CIVIL JUSTICE REFORM IN UKRAINE: TOWARDS EUROPEAN REGIONAL STANDARDS AND GOALS

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Conference
The Legal Position of Non-Recognized (or Little-Recognized) States in the Post-Soviet Space Under International Trade Law and in Private International Law and International Civil Litigation
Kiel University, 12-14 July 2018

Panel: Developments in the field of civil justice in the region
14th July 2018
1. REFORM OF JUDICIARY: UKRAINIAN NOVELS
Background 2014-2017 reform:

- EU-Ukraine Association Agreement 2014
- Strategy for reforming the judiciary, judicial system and related legal institutes for 2015-2020
- Constitution Amendments (Law “On making amendments to the Constitution of Ukraine (concerning justice)” June 2, 2016)
- Draft of CPC No 6232 of March 23, 2017
The novels of judiciary

Judicial system on 01/2017

- Supreme Court
  - High Specialized Court of Ukraine for civil and criminal Matters
  - Appeal Courts
  - Local Courts

Judicial system on 01/2018

- Supreme Court
  - Appeal Courts
    - Local Courts
New Structure of Court System

Local General Courts
- more 6200 judges
- 50 new circuit courts

Appeal General Courts
- 2200 judges
- 26 new courts

Supreme Court
- 4 Chambers
- 30 judges in each Chamber
- 120 all together
Specialization of courts

- Local General Courts (civil and criminal matters)
  - Appeal General Courts
  - Chamber in civil matters
  - Chamber in criminal matters

- Commercial (economic) Courts
  - Appeal General Courts
  - Chamber in commercial matters

- Administrative Courts
  - Appeal Administrative Courts
  - Chamber in administrative matters
First and second instance courts

Local General Courts

- Article 23. Court of first instance
- 1. All cases subject to resolution following civil procedure shall be considered by local general courts as courts of first instance except for instances stipulated by Parts two and three of this Article

Appeal General Courts

- Article 23. Court of first instance
- 2. Cases concerning
  - appeals against arbitration awards,
  - appeals against decisions of international commercial arbitration and issuance of acts of execution for the enforcement of arbitration awards
- are considered by appellate courts as courts of first instance at the place of consideration of the case by court of arbitration (at the place of arbitration).
Supreme Court 2017

+ The high specialized courts are:

1) the High Court for Intellectual Property Matters; and

2) the High Anti-Corruption Court
### Numbers of Judges

#### 2017

<table>
<thead>
<tr>
<th>Courts</th>
<th>01/2017</th>
<th>12/2017</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Staff members</td>
<td>Have the authority to consider cases</td>
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<tr>
<td>Local courts</td>
<td>4404</td>
<td>2776</td>
</tr>
<tr>
<td>Appeal Courts</td>
<td>1589</td>
<td>802</td>
</tr>
<tr>
<td>Circuit administrative courts</td>
<td>637</td>
<td>253</td>
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<tr>
<td>Appeal administrative courts</td>
<td>354</td>
<td>243</td>
</tr>
<tr>
<td>Local commercial courts</td>
<td>710</td>
<td>425</td>
</tr>
<tr>
<td>Appeal commercial courts</td>
<td>273</td>
<td>194</td>
</tr>
<tr>
<td>All</td>
<td>7967</td>
<td>4693</td>
</tr>
</tbody>
</table>
### Cases and materials 2015-2017

