

# EUROPEAN STANDARDS OF ACCESS TO JUSTICE AND THE PRACTICE OF THE ECHR IN REGULATING CIVIL PROCEDURAL PARTICIPATION: A COMPARATIVE LEGAL DIMENSION

## *NORMAS EUROPEIAS DE ACESSO À JUSTIÇA E A PRÁTICA DO TEDH NA REGULAMENTAÇÃO DA PARTICIPAÇÃO NO PROCESSO CIVIL: UMA PERSPECTIVA JURÍDICA COMPARATIVA*

Article received on: 1/23/2026

Article accepted on: 4/24/2026

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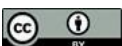
The authors declare that there is no conflict of interest

### **Abstract**

The article provides a comprehensive study of European standards of access to justice and the case law of the European Court of Human Rights in regulating civil procedural joinder from a comparative legal perspective. It is substantiated that the right of access to justice in contemporary European law constitutes an integral element of the broader right to a fair trial and encompasses not only the formal possibility of bringing a claim before a court, but also the effectiveness, practicality, and enforceability of judicial protection. It is established that the case law of the ECtHR plays a decisive role in shaping the content of this right by developing criteria for the admissibility of procedural limitations, as well as standards of equality of arms, legal certainty, proportionality, and effectiveness of judicial proceedings. The study demonstrates that civil procedural joinder cannot be regarded as a neutral technical mechanism, as it directly affects the realization of the right to a fair trial by balancing procedural economy with the protection of individual rights of the parties involved. It is argued that the admissibility of joinder should be assessed in light of key principles, including equality of arms, reasonable

### **Resumo**

*O artigo apresenta um estudo abrangente das normas europeias de acesso à justiça e da jurisprudência do Tribunal Europeu dos Direitos Humanos no que diz respeito à regulamentação da litispendência processual civil, sob uma perspectiva jurídica comparativa. Demonstra-se que o direito de acesso à justiça no direito europeu contemporâneo constitui um elemento integrante do direito mais amplo a um julgamento justo e abrange não apenas a possibilidade formal de apresentar uma ação perante um tribunal, mas também a eficácia, a viabilidade e a exequibilidade da proteção judicial. Fica estabelecido que a jurisprudência do TEDH desempenha um papel decisivo na definição do conteúdo desse direito, ao desenvolver critérios para a admissibilidade de limitações processuais, bem como normas de igualdade de armas, segurança jurídica, proporcionalidade e eficácia dos processos judiciais. O estudo demonstra que a litispendência processual civil não pode ser considerada um mecanismo técnico neutro, uma vez que afeta diretamente a concretização do direito a um julgamento justo, equilibrando a economia processual com a proteção dos direitos individuais das partes envolvidas.*



time of proceedings, individualization of procedural status of co-participants, and avoidance of excessive formalism. Within the framework of comparative legal analysis, the article examines the regulation of joinder in various European legal systems, identifying common trends and national specificities. It is concluded that the harmonization of national civil procedural legislation with ECtHR standards should not be reduced to formal unification but must be based on the functional alignment of procedural mechanisms with the requirements of fair trial. Particular attention is paid to the need to refine the criteria for admissibility of joinder, strengthen the active role of the court in managing multi-party proceedings, and ensure effective guarantees of individual procedural protection.

**Keywords:** Access to Justice. Fair Trial. European Court of Human Rights. Civil Procedural Joinder. Equality of Arms. Comparative Legal Analysis. Civil Procedure.

*Argumenta-se que a admissibilidade da litispendência deve ser avaliada à luz de princípios fundamentais, incluindo a igualdade de armas, o prazo razoável dos processos, a individualização do status processual dos co-participantes e a prevenção do formalismo excessivo. No âmbito da análise jurídica comparativa, o artigo examina a regulamentação da junção de processos em vários sistemas jurídicos europeus, identificando tendências comuns e especificidades nacionais. Conclui-se que a harmonização da legislação processual civil nacional com os padrões do TEDH não deve se reduzir a uma unificação formal, mas deve basear-se no alinhamento funcional dos mecanismos processuais com os requisitos de um julgamento justo. É dada especial atenção à necessidade de aperfeiçoar os critérios de admissibilidade da litis juncta, fortalecer o papel ativo do tribunal na gestão de processos com múltiplas partes e assegurar garantias efetivas de proteção processual individual.*

**Palavras-chave:** Acesso à Justiça. Julgamento Justo. Tribunal Europeu dos Direitos Humanos. Litis Juncta no Processo Civil. Igualdade de Armas. Análise Jurídica Comparativa. Processo Civil.

