as authorities in accordance with the law an provided by the law.

Legitimacy means that society as a whole considers existing political institutions to be the most acceptable, regardless of the opinion of specific people who are in power at the moment [28]. In that way, the legitimacy of the court provides for such an attitude in society to this institution, in which judicial protection is considered the most acceptable form of solving social conflicts.

We believe that the understanding of the "legitimacy of a court" reflects the condition of development of society, the state, institutions of public authority, fixing the social request existing at a certain stage, formed as a consequence of the lack of certain institutional elements. In the society of transitional period, such is the confidence, as we have already mentioned above. It is still the atmosphere of misconfidence, on the one hand, that acts as a factor that hinder the process of reforming various spheres of social life, and, on the other, a public evaluation of the state's activities. Not for nothing the dichotomy of "confidence - disconfidence", as a systemic characteristic of society, is used as one of the indicators of social instability. That is why while the interpretation of the legitimacy of the trial of the period of transitional justice, the question of public confidence is the key one.

The legitimacy of the trial of the transitional justice period is characterized by a critically low threshold, overcoming which is a very difficult task. Its decision largely depends on the level of courts are able to satisfy the growing demand of society for justice at that time.

Justice in this context acquires several meanings: the justice of judgments (verdicts), justice of punishment, and fairness of judicial procedures. Such an approach is to a certain degree in contact

with the position of Tom R. Tyler, who analyzed them as the source data and compared the two models of the legitimacy: the goal-based model and the relational model. The goal-based model includes the dependence of the court's legitimacy on establishing truth and just punishment. An alternative to it model considers the legitimacy of the court depending on the fairness of court proceedings, arguing that people appreciate using of a fair procedure, because it strengthens their identification with legal institutions and supports their sense of integration and status in society. It leads to high self-esteem and identification of people with the law and law-enforcement bodies [29]. According to a survey conducted by Tom R. Tyler, it is still the procedural justice of the court actions that is the main reason determining the legitimacy of the court.

But the data presented reflect only the "internal" legitimacy of the court, since it is about the perception of court justice by participants in the judicial process. In that case, the court acts as the subject of its legitimization by means of observance and implementation of procedural rules. It can be conditionally described as "natural" legitimacy.

At the same time, the "outer envelope" of the legitimacy of the court necessarily includes public opinion, which serves as an identifier of the crisis. The fact that today public opinion is formed with the help of a variety of technologies gives an opportunity to say about the so-called "artificial" legitimacy of the court as a consequence of certain intellectual, innovative and creative decisions. It is still its mechanisms which are able to solve the crisis of the legitimacy of the court in the period of transitional justice. However, the understanding of this arsenal largely depends on the understanding of nature and sources of social confidence, the level of which is transformed into a corresponding type of mass or individual consciousness: from legal nihilism to legal idealism.

3. Confidence as a condition of the legitimacy of the court of transitional justice

During the transit period the issue of confidence is of particular interest to scientists. It is connected with the instability in society, about which we have already mentioned more than once. And as is well known, instability generates uncertainty and doubts (risks). That is why, as noted by N. Louman, confidence, as a means of reducing uncertainty, becomes a necessary condition of social development [30]. P. Shtompka pointed out that the problem of confidence is expressed in the case of uncertainty and uncontrollability of the future, that is, confidence is necessary when there is no certainty of full control over future events [31]. It is

not surprising that "confidence" became the subject of political, sociological, economic, psychological, legal, philosophical studies, gaining different interpretation [32-34].

Confidence is defined as a positive moral-ethical, emotional and, at the same time, pragmatic valuation by a social subject of a certain object about its reliability and compliance with the expectations of the subject, which is oriented toward action, is an impulse to interaction and characterizes the readiness of the subject to cooperate [35].

But it is still in relation to a court of a transit society the topic of confidence acquires a special meaning, since the destabilization of social relations is based on the traditionally inherent uncertainty of judicial activity. After all, people can not control and be confident in the result of the trial. If, however, they will not believe in the court as an idea, they will not apply to it, using other forms of protection (the worst of which is lynching), calling into question the existence of the court as an instance [36].