<table>
<thead>
<tr>
<th>Cases and materials</th>
<th>2015</th>
<th>%</th>
<th>2016</th>
<th>%</th>
<th>2017</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>First instance</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Criminal</td>
<td>778 829</td>
<td>25,7</td>
<td>894 262</td>
<td>30,8</td>
<td>954 033</td>
<td>32,1</td>
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<tr>
<td>Administrative</td>
<td>254 894</td>
<td>8,4</td>
<td>215 479</td>
<td>7,4</td>
<td>232 937</td>
<td>7,8</td>
</tr>
<tr>
<td>Civil</td>
<td>1 212 887</td>
<td>40,0</td>
<td>1 004 618</td>
<td>34,7</td>
<td>955 112</td>
<td>32,1</td>
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<tr>
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<td>641 953</td>
<td>21,2</td>
<td>669 897</td>
<td>23,1</td>
<td>732 251</td>
<td>24,6</td>
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<tr>
<td>Commercial</td>
<td>140 831</td>
<td>4,6</td>
<td>114 658</td>
<td>4,0</td>
<td>102 122</td>
<td>3,4</td>
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<tr>
<td>All</td>
<td>3 029 394</td>
<td>100</td>
<td>2 898 914</td>
<td>100</td>
<td>2 976 555</td>
<td>100</td>
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<tr>
<td><strong>Appeal instance</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Criminal</td>
<td>172 983</td>
<td>40,5</td>
<td>181 110</td>
<td>44,9</td>
<td>222 842</td>
<td>49,2</td>
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<tr>
<td>Administrative</td>
<td>91 404</td>
<td>21,4</td>
<td>76 244</td>
<td>18,9</td>
<td>86 113</td>
<td>19</td>
</tr>
<tr>
<td>Civil</td>
<td>115 585</td>
<td>27,1</td>
<td>101 783</td>
<td>25,2</td>
<td>91 397</td>
<td>20,2</td>
</tr>
<tr>
<td>Administrative offences</td>
<td>10 253</td>
<td>2,4</td>
<td>12 956</td>
<td>3,2</td>
<td>30 589</td>
<td>6,8</td>
</tr>
<tr>
<td>All</td>
<td>426 771</td>
<td>100</td>
<td>403 330</td>
<td>100</td>
<td>453 102</td>
<td>100</td>
</tr>
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</table>

|                          | 3 456 165 |      | 3 302 244 |      | 3 429 657 |    |
Cases and materials

2016-2017

<table>
<thead>
<tr>
<th>Cases and materials</th>
<th>Cases considered by local courts with the adoption of a court decision that is subject to appeal</th>
<th>Revoked and replaced in appeal</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2016</td>
<td>2017</td>
</tr>
<tr>
<td>Criminal</td>
<td>860 342</td>
<td>837 421</td>
</tr>
<tr>
<td>Administrative</td>
<td>172 595</td>
<td>197 639</td>
</tr>
<tr>
<td>Civil</td>
<td>835 047</td>
<td>793 436</td>
</tr>
<tr>
<td>Commercial</td>
<td>85 769</td>
<td>76 447</td>
</tr>
<tr>
<td>Administrative offences</td>
<td>554 008</td>
<td>604 399</td>
</tr>
<tr>
<td>All</td>
<td>2 507 762</td>
<td>2 509 342</td>
</tr>
</tbody>
</table>
E-JUSTICE

Few more steps:
The Single Judicial Information and Telecommunication System (hereinafter – SJITS) creation
The SJITS

To replace the *Unified Judicial Informational (Automated) System* started on January 1, 2011

- 1) keeping of electronic records, including the circulation of electronic documents within and between the relevant authorities and institutions, registration of incoming and outgoing documents and stages of their movement;
- 2) centralized storage of procedural and other documents and information in a single database;
- 3) secure storage, automated analytical and statistical processing of information;
- 4) preservation of cases and other documents in the electronic archive;
- 5) exchange of documents and information (sending and receiving documents and information, joint work with documents) in electronic form between courts, other bodies of the justice system, participants in the court process, as well as conducting videoconferences in real time;
- 6) automation of the work of courts, the High Council of Justice, the High Qualifications Commission of Judges of Ukraine, the State Judicial Administration of Ukraine, their bodies and subdivisions; ...
2. CIVIL PROCEDURE OF UKRAINE – ON THE WAY TO EUROPE

New CPC 2017
Codification of Civil Procedure Law in Ukraine:

Civil Procedure Code of USSR 1963,
was adopted July 18 1963,
was acted till 2005.
During 1991-2004 more than 34 amendments were made.

Civil Procedure Code of Ukraine 2004,
was adopted March, 18 2004, was enter into force on September 1 2005 and is acting now.
During 2005-2017 more than 69 amendments were made, among them 22 in 2014-2017.

Civil Procedure Code of Ukraine 2017,
The purpose of the Draftlaw is to regulate the procedure that must provide effective, just, impartial and timely protection of the rights and freedoms of the person in court.
The new goal of Civil Justice:

- Art 1. The objectives of Civil Procedure Code of Ukraine
  
  1. Civil Procedure Code of Ukraine establishes jurisdiction and court power to trial the civil cases and others and regulates the civil procedure.

- Art. 2. Main goal and general ideas (principles) of civil justice
  
  1. Main goal of civil justice are fair, impartial and well-timed consideration ad resolution of civil cases to protect effectively affected, unacknowledged or disputed rights, freedoms and interests of individuals, the rights and interests of legal persons, state interests.
  
