

# THE RIGHT TO EFFECTIVE ACCESS TO JUSTICE IN THE EUROPEAN UNION

*Balatska Olha, Lotysh Tetiana*

*DOI: <https://doi.org/10.61345/1339-7915.2024.4.2>*

**Annotation.** The article will be devoted to investigation of the essence of access to justice as the general legal concept through its dynamic nature in Europe. It will analyze the European Union (EU) law and the case-law of the European Court of Human Rights (ECtHR) and Court of Justice of the EU (CJEU) to determine access to justice as the principle of access to court, that follows from the concept of justice, which is an integral part of the right to a fair trial and the rule of law. Key issues, special rights as component parts of the access to justice will be described. The study also aims to identify and understand the issues affecting effective access to justice raised by the EU citizens and residents. The recommendation to consider widening the rules on legal standing before the CJEU, ensuring changes in member state's legislation required to avoid repetitive violations.

The scope of this research is defined on the basis of the theory and understanding of the concept of the effectiveness of access to justice as developed in the literature, legislation and case law at the EU level. It looks at a large range of factors, including legal and procedural issues as well as practical, social, historical and political factors that influence the access to justice in the EU.

In the article, the authors concluded that the concept of effective access to justice includes such principles as ensuring respect for community law, equal treatment, effectiveness, state liability for violations of EU law, access to national and supranational courts (the Francovich rule), where citizens are active subjects of protection under the EU legal order.

**Key words:** access to justice, community law, effectiveness, the rule of law, the right to a fair trial, Court of Justice of the European Union.

## 1. Introduction.

Access to justice holds immense importance within the legal framework of the European Union (EU). It serves as a fundamental right, ensuring that all individuals, without discrimination or prejudice, have the ability to seek legal remedies and have their grievances addressed in a fair and equal manner. The principle of access to justice is closely intertwined with the right to a fair trial and the concept of justice itself, as it guarantees that no one is above the law and everyone has the opportunity to defend their rights and interests.

Effective access to justice is crucial for safeguarding individual rights, promoting accountability, and maintaining the integrity and legitimacy of the EU legal system. It not only provides a means for individuals to seek redress and obtain rightful remedies, but also acts as a deterrent against potential abuses of power and misconduct. By ensuring that there are avenues for individuals to seek justice, the EU aims to create a society that upholds the rule of law, respects human rights, and fosters a culture of justice and fairness.

Moreover, access to justice plays a pivotal role in the overall functioning of the justice and legal system in the EU. It ensures that legal mechanisms are affordable and efficient, allowing individuals to navigate the complexities of the legal process without undue burden or hindrance. This not only enables individuals to exercise their rights but also contributes to the overall effectiveness and legitimacy of the justice system as a whole. In addition, access to justice goes beyond mere legal remedies and court proceedings. It encompasses a wide range of elements, including legal aid, information, and support services, which are all essential for individuals to effectively engage with the legal system. These elements are particularly

important for marginalized and vulnerable groups, who may face additional barriers in accessing justice. By providing adequate resources and support, the EU aims to ensure that no one is left without the means to seek justice and to address the power imbalances that may exist within society.

Access to justice is a fundamental pillar of the EU's legal framework. By ensuring that all individuals have the ability to seek legal remedies and have their grievances addressed, the EU promotes accountability, safeguards individual rights, and enhances the overall functioning and legitimacy of the justice system. It is through effective access to justice that the EU strives to establish a society that upholds the rule of law, equal justice for all, and the protection of fundamental rights.