According to N. Luman, public confidence in the court means faith in its effective operation: everything follows a certain procedure, there are no significant shortcomings in the work of the system, and small shortcomings are within the limits of acceptable (expected) errors. At the same time, the confidence in the court should mean not the confidence in the actions, reasons and decisions of a person (judge), but the belief in the main idea of the institution of the court - the adoption of a common-binding decision and a social guarantee regarding its implementation. In other words, "instead of trusting the motives of a person, there is a confidence in procedures, methods of work of the institute of justice. Supervision and control of human actions are replaced by supervision over the results of court activities and the mechanism of monitoring its functioning " [37]. The idea of a court in this case is perceived not only as a legitimate body of state power authorized to resolve legal conflicts, but as a natural social regulator, backed up by faith and people's expectations regarding the trial of fair actions and decisions. It is still what encourages people to recognize the power of the court and obey its will, expressed in decisions, which can also imply reasonable coercion.

Confidence, as a category used to refer opened, positive interrelations of subjects based on experience, knowledge and confidence in each other, determines the communicative component of the legitimacy of the court.

Depending on the level of communication, confidence in the institution of the court depends on various factors [38]. According to E. Shurygina, at the micro-level the confidence in the institute of the court depends on the cognitive orientation of

individuals and collectives and the practice of their interaction with the courts; at the meso-level the confidence in the institute of the court depends on the adequate performance of the professional role of judges (legal counseling, law-making process, judicial protection of civil rights), macro level factors (economic organization of society, legal policy and cultural-legal tradition) affect the prestige of the court indirectly, through the creation of an alternative choice of forms of legal aid and changing of the judiciary [39].

Following the proposed theoretical approach, in practice one can speak about the dependence of confidence in the court of transitional justice from an emotional and subjective evaluation:

- at micro-level - the availability of the court (physical, territorial, financial, informational), the conformity of the decision-making methods and their content (fairness of the procedure and court decision) to general ideas of the judiciary;
- at meso-level - the competence of the court, expressed in its ability to satisfy the request for the protection of subjective right and interest;
- at macro-level - the process and results of judicial reform.

The components of all levels are interconnected in such a way that they predetermine the need for systemic transformations aimed at formation and development of confidence of the society to the court of the transit period. It is easy to demonstrate on the example of judicial reform. It is still with its help traditionally attempts to solve the problems of the legitimacy of the judiciary are being made. In certain cases, such as in Ukraine (2014-2016), raising confidence in the courts is proclaimed as the primary aim of judicial reform. So, the ideal model of judicial reform, the purpose of which is directly or indirectly ensuring the legitimacy of the judiciary, should first of all include those measures that will enhance citizens' support and confidence in the courts, using the best methods in a particular country. It may be connected the fight against corruption (Georgia), the cleaning of judicial personnel (Ukraine), the independence of the courts (Moldova, Poland), and so on. At the same time, the level of confidence, which monitoring is obligatory, is an indicator of the efficiency of the reform process [40]. But it is not the only element which is important. It is also necessary that the reforms themselves should be supported by society. The society must be confident that through the proposed by the "top" changes, it will be possible to achieve the aims set and in that way to trust the judicial reform. Public support for judicial reform is a prerequisite for its success. The assertion that changes which do not have a response and support in society are doomed to failure is a priori in sociology [41].

The study of public confidence, as a necessary condition for the legitimacy of the court, involves

identifying and taking into account the nature of the public consciousness, which serves as the context of general expectations and hopes regarding the judiciary, evaluation of its activity and its effectiveness. In other words, the level of confidence in the courts in the society depends on the nature of its civil consciousness, in particular, on what kinds of customs, views on judicial power prevail in society, how active the position of citizens is, whether they are ready and able to combine their rights and freedoms with duties and responsibilities to others and society as a whole.

The civil consciousness of society is genetically connected with its mentality, traditions, as well as the crisis phenomena that accompany the transit period. The destabilization of public life, irresponsible political processes, which entail a polarization of the population, its social and legal insecurity, will inevitably give people a disconfidence in power and law. Increasing public confidence in the court is also impeded by stereotypes of transitional society, including persuasion in conjunctural law enforcement, overall corruption of the judiciary, justification of the repressive nature of law.

Thus, the level of public confidence in the court is directly proportional to the level of social consciousness of society and vice versa. Consequently it follows that, by striving to increase the level of confidence in the judiciary, we influence the qualitative development of social consciousness. At the same time, a high level of civil consciousness, which in a democratic society provides for the primacy of judicial protection, ensures and cements public confidence in the court, which determines the social efficiency of the judiciary.

But civil consciousness and self-identification depend not only on the effectiveness of judicial activity, whose indicators implicit the attitude of citizens to power in general, and the judicial in particular. Deep, ontological meaning of a democratic (civil) society doesn't mean only an effective protection of the legitimate rights and interests of citizens. In a democratic law-governed state, the source of political, including the judiciary power, is the society, the people itself. It is still the people and citizens who act as the consolidating entity of their socio-legal organization [42]. That is why it is important that transit society should develop in the direction of awareness of its significance and role, increasing participation in the processes of social development, including the improvement of institutions of power, in particular, the courts.