  2. Court and participants in the trial must be guided by the tasks of civil justice, which prevails over any other considerations in the trial.
The general ideas (principles) of Civil Justice:

- CPC 2004
  - Rights to the court for protection
  - Legiality
  - Respect for honor and dignity, equality of all participants in the trial before the law and the court;
  - Dispositive
  - Competition
  - Publicity and openness of the trial
  - Enforcement of justice on the principles of honor and dignity, respect for the law and the court
  - Ensuring the right to legal assistance
  - Providing appeal and cassation appeal of court decisions
  - Compulsory of judicial decision
  - Consciousness, continuity and immediacy of the trial

- CPC 2017
  - Art. 2.3 The basic ideas (principles) of civil justice are:
    1) the rule of law;
    2) legiality;
    3) respect for honor and dignity, equality of all participants in the trial before the law and the court;
    4) transparency and openness of the court process;
    5) competition of the parties;
    6) dispositive;
    7) proportionality;
    8) compulsory of court decision;
    9) ensuring the right to appeal the case;
    10) ensuring the right to appeal against a court decision in cases established by law;
    11) the reasonableness of the terms of consideration of a case by a court;
    12) the prevention of abuse of procedural rights;
    13) reimbursement of the court costs of the party in whose favor the court decision has been taken.
CASE MANAGEMENT IN CIVIL PROCEDURE
Case Management in GB:
Judicial case management is an interesting phenomenon from a theoretical perspective. According to Andrews,\textsuperscript{6} the essence of judicial case management in English law is that the judicial system as a whole and the courts in individual cases regulate the content and progress of litigation. This definition may also be applicable outside England & Wales. At first sight, there might be considerable tension between the judge being actively involved in the litigation process and a venerable, time-honoured principle of civil litigation: ‘party autonomy’. During the last 100 years or so, a central theme in civil procedural theory has been to find a balance between on the one hand the parties’ liberty to freely dispose of their private rights and obligations, also within the litigation process, and, on the other hand, the powers of the judge or, to use more modern terminology, judicial case management.
Case management in Italy

Elisabetta Silvestry:

- It is necessary to organize the development of adjudication according to the principles of adaptability and flexibility: the court, assisted by the parties, should adapt the procedure to the specific features of the case, so as to obtain the highest possible level of procedural economy.
Elements of CM

- Court power of fees
- Who choose the procedure
- Time limits
## Courts fees limits

<table>
<thead>
<tr>
<th>The name of the document and the action for which the court fee is collected and the name of the payer of the court fee</th>
<th>The rate of court fee</th>
<th>The size of the rate of court fee for 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. For submission to court:</strong></td>
<td>1.</td>
<td></td>
</tr>
<tr>
<td>1) of a statement of claim of property character, which is filed by:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a legal entity</td>
<td>1.5 percent of the price of the claim, but not less than 1 size of the subsistence minimum for able-bodied persons and no more than 350 subsistence minimums for able-bodied persons</td>
<td>1.5 percent of the price of the claim, but not less than 1762.00 UAH (52 Euro) and no more than 616 700 UAH (18140 Euro)</td>
</tr>
<tr>
<td>an individual or an entrepreneur individual</td>
<td>1 percent of the price of the claim, but not less than 0.4 of subsistence minimum for able-bodied persons and no more than 5 sizes of subsistence minimum for able-bodied persons</td>
<td>1 percent of the price of the claim, but not less than 704.80 UAH (21 Euro) and no more than 8 810,00 UAH (260 Euro)</td>
</tr>
<tr>
<td><strong>2) a non-substantive legal claim filed by:</strong></td>
<td>2.</td>
<td></td>
</tr>
<tr>
<td>a legal entity or an entrepreneur individual</td>
<td>1 amount of subsistence minimum for able-bodied persons</td>
<td>1762.00 UAH (52 Euro)</td>
</tr>
<tr>
<td>an individual</td>
<td>0.4 subsistence minimum for able-bodied persons</td>
<td>704,80 UAH (21 Euro)</td>
</tr>
<tr>
<td><strong>3) statement of claim of:</strong></td>
<td>3.</td>
<td></td>
</tr>
<tr>
<td>divorce</td>
<td>0.4 subsistence minimum for able-bodied persons</td>
<td>704,80 UAH (21 Euro)</td>
</tr>
<tr>
<td>the division of property upon divorce</td>
<td>1 percent of the price of the claim, but not less than 0.4 of the subsistence minimum for able-bodied persons and no more than 3 sizes of the subsistence minimum for able-bodied persons</td>
<td>1 percent of the price of the claim, but not less than 704,80 UAH (21 Euros) and no more than 5 286,00 UAH (156 Euro)</td>
</tr>
</tbody>
</table>
Art. 141 Paragraph 1 and 2

1. The court fee shall be repaid by the parties in proportion to the size of the satisfactory claims.
2. Other court costs related to the proceeding shall be paid by:
   • 1) the defendant, in case of satisfaction of the claim;
   • 2) the plaintiff, in case of refusal in the claim;
   • 3) both sides in proportion to the amount of satisfied claims, in the case of partial satisfaction of the claim.