## 1 INTRODUCTION

In modern European legal discourse, the right to access to justice is considered one of the basic elements of the guarantee of a fair trial, and therefore as a necessary prerequisite for the effective protection of civil rights and interests of an individual. This is of particular importance in the context of the increasing influence of the practice of the European Court of Human Rights (hereinafter referred to as the ECHR) on the national procedural systems of the states parties to the Convention for the Protection of Human Rights and Fundamental Freedoms. It is the practice of the ECHR that has given the right of access to court an independent content, revealing it as the right not only to a formal appeal to the court, but also to real, effective and efficient judicial protection (Tsvina, 2020). In this sense, European standards of justice have gradually become an important reference point for assessing national models of civil procedure, in particular those

institutions that directly affect the accessibility, efficiency and fairness of the trial.

One such institution is civil procedural co-operation, which combines the potential for procedural economy, avoiding multiple disputes and ensuring consistency of court decisions, but at the same time may create risks for the individual protection of the rights of the participants in the process. Despite the fact that the Convention does not directly regulate the issue of co-operation, its admissibility, limits and procedural consequences must be assessed through the prism of Article 6 of the Convention, in particular the principles of equality of arms, adversarial proceedings, legal certainty, proportionality and reasonable time for consideration of the case (*Dombo Beheer B.V. v. the Netherlands*: ECHR Decision, 1993; *Bellet v. France*: ECHR Decision, 1995; *Brumărescu v. Romania*: ECHR Decision, 1999). In our opinion, it is the institution of co-operation that particularly clearly demonstrates that even purely procedural structures are not neutral: they directly determine the real scope of access to justice and the quality of judicial protection in civil cases.

The relevance of the chosen topic is also due to the need to understand the relationship between national models of regulation of complicity and supranational standards formed in the practice of the ECHR. For Ukraine, this issue has not only theoretical, but also a clear applied significance, since the reform of civil procedural legislation is taking place in the context of European integration and the need to implement international standards of justice in the domestic legal order (Atamanchuk, 2019).

The purpose of this article is a comprehensive study of European standards of access to justice and the practice of the ECHR in the context of the regulation of civil procedural complicity, as well as identifying the main areas of harmonization of national civil procedural legislation with relevant European approaches. The scientific novelty of the study lies in an attempt to combine the doctrinal analysis of the right to access to justice, the functional understanding of complicity and the comparative legal study of national models of its regulation in the unified logic of the convention standard of a fair trial.

## 2 LITERATURE REVIEW

Modern scientific literature demonstrates a constant interest in the issue of access to justice as a key element of the right to a fair trial in the European legal space. A significant contribution to the development of this topic was made by both Ukrainian and foreign researchers who consider access to justice through the prism of the effectiveness of judicial protection, the principle of the rule of law and the practice of the European Court of Human Rights. Foreign doctrine emphasizes the transformation of the Convention for the Protection of Human Rights and Fundamental Freedoms into a “living instrument” that develops through judicial interpretation, in particular in the context of ensuring the reality of rights, rather than their declarative nature. At the same time, studies emphasize that access to justice includes a set of interrelated elements: the possibility of applying to court, due process of case consideration, compliance with reasonable deadlines and the execution of court decisions.

The issue of civil procedural complicity in the light of the practice of the ECHR remains less studied, but is gradually gaining relevance in connection with the development of approaches to ensuring the efficiency of judicial proceedings and equality of the parties. Scientific works draw attention to the fact that complicity has a dual nature: on the one hand, it contributes to procedural economy and consistency of judicial decisions, on the other hand, it can create risks for the individual protection of the rights of the participants in the process. Comparative legal studies indicate the existence of different models of regulation of this institution in European legal systems, which necessitates its assessment through universal standards of a fair trial. In this context, the integration of the practice of the ECHR into national legal systems is of particular importance, which contributes to the formation of more balanced and effective procedural mechanisms.