## **2. Analysis of scientific publications.**

In the 1970s and 1980s, the idea of 'access to justice' gained significant focus through the works 'Access to justice and the welfare state', 'Access to Justice: The Newest Wave in the Worldwide Movement to Make Rights Effective' by Mauro Cappelletti and Bryant Garth [2, 3]. Later, the following researchers as Deborah Rhode, Hazel Genn and Francesco Francioni added to the movement and the doctrine of the evolution of this concept [23, 24, 29]. They argued that 'access to justice' emphasizes two key functions of the legal system. First, it requires that the legal system be accessible to everyone, ensuring that individuals have the means to bring their claims to court. This involves factors like procedural rules, litigation costs, legal aid, and access to representation, all of which can either facilitate or hinder plaintiffs, particularly those who are economically disadvantaged, in pursuing legal action. True access to justice cannot be realized if individuals are faced with barriers that prevent them from taking their cases to court. Additionally, access to justice requires that the legal system delivers outcomes that are fair and just, both on an individual and societal level. At the same time some scholars have focused on 'access' in a specific area of law, e.g., environmental justice [28], digital justice [1], others have examined access to justice from a particular perspective, e.g., public views on access to justice [20], access to justice through specialized women's police stations [4].

## **3. The aim of the work.**

The aim of the article is to explore the essence of access to justice in the EU. It will specifically focus on effective access to justice as a general EU legal concept. By analyzing EU law, the case-law of ECHR and CJEU, this article seeks to establish access to justice as a fundamental right, principle of access to court, derived from the concept of justice, which is an essential component of the right to a fair trial. Furthermore, it will delve into the integral role of access to justice in upholding the rule of law.

## **4. Review and discussion.**

Access to justice is regarded as a fundamental legal concept in the EU. Also it is often seen as a fundamental right, featuring among the most relevant achievements in contemporary constitutional provisions as well as in the European normative settings both through the EU Charter of Fundamental Rights of the European Union (EU Charter) and in the European Convention on Human Rights (ECHR) [21]. It embodies the right of individuals to seek legal remedies and have their grievances addressed through a fair and impartial judicial process. This principle ensures that individuals have the opportunity to present their case before a court of law, regardless of their socioeconomic status or any other potential barriers they may face. The essence of access to justice lies in providing equal and effective access to court for all individuals, thereby promoting the rule of law and safeguarding fundamental rights.

The researchers note that the concepts of 'rule of law' and 'effective access to justice' are two interlinked preconditions for a 'functioning democracy' [25]. The rule of law is one of the constitutive, foundational values of the EU. It is enshrined in the founding treaty and was further reinforced with the adoption of the EU Charter in 2000. The principle gained additional strength when the EU Charter became legally binding following the implementation of the Lisbon Treaty in 2009. The idea of the rule of law encompasses the presence of laws and regulations that dictate how society should operate. In this context, access

to justice relates to the capacity of ordinary citizens to utilize legal instruments and engage with the justice system. However, access does not play the static function. It reinforces the underlying principles and values of the rule of law by ensuring that individuals, regardless of their social status or background, have a meaningful and equitable opportunity to seek legal redress and have their fundamental rights protected. This accessibility can be assessed through various indicators, such as the availability of legal information, which should be broadly accessible to the public. However treaties refer to the concept of the access to justice without defining it. For instance, Article 67(4) of the Treaty on the Functioning of the European Union (TFEU) provides that 'the Union shall facilitate access to justice, in particular through the principle of mutual recognition of judicial and extrajudicial decisions in civil matters' [14] refers specifically to access to justice in the context of legal aid, but the term 'access to justice' also concludes article 16. Thus, this article summarizes all the rights constituting the notion of 'access to justice': the right to an effective remedy before a court; the right to a fair and public hearing within a reasonable time by an independent and impartial tribunal established in advance by law; right to counsel, to be defended and represented; and the right to legal aid for those without sufficient resources, insofar as such assistance would be necessary to ensure effective access to justice.

In accordance with Article 81(2)(e) of the TFEU, the EU shall adopt measures, particularly when necessary for the proper functioning of the internal market, to ensure effective access to justice in the field of civil justice. Other treaties refer to components of the concept of effective access to justice, such as the right to fair trial or the right of access to court. Article 47 of the EU Charter provides for the right to an effective remedy and to fair trial. It states that everyone whose rights and freedoms guaranteed by the EU law are subsequently violated, has the right to an effective remedy before a tribunal. In addition, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law. Article 47 also foresees the right to legal advice and representation and, importantly, provides that legal aid must be made available to those who lack sufficient resources (insofar as such aid is necessary to ensure effective access to justice). These rights have been legally binding since the entry into force of the Treaty of Lisbon.