Paragraph 3

The court shall take into account
   • 1) whether these costs are related to the case;
   • 2) Is the amount of such expenses justified and proportionate to the subject of the dispute, taking into account the price of the claim, the value of the case for the parties, including whether the outcome of its decision may affect the reputation of the party or weather the case caused public interest;
   • 3) the behavior of the party during the consideration of the case, which led to delays in the consideration of the case, in particular, the submission by the party of deliberately unfounded applications and petitions, groundless statement or denial of certain circumstances relevant to the case by the party, unjustified overstatement of demands by the plaintiff, etc.;
   • 4) the actions of the party regarding the pre-trial settlement of the dispute and the settlement of the dispute by peaceful means during the consideration of the case, the stage of consideration of the case in which such actions were committed.
### Court fees limits

<table>
<thead>
<tr>
<th>Description</th>
<th>Fee Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>4) applications for separate proceedings; applications for evidence or claim; applications for review of an out-of-court decision; applications for the revocation of the arbitral tribunal (international commercial arbitration); applications for the issuance of an enforceable document for the enforcement of a decision of an arbitral tribunal (international commercial arbitration); applications for the issuance of an executive document on the basis of a decision of a foreign court; applications for clarifications of the court decision which is filed; applications for assistance to the arbitral tribunal (international commercial arbitration) in obtaining evidence:</td>
<td></td>
</tr>
<tr>
<td><strong>legal entity or entrepreneur individual</strong></td>
<td>0.5 amount of subsistence minimum for able-bodied persons 881.00 UAH (26 Euro)</td>
</tr>
<tr>
<td><strong>an individual</strong></td>
<td>0.2 of subsistence minimum for able-bodied persons 352.40 UAH (11 Euro)</td>
</tr>
<tr>
<td><strong>4¹) applications for the issuance of a court order</strong></td>
<td>0.1 of amount of subsistence minimum for able-bodied persons 176.20 UAH (6 Euro)</td>
</tr>
<tr>
<td><strong>4²) applications for the cancellation of a court order</strong></td>
<td>0.05 of the subsistence minimum for able-bodied persons 88.10 UAH (2.6 Euro)</td>
</tr>
<tr>
<td>6) an appeal against a court decision</td>
<td>150 percent of the rate to be paid when filing a statement of claim, another statement and a complaint</td>
</tr>
<tr>
<td>7) a cassation appeal for a court decision</td>
<td>200 percent of the rate to be paid when filing a statement of claim, another statement and a complaint</td>
</tr>
<tr>
<td></td>
<td>the minimum for a claim of a property nature by an individual 1409.6 UAH (41 Euros), maximum – 17 620 UAH (518 Euro)</td>
</tr>
<tr>
<td></td>
<td>the minimum for a claim of a property nature by an individual 2114.4 UAH (62 Euro), maximum – 26 430 UAH (777 Euro)</td>
</tr>
</tbody>
</table>
Reasonable time-limits

determined by law

- opening of proceedings in a case - in accordance with paragraph 1 of Article 187 of the CPC within five days from the day the statement of claim;
- conducting pre-trial proceedings (within 60 days from the date of opening of proceedings in accordance with paragraph 3 of Article 189 of the CPC);
- the court must begin consideration of the case on the merits no later than 60 days after the opening of the proceedings and it must consider the case within 30 days from the date of commencement of such consideration;
- the complete decision (ruling) of the court in exceptional cases, depending on the complexity of the case, may be postponed for a period of not more than ten days, and not more than five days from the day of the end of the consideration of the case if the case is considered in the simplified proceedings; etc.