## 3 METHODOLOGY

The methodological basis of the study is a set of general scientific and special legal methods of cognition, the use of which is due to the interdisciplinary nature of the issues raised. The dialectical method made it possible to consider the right to access to

justice and civil procedural participation in the dynamics of their development, taking into account the transformation of the content of these categories under the influence of the practice of the ECHR. The formal-legal method was applied to analyze the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms, the national civil procedural legislation of individual European states, and doctrinal approaches to determining the content of participation. Using the system-structural method, the relationship between access to justice, the right to a fair trial, the principles of equality of parties, adversarial nature, legal certainty, and procedural efficiency as elements of a single mechanism of conventional protection was investigated (Tsuvin, 2020; Tkalia, 2025). The comparative law method was of key importance in the study, which allowed us to compare the features of the regulation of participation in the legal systems of European states and identify common trends and differences in approaches to its normative consolidation and practical application. The hermeneutic method was used to interpret the legal positions of the ECHR in cases concerning access to court, the effectiveness of judicial protection, equality of arms, procedural formalism and the enforcement of court decisions, in particular in the decisions of *Golder v. the United Kingdom*, *Airey v. Ireland*, *Dombo Beheer B.V. v. the Netherlands*, *Bellet v. France*, *Hornsby v. Greece* and others. In addition, elements of critical analysis were used to assess the degree of compliance of national procedural mechanisms of complicity with European standards of justice and to formulate proposals for further harmonization of the civil procedural legislation of Ukraine with the practice of the ECHR (*Golder v. the United Kingdom*: ECHR Decision, 1975; *Airey v. Ireland*: ECHR Decision, 1979; *Dombo Beheer B.V. v. the Netherlands*: ECHR Decision, 1993; *Bellet v. France*: ECHR Decision, 1995; *Hornsby v. Greece*: ECHR Decision, 1997).

## **4 RESULTS AND DISCUSSION**

### **4.1 Theoretical and legal principles of access to justice in European law: the content of the Council of Europe standards and their interpretation in the practice of the ECHR**

The right to access to justice in the European legal space is a fundamental element

of the broader guarantee of the right to a fair trial, enshrined in Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms. At the same time, the specificity of this right lies in its “derived” nature: it is not directly formulated in the text of the Convention, but is formed through the evolutionary interpretation of the practice of the ECHR. Such a construction testifies to the special nature of European standards, which are not static norms, but develop in the process of judicial interpretation.

In scientific literature, the right to access to justice is increasingly interpreted as an integral component of the right to a fair trial, which encompasses not only the formal possibility of applying to a court, but also ensuring effective consideration of the case and the actual execution of a court decision. In this context, the key criterion is the practical and effective implementation of judicial protection, which reflects the modern concept of “effective rights” in European law (Keller, & Stone Sweet: ECHR Decision, 2008, p. 689). In our view, it is this “effective” dimension of access to justice that allows us to distinguish it from the formal procedural right to file a claim, which is essential for the assessment of national legal systems.

The conceptual basis of the right to access to justice is the principle of the rule of law, which the ECtHR considers as a prerequisite for the existence of any judicial protection. In the decision in the case of *Golder v. United Kingdom*, the Court emphasized that the right to access to a court is an integral element of the rule of law, without which the effective resolution of civil disputes is impossible. In this context, access to justice becomes not only a procedural guarantee, but also an institutional characteristic of a democratic system (*Golder v. the United Kingdom*: ECHR Decision, 1975). In fact, it is through this interpretation that the ECHR transforms individual procedural guarantees into systemic standards of justice.

International legal acts of a universal level form the basic guidelines for access to justice. Thus, the Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights (1966) establish requirements for publicity, independence of the court and equality of parties, which are key components of a fair trial. At the same time, the Convention supplements these elements with the criterion of a “reasonable time”, which gives the standard a temporal dimension.

The right to a fair trial in modern doctrine is considered a universal guarantee that ensures the implementation of other human rights. In this sense, access to justice serves

as the primary mechanism for protecting rights, without which other guarantees remain declarative (Tkalya, 2025, p. 67). I believe that such an interpretation is quite justified, since it is through access to court that the transformation of a subjective right into a legally protected interest occurs.