The above-mentioned stipulates the message that the court of transitional justice needs public confidence, as well as the society of the transit period, needs to have confidence in the court. In that way, the legitimacy of the court is mutually

necessary condition for the development of these institutions.

In order to influence this process, one must understand what factors of the formation of public confidence in the court of transitional justice are determinants and which methods are optimal in achieving their qualitative indicators.

3.1 Methods of building confidence in the court of transitional justice

The communicative component, due to the nature of confidence, allows us to consider the legitimacy in the context of the information field, which is also coherent and determined by global processes of informatization of society. The same applies to the social consciousness, the modern views on which are given from the standpoint of the information approach. According to it, social consciousness, culture as a whole is an informational phenomenon [43]. That is why its adequate changes are possible only with the help of mechanisms that are informative in nature.

Information influence on social consciousness involves all levels of social and political interaction. A modern person, as a structural unit of any society, is formed and operates under the influence of information flows. Information in the broadest sense is a source that forms views, opinions and knowledge about any phenomenon, including justice. That is why it is natural that informational methods are the most effective methods in controlling human behavior that affect mass consciousness and are used as manipulative technologies. It allows control covertly social consciousness through such means as suggestion, persuasion, manipulation, and the like.

On the type and content of information about judicial activity, its results, which circulate in society, its confidence in the court depends directly. Therefore, the characteristic feature of society of the transit period is the social request for justice. It is very important to actively propagate (in the good sense of the word) judicial activity, creating a positive image of the court. It includes the implementation of information policy in the state aimed at supporting the court and its reputation. It is a system of events and means which are aimed at formation, distribution and using of positive information about the court, judges, possibilities of judicial protection, goals and results of judicial reform, taking into account public expectations.

It is still information policy that can provide an influence on the consciousness, the psyche, the behavior of people in the perspective of forming a sense of confidence in the court with the help of information.

The information policy for building confidence in the court is focused on the mass audience. That is

why its implementation should be carried out by means that are most accessible to the public. This circumstance determines the dominant role of mass media in it. After all, information which is widespread through the media channels influences the population in three directions: 1) gives an opportunity to follow what is happening in the world; 2) distributes the main political issues as important; 3) forms the political preferences of people [44]. In our case, we are talking about the possibility of deliberately shaping and developing the views and ideas that will provide maximum public support to the court in society.

Mass media act as a universal instrument through which power (supreme and / or judicial) can influence the process of perception and assimilation of norms and values in society. It is due to the fact that the media are the main source of information for the majority of the population. Possibility of influencing the unlimited audience and managing it, minimizing the costs of reporting information, and urgent reacting to any event predetermined the active use of the media by policy makers.

Using the media as a means of informing policy of the formation of confidence in the court includes an interaction within the framework of the following structure:

Power → Mass Media → Society

The end result of this process should be the formation of a positive "image" of the court and overcoming the deficit of its reputational capital.

At the same time, monitoring of the broadcast media (Georgia, Moldova, Ukraine) indicates that most of the publications and reports on judicial issues concern the court trial of concrete, more or less resonant cases. Emotional tonality of materials about the activity of courts in most cases is characterized by a negative context. Educational activity regarding the court is significantly inferior at the information field.

As a result of such a rejection of the socialization of an aim, that is, the harmonization and alignment of the policy of building confidence in the court, which is carried out by the authorities, with the interests of society, suffers and the system of state administration, both the court and society. The impossibility of public discussion of the state development strategy, which is an element of it the formation of confidence in the court, deprives both power and court of such qualities as flexibility and adaptability, and, accordingly, and their support from the population.

That is why the implementation of the information policy of building confidence in the court with the help of the mass media in the modern information society requires using of different directions of communication. Among them, we may highlight journalism, public relations (PR) and advertising. Their convergence allows to strengthen the informational influence on the consumer [45-56].

But the potential of Public relations requires special attention. It is its goal to create a public image of the base object and implement its interaction with the external environment [46], which ultimately forms its publicity capital [47, 55].