The European Commission for the Efficiency of Justice (CEPEJ) of the Council of Europe has conducted a series of studies on access to justice in the member states. The 19th Convention of the United Nations Economic Commission for Europe (UNECE) addresses transparency and accountability, linking human rights with environmental rights. The term 'access to justice' is mentioned in the title, the preamble, and in Articles 1, 3, 9, and 10. This convention imposes positive obligations on the member states and, importantly, establishes relatively strict criteria to fulfill these obligations and ensure the proper exercise of this right. Article 13 requires states to guarantee equal access to justice for persons with disabilities, which obliges states to provide adequate training to their officials to ensure this equality. CEPEJ collects judicial data from the 47 member states, analyzes gaps and new trends, and encourages more consistent data collection at the national level. A comprehensive report, *European Judicial Systems*, covers, for example, public spending on courts and legal aid, types of legal aid in criminal cases, the number of cases in which legal aid is used, the conditions for granting aid, procedural fee systems, the duration of proceedings, the availability of legal representation in court, and the enforcement of court rulings [13].

On November 18, 2010, the Consultative Council of European Judges (CCJE), an advisory body of the Council of Europe on matters concerning the independence, impartiality, and competence of judges, composed exclusively of judges, adopted the *Magna Carta of Judges* (fundamental principles). This *Magna Carta of Judges* highlights the fundamental principles governing judges and judicial systems. It particularly recalls essential criteria of the rule of law, judicial independence, access to justice, and principles of ethics and accountability in both national and international contexts.

On February 24, 2010, the Committee of Ministers of the Council of Europe adopted Recommendation CM/Rec(2010) on effective remedies for excessive length of proceedings [27]. This recommendation refers to the case law of the ECHR and its pilot judgments in this area. It calls on member states to implement, among other things, mechanisms to identify overly long proceedings, effective remedies to ensure a trial within a reasonable time, compensation, including non-financial remedies; and to consider non-financial remedies where procedures have been excessively long, such as reducing sanctions.

It is fair to say that general requirements, from equality before a court, impartiality and independence, substantive redress and effective remedy to the fairness of the procedure, have been substantiated

through judicial interpretation. In Europe, the right of access to justice – more specifically the right to bring a case before a court – has been developed by the ECtHR within the context of Article 6 of the ECHR. Since then, it has been analyzed in detail in scholarly literature. Article 6 of the ECHR applies only to ‘civil or criminal charges’. Over the years, the ECtHR’s case law has systematically expanded the scope of ‘civil rights’, so that the protections granted by this provision now cover a significant portion of administrative law.

The removal of this limitation by Article 47 of the EU Charter, which deliberately grants access to justice for all kinds of rights and freedoms guaranteed by EU law, is nonetheless a remarkable advancement. According to the case law tradition of the CJEU, access to justice is one of the constituent elements of a Union founded on the rule of law. This right is guaranteed in the treaties through the creation of a complete system of legal remedies and procedures designed to enable the CJEU to review the legality of measures adopted by the institutions.

The CJEU has recognized the right to effective judicial protection as a general principle of EU law, in line with the influence of the ECtHR’s case law. The CJEU has traditionally used the common constitutional traditions of the member states, as well as Articles 6 and 13 of the ECHR, as the foundation for the right to an effective remedy before a competent court. In his conclusions on the *Roda Golf & Beach Resort SL* case, Advocate General Ruiz-Jarabo Colomer stated: ‘Access to justice is an essential pillar of Western legal culture. ... Thus, the general principles of Community law include the right to effective judicial protection, which structures access to justice. ... Access to justice does not merely imply the opening of proceedings, but also that they are handled by the competent jurisdiction’ [6].