The practice of the ECHR develops the concept of “effectiveness of rights”, according to which the guarantees of the Convention must be real, not illusory. This means that states are obliged to eliminate any barriers that impede the implementation of the right to access to court. In our opinion, it is this idea of effectiveness that is key to understanding European standards, because it transforms the formal-legal approach into a functional one.

In the scientific literature, various groups of obstacles to the implementation of the right to access to justice are distinguished: jurisdictional, procedural, financial and subjective. They can significantly limit a person’s ability to access justice or obtain effective protection (Tsvina, 2020, p. 60). At the same time, it should be noted that not all restrictions are a violation of the law: the crucial issue is their proportionality.

The principle of proportionality is the central tool for assessing the admissibility of restrictions on access to court in the practice of the ECHR. The court checks whether the restriction is provided for by law, pursues a legitimate aim and is proportionate. In fact, this approach allows for a balance between the interests of the state and the rights of the individual, which is a characteristic feature of the European legal tradition.

In the context of Ukraine's European integration, the implementation of standards for access to justice in national legislation is of particular importance. The reform of civil procedural law is taking place taking into account the principles of legal certainty and a fair trial, enshrined in EU law and the practice of international judicial bodies. We believe that this process is not only adaptive, but also transformative in nature.

At the same time, the doctrine maintains a debate on the correlation between the concepts of “principles” and “standards” of civil justice. Some scholars consider standards as a specification of principles, others as independent normative guidelines (Atamanchuk, 2019, p. 110). It seems that it is appropriate to consider standards as a dynamic form of implementation of principles, which acquires specific content through judicial practice.

The practice of the ECHR plays a decisive role in specifying the content of standards of access to justice. It is through precedent decisions that the Court forms

criteria for effectiveness, admissibility of restrictions and the substantive content of this right (Gura, 2019, p. 163). This strengthens the importance of judicial practice as a source of law.

Access to justice is also closely related to other elements of the right to a fair trial, in particular the principles of adversarial proceedings, equality of parties and the validity of court decisions. It is a prerequisite for their implementation, which emphasizes its system-forming role. In this aspect, it can be argued that access to justice is the “entry point” to the entire system of procedural guarantees.

Finally, in modern legal discourse, access to justice is considered as an indicator of the effectiveness of the judicial system and the level of respect for human rights. Its provision implies not only the formal compliance of legislation with international standards, but also the real functioning of judicial protection mechanisms, including the execution of court decisions (Ryzhenko and Bogush, 2025, p. 115). Therefore, it is the stage of execution of decisions that is the weakest link in ensuring access to justice, which requires further research and reforms.

#### **4.2 Civil procedural participation in the light of the practice of the ECHR: criteria of admissibility, principles of efficiency and equality of parties**

Civil procedural participation as an institution of procedural law acquires a new substantive content in the light of European standards of access to justice and the practice of the ECHR. Despite the absence of direct normative regulation of this institution in the text of the Convention for the Protection of Human Rights and Fundamental Freedoms, its assessment is carried out through the prism of Article 6 of the Convention, which guarantees the right to a fair trial. Thus, co-participation is considered as a procedural tool that must meet the general standards of fairness, efficiency and equality of the parties (Golder v. the United Kingdom: ECHR Decision, 1975).

In the classical sense, civil procedural co-participation means the participation of several claimants or defendants within the framework of one proceeding, which is determined by the commonality of the subject matter of the dispute or the legal basis of the claims. At the same time, in the light of the practice of the ECHR, the key is not the formal criterion of such commonality, but the impact of co-participation on ensuring

procedural guarantees. In my opinion, it is the functional approach that allows us to assess this institution from the standpoint of modern European legal understanding.

One of the basic criteria for the admissibility of co-participation is compliance with the principle of equality of arms, which requires ensuring that each party has a reasonable opportunity to present its position under conditions that do not put it at a disadvantage (*Dombo Beheer B.V. v. the Netherlands*: ECHR Decision, 1993). In the context of complicity, this means that the participation of several persons should not lead to the procedural dominance of one party.

In this regard, courts should take into account possible procedural asymmetries between co-participants, in particular differences in the amount of evidentiary power, access to legal aid or procedural experience. In fact, underestimating these factors may lead to an imbalance of power between the parties, which the ECtHR has considered a violation of the right to a fair trial.