It is still that sphere of information activity of forming confidence in court is the most actual and in demand, because, quoting its representatives, "Public relations is a managerial function in establishing and supporting mutually beneficial relations between the organization and the public, on whose sentiments and opinions depend the success or failure of the organization" [48]. In addition, PR tends to the creation of informational reasons for notifying the project (judicial activity) by the public through the media, organizing press conferences, interviews, newsletter releases; informs the audience, awakening its interest. This is important from the point of view that during the crisis the organization (the judiciary) must answer to criticism, and not depend on traditionally inherent communication to maintain its legitimacy [49-54].

In our belief, using PR while the formation of confidence in court of transitional justice gives an opportunity: (1) to create a positive image of the court and to ensure the effective propagating of judicial activity; 2) to overcome the threshold of social disconfidence and to correct the social request for judicial reform; 3) to form an effective system of communication between the judiciary and the society; 4) to optimize the process of interaction between the court and the media.

As a result, a competent information policy for building confidence in the court is capable of creating an optimal communicative environment that will contribute to the deliberate positioning of the court in society, propagating democratic values. Due to this, the "artificial" legitimacy of the court of transitional justice becomes quite a possible task, the solution of which is a necessary condition for overcoming the transit phase.

4. Conclusion

In this article we discussed conceptual questions about the role of confidence in the legitimization of justice in countries of transit period by evaluating supply chain process. Based on the experience of previous research in the field of political science, sociology, and psychology, we have tried to prove that confidence is the key to legitimizing justice in transit societies, proving its value and expediency. Proceeding from the point of view that the total lack of confidence (low level of confidence) to the institutions of power is a characteristic feature of the transit society, we have paid attention to the legitimacy of the court. It is still the court's legitimacy that serves as a prerequisite for the legitimization of other authorities and democratic

processes in the state, allowing the society to stabilize and overcome the condition of transit.

The decision of the question of the legitimacy of the court of transitional justice depends largely on the extent to which courts are able to be fair to satisfy the growing demand for a society at that time. The latter includes the fairness of court decisions (verdicts), the fairness of punishment, and the fairness of judicial procedures. It forms the basis of "natural" legitimacy. At the same time, the "artificial" legitimacy of the court includes dependence on public opinion and public consciousness. Investigating this dependence we came to two conclusions. Firstly, the level of confidence in justice in society is directly proportional to the level of its civil consciousness. Secondly, the court of transitional justice needs public confidence, as well as the transit society, needs confidence in the court.

The informational nature of legitimacy and public consciousness predetermines the need of using informational methods for building confidence in the court. Therefore, an important area of future research in this area is the study of the possibilities of PR-technologies as a tool for legitimization of the court in a transit society.

In conclusion, we note that while presenting our ideas and inferences, we are looking forward to a constructive dialogue that will allow us to find effective ways of overcoming the crisis of confidence in the court and the legitimacy of justice of a transit society, which is a prerequisite for its democratic development.

References

- [1] It is believed that its founder is the American political scientist Danquart Rastou, who was the first in 1970 in his work "Transitions to Democracy" to offer his own model of the transition from one political regime to another (Rastou D. A. *Transitions to Democracy: an attempt of a dynamic model*, Polis, 1996, No. 5, P. 5–15)
- [2] Kritz, Neil. *Transitional Justice: How Emerging Democracies Reckon with Former Regimes*. Washington, D.C.: United States Institute for Peace. 2004.
- [3] Kritz, Neil. *Policy Implications of Empirical Research on Transitional Justice*. In *Assessing the Impact of Transitional Justice: Challenges for Empirical Research*, ed. Hugo van der Merwe, Vict. 2009.
- [4] Mihr, Anja, *Transitional Justice and the Quality of Democracy*. *International Journal of Conflict and Violence*: Vol. 7 (2) 2013, P. 298–313.