In other words, access to justice should not be limited to a mere formal possibility – it must also be feasible in practice. Within the EU’s legal order, the right to effective judicial protection covers both access to the courts of the EU (the CJEU and the General Court) and access to national courts and tribunals for the enforcement of rights arising from EU law. The European Union’s entire legal order includes two levels - the EU and the member states, that puts in place the judicial power to decide by directly referring to EU law, even when issues are raised before national courts. On one side, ‘preliminary reference’ (Art. 267 TEU, short for Treaty on European Union) works by requiring national courts to turn to the CJEU for matters of EU law interpretation and application; on the other side, and more importantly here, citizens are allowed to sue their own state for damages caused by the infringement of EU law. This is the *Francovich* rule [26] authored by the CJEU only in 1991. The CJEU states ‘the possibility of obtaining redress from the Member State, is particularly indispensable where, as in this case, the full effectiveness of Community rules is subject to prior action on the part of the State and where, consequently, in the absence of such action, individuals cannot enforce before the national courts the rights conferred upon them by Community law’ [26]. According to this rule, the CJEU notes in case law that nationals of member states are part of the integrated legal system of the EU and member states [11, 8].

According to the landmark decision of the CJEU in the case of *Costa v. ENEL*, the EEC Treaty, now the TFEU, ‘established a legal order of its own, integrated into the legal systems of the Member States ... and which is binding on their courts’ [11]. It is also important to recognize the close link between the effective protection of individuals’ rights and the effective application of European legislation, as individuals’ concern for their rights constitutes an additional form of enforcement of EU law. In fact, in *Costa v. ENEL*, the CJEU emphasized that ‘the vigilance of individuals concerned with safeguarding their rights results in effective control that supplements’ [11] the supervision entrusted to the European Commission. In this sense, citizens of the European Union play the role of decentralized agents who contribute to the effective implementation of EU law at the national level. National courts are indeed required to apply EU law and protect the rights conferred on individuals by EU law. They can do so in accordance with the procedures, remedies, and sanctions provided at the national level, based on the principle of procedural autonomy of the Member States. As stated by the CJEU: ‘It should also be recalled that, according to settled case-law, in the absence of Community rules on the matter, the procedural rules intended to safeguard the rights which individuals derive from Community law fall within the internal legal order of each Member State, under the principle of procedural autonomy of the Member States’ [11].

When the Strasbourg Court, seized by litigants after exhausting national remedies, defines the contours of the right of access to justice, it takes into account the decisions of the judicial bodies of the member states that must rule on any legal issue - except for the few limitations indicated above. The situation is

quite different for the Court of Luxembourg, which can only rule on litigants' access to the national judge in the context of preliminary rulings and for questions related to community law. The community treaties do not mention a possible right to a judge at the national level. It is through the general principles of community law that the CJEU has forged its own case law on the right to a judge, serving as an instrument for the effective and uniform implementation of community law.

In certain cases, derived community law imposes operational conditions on national jurisdictions to ensure the proper application of community standards. However, it is primarily the CJEU that, in its jurisprudence arising from preliminary references, has highlighted the essential role of national judicial mechanisms in the effective implementation of community rules with primacy value. In the 'Simmenthal' ruling, the Court emphasizes that the obligation to uphold the effectiveness of community standards rests on any judge who 'as an organ of a member state, has the mission of protecting the rights conferred on individuals by community law' [5].

By virtue of the division of competences that exists between the Community and its member states, the latter enjoy considerable freedom regarding the organization of their procedural and contentious systems. However, according to well-established community jurisprudence, on one hand, for the implementation of rights based on community law, member states must establish procedures that are no less favorable than those aimed at safeguarding rights based on national provisions; this is the principle of equal treatment. On the other hand, under the principle of effectiveness, these procedures must not be such as to make 'the exercise of these rights that national courts are obliged to safeguard practically impossible or excessively difficult' [10, 12, 7]. This latter formulation underscores the importance that the Court of Justice attaches to access to national justice as a means of ensuring respect for community law.