Another important criterion is ensuring a reasonable time for the consideration of the case. An excessive number of co-participants or the complexity of their procedural interaction can significantly delay the proceedings. The ECtHR has repeatedly emphasized that the organization of the trial should contribute to its efficiency and effectiveness (*H. v. France*: ECHR Decision, 1989). This poses the task of balancing the procedural economy and the complexity of the case for the courts.

The principle of the effectiveness of justice provides that procedural instruments, including co-participation, should contribute to achieving a fair result. In the case of *Airey v. Ireland*, the ECtHR emphasized that the rights guaranteed by the Convention must be practical and effective (*Airey v. Ireland*: ECHR Decision, 1979). In the context of co-participation, this means that its application is justified only when it actually facilitates the protection of rights, and not complicates it.

In our opinion, it is efficiency that should be the key criterion for assessing the appropriateness of co-participation. For example, the consolidation of claims can help avoid contradictory decisions and ensure the unity of judicial practice, but at the same time it should not complicate the individual protection of rights.

Particular attention should be paid to the individualization of the procedural status of each co-participant. The ECtHR proceeds from the fact that even in complex multi-subject proceedings, each person should have the opportunity to be heard by the court

(*Krčmář and Others v. the Czech Republic*: ECHR Decision, 2000). This means that the collective nature of the process cannot nullify individual procedural guarantees.

The issue of representation of co-participants is also problematic. Joint representation can lead to a conflict of interests, especially when the positions of the co-participants are not completely identical. In such cases, ensuring real equality of the parties requires special attention from the court. We believe that this is one of the most underestimated aspects of procedural participation.

The ECtHR has adopted the approach that procedural rules should not create excessive barriers to access to court. In *Bellet v. France*, the Court noted that formalism cannot deprive a person of a real opportunity to apply to court (*Bellet v. France*: ECHR Decision, 1995). This provision is particularly relevant in the context of mandatory participation, which may limit the procedural autonomy of the person.

The principle of legal certainty is also of great importance for the regulation of participation. The ECtHR emphasizes that legal norms must be sufficiently clear and predictable in their application (*Brumărescu v. Romania*: ECHR Decision, 1999). The lack of clear criteria for participation can lead to different judicial practices, which undermines confidence in justice.

From a comparative legal perspective, it is worth noting that different European legal systems approach the regulation of participation differently, but they all aim to ensure a balance between efficiency and fairness. This confirms that the ECHR standards are framework in nature and allow for variability in their implementation.

Separate attention should be paid to the stage of execution of court decisions. In the case of *Hornsby v. Greece*, the ECHR emphasized that the execution of a decision is an integral part of the right to a fair trial (*Hornsby v. Greece*: ECHR Decision, 1997). In the case of complicity, the execution of decisions may be complicated by the multiplicity of subjects, which affects the effectiveness of justice.

Thus, civil procedural complicity in the light of the practice of the ECHR appears as a complex and multidimensional institution, which must be assessed through the prism of the principles of effectiveness, proportionality and equality of the parties. It is not a neutral procedural mechanism, but directly affects the implementation of the right to a fair trial.

In our opinion, the further development of this institution in national law should

be based on strengthening individual procedural guarantees for each co-participant, improving the criteria for the admissibility of co-participation, and introducing flexible procedural mechanisms that allow achieving a balance between the efficiency and fairness of the trial.

**Table 1**

*Criteria for Assessing Civil Procedural Joinder in the Case Law of the ECtHR*

<b>Criterion</b>	<b>Content of the Criterion</b>	<b>ECtHR Case Law (Example)</b>	<b>Significance for Joinder</b>
Equality of arms	Equal procedural opportunities	<i>Dombo Beheer B.V. v. the Netherlands</i>	Prevention of procedural dominance
Effectiveness	Effective protection of rights	<i>Airey v. Ireland</i>	Justification of joinder
Reasonable time	Timeliness of proceedings	<i>H. v. France</i>	Limitation of excessive number of parties
Proportionality	Balance of competing interests	<i>Bellet v. France</i>	Assessment of mandatory joinder
Legal certainty	Predictability of legal rules	<i>Brumărescu v. Romania</i>	Clarity of rules governing joinder

### **4.3 Comparative legal analysis of the regulation of complicity in the national legal systems of European states and directions of harmonization with the standards of the ECHR**

A comparative legal analysis of the regulation of civil procedural complicity in the legal systems of European states demonstrates not only the diversity of regulatory approaches, but also the existence of common conceptual guidelines, due to the influence of European human rights standards. In this context, the practice of the ECHR plays a key role, which forms universal criteria for assessing procedural institutions through the prism of Article 6 of the Convention. Thus, complicity is considered not as an isolated procedural phenomenon, but as an element of a broader system of guarantees of a fair trial (*Golder v. the United Kingdom*: ECHR Decision, 1975).