- [5] Putnam, Robert D. Bowling Alone: America's Declining Social Capital. *Journal of Democracy*, Vol. 6 (1) 1995, P. 65-78.
- [6] Guidance Note of the Secretary-General. United Nations Approach to Transitional Justice. March 2010.
https://www.un.org/ruleoflaw/files/TJ_Guidance_Note_March_2010FINAL.pdf
- [7] Transitional justice and economic, social and cultural rights. New York and Geneva, 2014. 59 p.
- [8] Lucian W. Pye. The Non-Western Political Process. *The Journal of Politics*. Vol. 20, No. 3. Aug. 1958. P. 468-486.
- [9] Fischer, Stanley, and Alan Gelb. The Process of Socialist Economic Transformation. *Journal of Economic Perspectives*. Vol. 5 (4) 1991, P. 91–105;
- [10] Lipton, David, and Jeffrey D. Sachs. Creating a Market in Eastern Europe: The Case of Poland. *Brookings Papers on Economic Activity*, Vol. 20 (1) 1990, P. 75–147.
- [11] Murrell, Peter. Evolutionary and Radical Approaches to Economic Reform. *Economics of Planning*. Vol. 25, 1992. P. 79–95.
- [12] Roland, Gérard. *Transition and Economics: Politics, Markets, and Firms*. Cambridge: MIT Press, 2000.
- [13] Stiglitz J.E. Capital Market Liberalization, Economic Growth, and Instability. *World Development*, Vol. 28, N.6, 2000. P.1075–1086.
- [14] Polterovich V.M. Elements of Reform Theory. M.: "Economics", 2007
- [15] C. North, *Institutions, Institutional Change and Economic Performance*. Cambridge University Press. 1990.
- [16] Nikovskaya L.I. Civil society and civic consciousness (value-motivational aspect). *Bulletin of the Institute of Sociology*. 2015. No. 12. C. 140–155.
- [17] Christian W. Haerpfer, Patrick Bernhagen, Ronald F. Inglehart, Christian Welzel, *Democratization*. Oxford University Press. 2009.
- [18] It is believed that this term was introduced by Neil J. Kritz, having published his famous book "Transitional Justice: How Emerging Democracy Reckon with Former Regimes". United States Institute of Peace Press, 1995.
- [19] Eric Posner, Adrian Vermeule, *Transitional Justice as Ordinary Justice*, *Harvard Law Review*. Vol.117, 2003. P. 762–825.
- [20] Bell C. Transitional Justice, Interdisciplinarity and the State of the «Field» or «Non-Field». *International Journal of Transitional Justice*. 2009. Vol. 3 (1). P. 5–27;
- [21] Cassel D. The Inter-American Court of Human Rights, in *Victims Unsilenced: The Inter-American Human Rights System and Transitional Justice in Latin America*. Due Process of Law Foundation, 2007. P. 151–167.
- [22] Anja Mihr, *Transitional Justice and the Quality of Democracy*. *International Journal of Conflict and Violence*. Vol. 7 (2) 2013. P. 298–313.
- [23] Sadaf J. Khan, *Transitional Justice: how a Lack of Legitimacy is Hindering Democratization*. 2014. URL: <https://jscholarship.library.jhu.edu/bitstream/handle/1774.2/37323/KHAN-THESIS-2014.pdf>
- [24] Anja Mihr, *Transitional Justice and the Quality of Democracy*. *International Journal of Conflict and Violence*. Vol. 7 (2) 2013. P.298–313.
- [25] Popova M, *Political Competition as an Obstacle to Judicial Independence: Evidence from Russia and Ukraine*. *Comparative Political Studies*. № 43 (10) 2010. P. 1202–1229.
- [26] Moskvych L. Legal instruments for improving the authority of the court. *ScienceRise: Juridical Science*. Vol. 1 (3) 2018. P. 17-24.
- [27] Weber M. Basic sociological concepts. *Selected Works: Trans. from germ. comp. ed. and afterword by Yu.N. Davydov; foreword by P. P. Gaidenko. M. : Progress*, 1990.
- [28] Lipset S. Reflections on legitimacy. *Apology*. 2005. № 5. URL: http://www.journalapologia.ru/rnews.html?id=31&id_issue=81
- [29] Tyler, Tom R. How do the Courts create popular Legitimacy?: the Role of Establishing the Truth, Punishing Justly, and/or acting Through Just Procedures. *Faculty Scholarship Series*. 2014. P.1095–1137. URL: https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=5984&context=fss_papers
- [30] Luhmann N. *Vertrauen: ein Mechanismus der Reduktion sozialer Komplexitat*. 5 Auflage, Lucius und Lucius. 2000.
- [31] Sztompka, P. *Trust: A sociological theory*. Cambridge: Cambridge University Press. 1999.
- [32] Castaldo S. *Trust Variety: Conceptual Nature, Dimensions and Typologies*. 2003. URL: <https://www.impgroup.org/uploads/papers/4317.pdf>
- [33] Lagenspetz O. *Legitimacy and Trust. Philosophical Investigations*. Vol. 15 (1) 1992. P. 1–21.
- [34] Jackson J., Gau J. M. Carving up concepts? Differentiating between trust and legitimacy in