determined by judge

- submission of a reference to a statement of claim and all evidence, confirming the objection to a claim in accordance with paragraph 1 of Article 191 of the CPC;
- the appointment of a preparatory trial with taking into account the circumstances of the case and the need to take appropriate procedural steps in accordance with paragraph 2 of Article 196 of the CPC;
- postponement of consideration of a case or announcing of a break, if the dispute, the consideration on the merits of which has begun, cannot be resolved in this court session, and the appointment of the place, date and time of the new court session or the continuation of the court session in accordance with Article 240 of the CPC; etc.
Time limits

CPC 2004

• Single Action Procedure – within reasonable time but not more then 2 months

CPC 2017

• Common Action Procedure – approx. 120 days;
• Simplified Procedure – approx. 60 days;
• Order for Payment – 5 days after application
The structure of CPC 2004

- Procedure with foreign persons
- Restoration of lost litigation
- Enforcement procedure
- Proceedings in cases arising because of administrative-legal relations
- Order for Payment Procedure
- Trial in absentia
- Appeal review
The structure of CPC 2017

- Written Proceeding
- Settlement with Judge
- Electronic Evidence
- Written Applications
- Review in High Specialized Court
- Simplified Action Procedure
- Common Action Procedure

CPC
**Civil Cases:**

<table>
<thead>
<tr>
<th>Index title</th>
<th>Number of cases and materials under consideration</th>
<th>Considered</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2015</td>
<td>2016</td>
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<td>Order proceeding</td>
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<td>Relative share **</td>
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<td>Action proceeding</td>
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<tr>
<td>Relative share **</td>
<td>67,27</td>
<td>73,56</td>
</tr>
<tr>
<td>Separate proceeding</td>
<td>73985</td>
<td>98032</td>
</tr>
<tr>
<td>Relative share **</td>
<td>5,31</td>
<td>8,17</td>
</tr>
<tr>
<td>Other cases</td>
<td>138476</td>
<td>115917</td>
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<tr>
<td>Relative share **</td>
<td>9,93</td>
<td>9,67</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>1393974</td>
<td>1199239</td>
</tr>
</tbody>
</table>

* - % from the number of cases under consideration
** - % from the general number of cases under consideration in civil proceedings.
Changes in trial in the court of first instance:

- Common Action Procedure
- Settlement of a dispute with the judge
- Simplified Action Procedure
- Trial in the court of 1 instance
Simplified Procedure

- small claims – less than 5000 euro (Part 1 of Art. 274)
- recognized by the court as unsubstantial, but less than 25000 euro; (Part 1 and 2 of Art. 274)
- arising from labor relations (Part 1 of Art. 274)
- the cases in which Court Order may be issued (Part 2 of Art. 161)
Stages of Simplified Action Procedure:

1) Opening of proceedings and resolution of the issue of consideration of the case in the simplified proceedings

2) Submission of applications and evidences

3) Consideration of the case on the merits without notification of the parties or their participation in their petition and making a decision

!! Notifications and Case Hearings)
New Stage of CPC 2017:

Settlement of a dispute with the participation of a judge

According to Art. 201 Part 1 is conducted with the consent of the parties before the start of the trial on the merits. In accordance with Art. 203 the court makes a decision, which simultaneously stops the proceedings.

Termination:

- when there is an application of the party for the settlement of dispute involving a judge;
- when the expiration of the term of the settlement of dispute with the participation of a judge;
- on the initiative of a judge in case of delaying the settlement of a dispute by any of the parties;
- when there is a the conclusion of an agreement by the parties and appeal to the court with a statement on its approval or petition of the plaintiff in court with a statement on the abandonment of the claim without consideration, or in the event of a refusal of the plaintiff from the claim or recognition of the claim by the defendant.
3. A FEW STEPS TO PROTECT THE RIGHTS OF CITIZENS OF UKRAINE WHO ARE INHABITANTS OF THE OCCUPIED TERRITORY
According to the data of the Ministry of Social Policy, as of May 7, 2018,

1,502,019 migrants from the Donbas and Crimea were taken into account.