In continental European legal systems, the institution of complicity has a clearly codified nature, which provides a high level of legal certainty. In particular, the German civil procedural law (*Zivilprozessordnung*) provides for a distinction between simple and necessary complicity, and also regulates their procedural consequences in detail. This

approach allows to minimize legal uncertainty and ensure predictability of judicial practice, which meets the requirements of the ECHR regarding the principle of legal certainty (*Brumărescu v. Romania*: ECHR Decision, 1999).

French civil procedural law, although it does not contain such a detailed classification, is characterized by considerable flexibility in the application of complicity. The court has the opportunity to independently assess the appropriateness of joining the parties, based on the principles of efficiency and economy of the process. At the same time, such discretion may lead to a certain variability in the application of the law. In my opinion, this creates a balance between formalism and flexibility, but requires proper judicial control.

The Italian model of civil procedure demonstrates a combination of normative detail and a functional approach. Joinder is considered as a tool for optimizing judicial proceedings, which allows to avoid duplication of processes and ensure consistency of judicial decisions. However, the complexity of procedures and the duration of case consideration sometimes contradict the “reasonable time” standard, which is key in the practice of the ECHR (*H. v. France*: ECHR Decision, 1989). This indicates the need to improve procedural mechanisms.

In legal systems of the Anglo-Saxon tradition, in particular in the United Kingdom, joinder is regulated through the institutions of joinder of parties and representative actions. A pragmatic approach based on the principle of procedural expediency and judicial discretion dominates here. The court decides on the issue of joining the parties, taking into account the interests of justice, which allows for a flexible response to the complexity of specific cases. At the same time, such an approach requires a high level of professionalism of judges.

The institution of group actions (class actions or collective redress) is of particular importance in modern European law, which allows for access to justice for a large number of persons. However, its application is associated with the risks of violating individual procedural guarantees. The ECtHR emphasizes that even in collective proceedings, the right of each participant to effective participation in the process must be ensured (*Krčmář and Others v. the Czech Republic*: ECHR Decision, 2000).

Scandinavian legal systems are distinguished by pragmatism and an orientation towards efficiency. The court has broad powers to manage the process, including the

possibility of joining or separating the parties depending on the circumstances of the case. This approach allows achieving the optimal balance between procedural economy and protection of the rights of the parties. In our opinion, this model can serve as a guideline for reforming other legal systems.

In the countries of Central and Eastern Europe, including Ukraine, there is a tendency to formalize the institution of complicity, which is associated with the historical features of the development of legal systems. However, excessive formalism can create barriers to access to justice, which contradicts the approach of the ECtHR, which gives priority to efficiency over form (*Bellet v. France*: ECHR Decision, 1995). This indicates the need to rethink the role of procedural forms.

Comparative analysis shows that the key problem is to ensure a balance between the efficiency of the process and the protection of the individual rights of co-participants. In different legal systems, this balance is achieved by different instruments: from strict regulatory regulation to broad judicial discretion. At the same time, compliance with the standards of a fair trial remains a universal criterion.

Harmonization of national legal orders with the standards of the ECHR does not mean the unification of procedural legislation, but involves the alignment of its content with the fundamental principles of the Convention. In particular, this concerns ensuring the effectiveness of judicial protection, equality of arms and access to justice (*Airey v. Ireland*: ECHR Decision, 1979). Thus, harmonization is functional and value-based.

An important direction of harmonization is to strengthen the role of the court in controlling procedural complicity. The court should actively assess the feasibility of joining the parties, taking into account both procedural economy and possible risks to the fairness of the proceedings. In my opinion, this requires a transition from a passive to an active model of judicial proceedings.