The concept of effective access to justice is also reflected in the doctrine of state liability for violations of EU law. As established by the CJEU, individuals must have the right to seek compensation when their rights are violated due to a breach of EU law by a Member State. Without this remedy, the full force of EU regulations would be compromised, and the protection of individuals' rights would be undermined [21]. Additionally, the ECtHR has expanded the right of access to justice under Article 6 by broadening the interpretation of 'civil rights', thereby extending its protections to significant areas of administrative law [22]. Thus, at the national level, the primary responsibility for ensuring effective access to justice lies with legislators and, more significantly, with domestic courts. These courts play a key role in identifying gaps in the implementation of EU laws and protections within their own countries. The EU legal framework highlights the necessity of having access not only to European courts, like the CJEU, but also to national courts and tribunals for the enforcement of rights derived from EU law. Both the EU Charter and the ECHR emphasize that the rights to an effective remedy and a fair trial should be primarily upheld within national legal systems.

The principle of effective judicial protection of the rights conferred on individuals by EU law may also require national courts to examine all legislative measures and grant interim compensation even in cases where no national legislative provision provides for such compensation. In the EU legal order, there are several legislative instruments aimed at ensuring the right of access to justice. These instruments thus help shape national law. For instance, Article 31 of Directive 2004/38/EC on the right to move and reside freely (the Citizens' Directive or Freedom of Movement Directive) contains certain procedural safeguards aimed at ensuring a high level of protection of the rights of EU citizens and their family members in cases where they are denied the right of entry or residence in another Member State. Under this provision, EU citizens and their family members who have been denied the right of entry or residence in another Member State must have the opportunity to initiate judicial proceedings [18]. Additionally, this directive confirms the right of EU citizens and their family members who have been excluded from the territory of a Member State to submit a new application within a reasonable time, in accordance with the relevant case-law of the CJEU. Article 7 of the Race Equality Directive is another example of an EU legislative instrument guaranteeing the right of access to justice: 'Member States shall ensure that judicial and/or administrative procedures, including where they deem it appropriate, conciliation procedures, for the enforcement of obligations under this Directive are available to all persons who consider themselves wronged by failure to apply the principle of equal treatment to them, even after the relationship in which the discrimination is alleged to have occurred has ended' [15]. According to this directive, persons who have been

subjected to racial or ethnic discrimination must have adequate legal remedies. This directive also specifically refers to associations or legal entities that must be able to initiate proceedings on behalf of or in support of a victim, to ensure more effective protection before national courts. Finally, the Race Equality Directive establishes certain rules regarding the burden of proof. According to these rules, the burden of proof must shift to the defendant when evidence is produced suggesting a presumption of discrimination. Similar provisions can be found in the directives on equality between women and men and in the Employment Equality Directive [16]. Two specialized EU legislative instruments address specific aspects of access to justice: the Legal Aid Directive and the Mediation Directive. The Legal Aid Directive promotes judicial cooperation in civil matters with cross-border implications in the areas of freedom, security, and justice. The primary aim of this directive is to ensure adequate legal aid in cross-border disputes by defining certain common minimum standards. This directive applies only to cross-border civil or commercial disputes. It ensures that any person involved in a civil or commercial dispute falling within the scope of the directive can assert their rights before the courts, even if their personal financial situation does not allow them to bear the costs of the proceedings. Under the terms of this directive, legal aid is considered adequate when it ensures effective access to justice for its beneficiary [17]. Legal aid covers pre-litigation advice aimed at reaching an amicable settlement before initiating judicial proceedings, legal assistance to bring a case before a court, representation in court, as well as coverage or exemption from procedural costs. According to the Mediation Directive, the objective of ensuring better access to justice must include access to both judicial and extrajudicial methods of dispute resolution. Extrajudicial procedures for the settlement of civil or commercial disputes can simplify and improve access to justice. Mediation can contribute to the cost-effective and quick out-of-court resolution of civil or commercial disputes through procedures tailored to the needs of the parties [19]. Agreements reached through mediation are more likely to be voluntarily respected and to preserve a friendly and lasting relationship between the parties. This directive applies to procedures in which two or more parties to a cross-border dispute voluntarily seek to reach an amicable settlement to resolve their dispute with the help of a mediator. However, it does not apply to rights and obligations that, under the relevant applicable law, are not subject to the parties' free decision. Such rights and obligations are particularly common in family law and labor law. The mediation process provided by the directive must be voluntary, in the sense that the parties themselves are responsible for this process, can organize it as they see fit, and can terminate it at any time. However, national law must allow courts to set the maximum duration of a mediation process.