- public attitudes towards legal authority. *Interdisciplinary perspectives on trust*. Springer, Cham, 2016. P. 49–69.
- [35] A society without trust / Ed. by E. Golovakha, N. Kostenko, S. Makeeva. K. : Institute of Sociology, National Academy of Sciences of Ukraine, 2014.
- [36] Khotynska-Nor O. The phenomenon of trust and legitimacy of the judiciary. Actual problems of judicial law: materials of the international scientific-practical conference (Kharkiv, 23 Apr. 2018). 2018. P. 156-158.
- [37] Lepsius R. Vertrauen zu Institutionen' Differenz und Integration Die Zukunft moderner Gesellschaften: 28 Kongreß der Deutschen Gesellschaft für Soziologie. Campus Verl. 1996.
- [38] Khotynska-Nor O. Legitimacy as a form of communication of the judicial system with civil society. *Civil and criminal justice magazine*. 2016. № 3. P. 120–129.
- [39] Shurygina, E. G. Changing the Socio-Cultural Status of the Institute of Court in Modern Russian Society: Communicative Components of Legitimation: author. dis. ... Cand. soc. sciences. Rostov-on-Don. 2009
- [40] Moskvich L. The world practices and the perspectives of introduction of the system of effectiveness assessment of the court performance in Ukraine. *Studies of Changing Societies: Comparative and Interdisciplinary Focus*. Vol. 3'(7)2013. P.24-52.
- [41] Osipov G.V. Sociology and social mythmaking. M. : Publishing house Norma, 2002
- [42] Roslov, S.A., Role of Legal Consciousness in the Formation of a Civil Society in Russia: abst. dis. ... cand. soc. sciences. Saratov, 2005. p. 16.
- [43] Roslov, S.A., Role of Legal Consciousness in the Formation of a Civil Society in Russia: abst. dis. ... cand. soc. sciences. Saratov, 2005. p. 19.
- [44] Norris P., Curtice J., Sanders D., Scammell M., Semetko H. *On Message: Communicating the Campaign*. London: Sage, 1999.
- [45] Lobodenko L. K. Interaction of journalism, advertising and PR in the media: monograph. Chelyabinsk, Cicero, 2015.
- [46] Wæraas A. *On Weber: Legitimacy and Legitimation in Public Relations. Public relations and social theory. Key figures and concepts.*, Edition: 2, Publisher: Routledge, Editors: Øyvind Ihlen, Magnus Fredriksson, 2018.
- [47] Burova Yu. E. Informational resources of the authorities as tools for translating its image. Humanitarian vector. Series: History, political science. 2013. No. 3. P. 135–139.
- [48] Public relations: Theory and practice: Trans. from English / Cutlip, Scott M., Center, Allen H., Broome, Glen M. ; [Ed. by Ya. V. Zablotsky]. 8th ed. SPb. ; TO.; M. : Izd. Williams House, 2000.
- [49] Hearit K. Michael. "Mistakes were made": Organizations, apologia, and crises of social legitimacy. 1995.
- [50] Luo, C., Li, M., Peng, P., & Fan, S. (2018). How Does Internet Finance Influence the Interest Rate? Evidence from Chinese Financial Markets. *Dutch Journal of Finance and Management*, 2(1), 01.
- [51] Chemetova, S. R., Santos, P., & Ventim-Neves, M. (2017). Short Term Load Forecasting in Smart Grids: Case Study of the City of Évora. *Journal of Information Systems Engineering & Management*, 2(3), 18. <https://doi.org/10.20897/jisem.201718>
- [52] Mohammadi, D., & Jamali, A. (2017). The Determinants of Forward-Looking Information Disclosure in Tehran Stock Exchange. *UCT Journal of Management and Accounting Studies*, 5(3), 25-31.
- [53] Rincon-Flores, E. G., Gallardo, K., & Fuente, J. M. D. L. (2018). Strengthening an Educational Innovation Strategy: Processes to Improve Gamification in Calculus Course through Performance Assessment and Meta-evaluation. *International Electronic Journal of Mathematics Education*, 13(1), 1-11. <https://doi.org/10.12973/iejme/2692>
- [54] Lee, C. L., Sidek, R. M., Sulaiman, N., & Rokhani, F. Z. (2019). A low quiescent current low dropout voltage regulator with self-compensation. *Bulletin of Electrical Engineering and Informatics*, 8(1), 65-73.
- [55] Najibah S. Policies and Administrative Problems Related to Divorce Women Regarding to their Financial Activities. *Journal of Humanities Insights*. 2017;01(02):99-106.
- [56] Mazaheri S, Basiri Z. Objections with Temporary Impediment Effect in International Commercial Arbitration. *Journal of Humanities Insights*. 2018;02(02):76-88.