Another important direction is the development of alternative mechanisms for collective protection of rights that allow combining efficiency and accessibility of justice. However, such mechanisms should be clearly regulated in order to avoid violating the principle of equality of parties and ensure proper procedural balance.

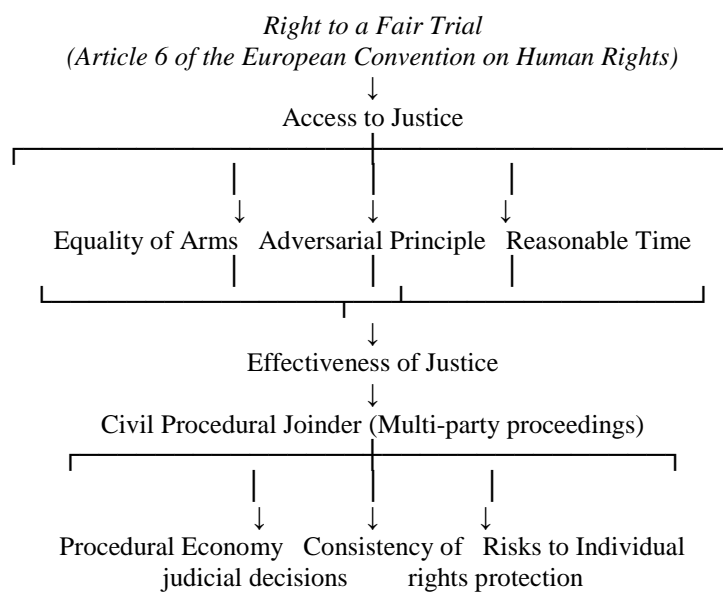
The stage of enforcement of court decisions in cases with complicity requires special attention. The ECtHR emphasizes that enforcement of the decision is an integral part of the right to a fair trial (*Hornsby v. Greece*: ECHR Decision, 1997). In multi-subject

cases, this stage becomes more complicated, which requires effective legal regulation mechanisms.

Thus, civil procedural participation in European legal systems is developing towards strengthening its functional significance as a tool for ensuring effective justice. At the same time, the key task remains to ensure a balance between the collective and individual interests of the participants in the process.

**Figure 1**

*“The relationship between access to justice and civil procedural participation”*



In our opinion, further harmonization of national legal systems with the standards of the ECHR should be based on a combination of flexibility of procedural mechanisms with a high level of guarantees of human rights. This involves both improving legislation and developing judicial practice focused on ensuring real, rather than formal, fairness of the trial.

## 5 CONCLUSIONS

The study showed that civil procedural participation is a complex procedural institution that directly affects the realization of the right to a fair trial. Its application cannot be considered solely as a technical mechanism of procedural economy, since it is

essential for ensuring equality of the parties, adversarial nature and efficiency of the trial. The admissibility of participation should be assessed taking into account the balance between the need to optimize the process and guarantees of individual protection of the rights of each participant.

The key criteria for assessing procedural participation in the light of European standards are ensuring equality of the parties, proportionality of procedural restrictions, individualization of the procedural status of co-participants and efficiency of the trial. However, excessive formalization or, conversely, unlimited discretion in matters of complicity may lead to a violation of the right to a fair trial, which requires the establishment of clear and balanced procedural approaches.

Comparative legal analysis has shown that the legal systems of European states demonstrate different models of regulating complicity, which vary from detailed normative regulation to more flexible, discretionary approaches. At the same time, a common trend is the orientation towards ensuring the efficiency of judicial proceedings and compliance with fundamental procedural guarantees. This indicates that the harmonization of national legal orders with European standards should be carried out not by unifying norms, but by adapting their content to the general principles of a fair trial.

Further development of national civil procedural legislation should take place taking into account a functional approach to the assessment of procedural institutions, in particular complicity. This involves strengthening the role of the court in the procedural management of the case, improving the criteria for the admissibility of the parties joining, as well as ensuring real procedural guarantees for each participant in the trial.

Effective implementation of European standards of access to justice in the field of civil proceedings is possible only if the flexibility of procedural mechanisms is combined with an appropriate level of legal certainty and human rights guarantees. It is this approach that allows for a fair balance between the interests of procedural economy and the need for full and effective protection of the rights of each person in court.

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