Thus, positioning citizens as active participants in defending the EU legal order against their own state is a brilliant aspect of this framework. This approach effectively addresses a gap in the functioning of the EU legal system by linking it to the provision of justice that should emanate from a genuine legal order. In a subsequent ruling, the CJEU acknowledged the provision of legal aid to legal entities to contest the state for its delayed implementation of a directive. This decision was explicitly grounded in the right of access to justice, which encompasses 'the right of a legal person to effective access to justice and, accordingly, in the context of EU law, ... the principle of effective judicial protection' [9].

## 5. Conclusions.

In conclusion, access to justice is a crucial element of the EU's legal framework and the rule of law within the European Union, ensuring that all individuals can seek legal remedies and have their grievances addressed fairly. It highlights the importance of special rights such as legal representation, legal aid, and a speedy trial as integral components of access to justice. The article stresses the importance of aligning member states' legislation with EU law to promote consistency and uphold the rule of law. To sum up, the legal doctrine of effective access to justice has been established in the EU according to the founding treaties, EU Community law, and the case law of the CJEU. Judicial interpretation of the doctrine has been carried out under Articles 6, 13 of the ECHR and Article 47 of the EU Charter, incorporating relevant rules. The concept of effective access to justice includes such principles as ensuring respect for community law, equal treatment, effectiveness, state liability for violations of EU law, access to national and supranational courts (the Francovich rule), where citizens are active subjects of protection under the EU legal order.

## References:

1. Appelman, N. J., Duin, R. F. J., Hoboken, N., Hellberger, B., Zarouali (2021), Access to digital justice: in search of an effective remedy for removing unlawful online content. Amsterdam Law School Legal Studies Research Paper Vol. 2021-35.
2. Cappelletti, M. & B. Garth (1978). Access to Justice: The newest wave in the worldwide movement to make rights effective. *Buffalo Law Review*, January 1978, Vol. 27, p. 181–292.
3. Cappelletti, M. (1983). Access to justice and the welfare state. *Michigan Law Review*, Vol. 81, Vol. 4, p. 1006.
4. Carrington, K. N., Guala, M. V., Puyol, M. Sozzo (2020), How women's police stations empower women, widen access to justice and prevent gender violence. *IJCJ&SC*, 2020, 9 (1), pp 42–67.
5. Case C-106/77, Judgment of the Court of 9 March 1978. *Amministrazione delle Finanze dello Stato v Simmenthal SpA*. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A61977CJ0106>.
6. Case C-14/08, Judgment of the Court (Third Chamber) of 25 June 2009: *Roda Golf & Beach Resort SL*. The Court of Justice of the European Union. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62008CJ0014>.
7. Case C-199/82, Judgment of the Court of 9 November 1983. *Amministrazione delle Finanze dello Stato v SpA San Giorgio*. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A61979CJ0061>.
8. Case C-26/62, Judgment of the Court of 5 February 1963: *NV Algemene Transport- en Expeditie Onderneming van Gend & Loos v Netherlands Inland Revenue Administration*. The Court of Justice of the European Union. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A61964CJ0006>.
9. Case C-279/09, Judgment of the Court (Second Chamber) of 22 December 2010. *DEB Deutsche Energiehandels- und Beratungsgesellschaft mbH v Bundesrepublik Deutschland*. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62009CJ0279>.
10. Case C-33/76, Judgment of the Court of 16 December 1976. *Rewe-Zentralfinanz eG and Rewe-Zentral AG v Landwirtschaftskammer für das Saarland*. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:61976CJ0033>.
11. Case C-6/64, Judgment of the Court of 15 July 1964: *Flaminio Costa v E.N.E.L*. The Court of Justice of the European Union. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A61964CJ0006>.
12. Case C-61/79, Judgment of the Court of 27 March 1980. *Amministrazione delle finanze dello Stato v Denkavit italiana Srl*. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A61979CJ0061>.
13. CEPEJ (2010), *Systèmes judiciaires européens (2008-2010)*, Strasbourg, Conseil de l'Europe, disponible sur : [www.coe.int/t/dghl/cooperation/cepej/evaluation/default\\_fr.asp](http://www.coe.int/t/dghl/cooperation/cepej/evaluation/default_fr.asp).
14. Consolidated Versions of the Treaty on European Union and the Treaty on the Functioning of the European Union; Charter on Fundamental Rights of the European Union, 2010. Print publication.
15. Directive 2000/43/EC. Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. <https://eur-lex.europa.eu/eli/dir/2000/43/oj>.
16. Directive 2000/78/EC. Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32000L0078>.
17. Directive 2002/8/EC. Council Directive 2002/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32003L0008>.

18. Directive 2004/38/EC. Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation. <https://eur-lex.europa.eu/eli/dir/2004/38/oj>.
19. Directive 2008/52/EC Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32008L0052>.
20. Farrow, T. C. W. (2014), What is Access to Justice? *Osgoode Hall Law Journal*, Vol. 51, Issue 3, pp 957–988.
21. FRA, Access to justice in Europe: an overview of challenges and opportunities, 2011. <https://fra.europa.eu/en/publication/2011/access-justice-europe-overview-challenges-and-opportunities>.
22. FRA, Handbook on European Law relating to access to justice, 2016. <https://fra.europa.eu/en/publication/2016/handbook-european-law-relating-access-justice>.
23. Francioni, F. (2007) (Eds.). Access to justice as a human right. Oxford, Oxford University Press,, *Collected Courses of the Academy of European Law*, XVI/4, p. 135–152.
24. Genn, H. (1999). *Paths to Justice: What People Do and Think About Going to Law*, Hart Publishing, Oxford - Portland Oregon, 1999.
25. Greenleaf, G. & Peruginelli, G. (2012). A comprehensive free access legal information system for Europe. Online access to legal information, Firenze, Italy, *UNSW Law Research Paper*, Vol. 2012-9, p. 2.
26. Joined cases C-6/90 and C-9/90, Judgment of the Court of 19 November 1991: Andrea Francovich and Danila Bonifaci and others v Italian Republic. The Court of Justice of the European Union. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A61990CJ0006>.
27. Recommendation CM/Rec(2010)12, adopted by the Committee of Ministers of the Council of Europe on 17 November 2010, on the proposal of the European Committee on Legal Co-operation (CDCJ). <https://rm.coe.int/cmrec-2010-12-on-independence-efficiency-responsibilites-of-judges/16809f007d>.
28. Redgewell, C. (2004), Access to Evironmental Justice. Oxford, Oxford University Press, *Collected Courses of the Academy of European Law*, XVI/4, p. 153–177.
29. Rhode D. L. (2001). Access to Justice. *Fordham L. Rev.* 1785. <https://ir.lawnet.fordham.edu/flr/vol69/iss5/11>.

---

**Olha Balatska,**

*PhD in Law,*

*Associate Professor at the Department of Civil Law Disciplines  
of the Educational and Scientific Institute of Law by I. Malynovskyi,  
National University of Ostroh Academy*

*E-mail: [olha.balatska@oa.edu.ua](mailto:olha.balatska@oa.edu.ua)*

*ORCID: 0000-0001-6439-5927*

**Tetiana Lotysh,**

*PhD in Law,*

*Associate Professor at the Department of Civil Law Disciplines  
of the Educational and Scientific Institute of Law by I. Malynovskyi,  
National University of Ostroh Academy*

*E-mail: [tetiana.lotysh@oa.edu.ua](mailto:tetiana.lotysh@oa.edu.ua)*

*ORCID: 0000-0003-0229-4279*