This is 3.54% of the total population of Ukraine – 42,403,200 people
(according to the State Statistics Service of Ukraine as of December 1, 2017)
The Law of Ukraine

- "On ensuring the rights and freedoms of citizens and legal regime in the temporarily occupied territory of Ukraine" (TOT) dated April 15, 2014, No. 1207-VII:

- Article 9, parts 2 and 3
- … any bodies, their officials and officers in the temporarily occupied territory and their activities are considered illegal if these bodies or persons are established, elected or appointed in accordance with the procedure not provided by law.
- Any act (decision, document) issued by the authorities and/or persons provided for in part two of this article is null and void and does not create legal consequences.
Case Tsezar and others v Ukraine:

- The ECHR noted that because of the conflict in eastern Ukraine the authorities had moved the Donetsk courts to neighbouring regions which were under Government control. There was no evidence that the applicants’ personal circumstances had prevented them from travelling to the area where the courts were now located to file claims and the Government’s actions had not impaired the very essence of their right of access to a court.
- The Court declared a complaint by the applicants under Article 1 of Protocol No. 1 (protection of property) to the Convention about the suspension of the social benefits inadmissible for failure to use available legal remedies as they had not gone to court in the neighbouring regions, even though that option had been available to them.
The problem of access to justice faced by Ukrainian citizens residing on the TOT:

1. Territorial access to the court.
2. Legal expenses for appeals to the court.
3. Access to information about the place, date and time of the trial and the court decision.
Territorial access to the court:

In accordance with Article 12 of this Law
• civil and administrative cases, defendants that are under the jurisdiction of local general courts located in the Autonomous Republic of Crimea and the city of Sevastopol shall be considered by local general courts of the city of Kyiv, as designated by the Kyiv City Appellate Court;
• Kyiv City Appellate Court;
• Kyiv City Circuit Administrative Court and Kyiv Appellate Administrative Court;
• Kyiv Oblast Commercial Court and Kyiv City Commercial Court; and Kyiv Appellate Commercial Court, respectively…
The choice of the claimant:

• Article 28, part 17.
• Claims for the protection of violated, unrecognized or disputed rights, freedoms or interests of individuals (including compensation for damage caused as a result of restriction in the exercise of the right to ownership of immovable property or its destruction, damage) in connection with the armed aggression of the Russian Federation, armed conflict, temporary occupation of the territory of Ukraine, emergency situations of a natural or man-made nature may also be filed at a place of residence or staying of the plaintiff.

• {Article 28 is supplemented with a new part in accordance with Law No. 2268-VIII of January 18, 2018}
Legal expenses for applying to the court

- Part 1 of Article 5 of the Law of Ukraine "On Court Fees" of July 8, 2011 No. 3674-VI (on privileges for payment of court fee):
- **Article 5.** Privileges for payment of court fees
- 1. The following shall be exempted from the payment of a court fees during the consideration of cases in all courts:
- 21) Applicants - in cases concerning applications for establishing facts of legal significance filed in connection with armed aggression, armed conflict, temporary occupation of the territory of Ukraine, emergency situations of a natural or man-made nature, which resulted in the forced resettlement from temporarily occupied territories of Ukraine, death, injury, imprisonment, illegal deprivation of liberty or theft, as well as violation of the right to ownership of movable and/or immovable property;
- {Part one of Article 5 is supplemented with paragraph 21 in accordance with the Law No. 2268-VIII dated January 18, 2018}
Access to information about the place, date and time of the trial and the court decision

In accordance with the provisions of Article 12 of the Law:

• The notifications of citizens of Ukraine residing on the temporarily occupied territory in accordance with the Law is carried out through announcements on the official web site of the judiciary of Ukraine (with reference to the web address of the corresponding court order in the Unified State Register of Judgments).

• Such participants, if the last known address of their place of residence (stay), their place of work or place of employment is located in a temporarily occupied territory, if they do not have an official e-mail address, are considered to be notified with the publication of such an announcement (while the Law only refers to the defendant).
ANNOUNCEMENT OF A SUMMON

Obolonsky district court of Kiev informs the defendant SNP that in case number 756/11751/17 on the suit of SNP (04205, Kyiv, ADDRESS) to SNP (AR Crimea, ADDRESS), acting on behalf of SNP (04205, m Kyiv, ADDRESS), third person: Obolonsky district in Kyiv state administration, on the recognition of a person as a person who has lost the right to use a residential property, the consideration of a case is appointed which will be held in the premises of the Obolonsky district court of Kyiv (Kiev, 2-E M. Tymoshenko st, hall №13, room 26, fifth floor) 04.06.2018 at 08:30.

When an announcement for a summon is published, a person is considered to be notified of the date, time and place of the consideration of the case.

The respondent must send (submit) to the court a reference to the statement of claim, which must comply with the provisions of Art. 178 of the CPC of Ukraine not later than a month from the date of receipt of the decision.

It must be clarified that a copy of the reference and the documents attached to it must be sent (provided) to other participants of the case at the same time as sending (giving) a reference to the court.

In case of failure to provide the defendant with an acknowledgment within the term established by the court without valid reasons, the court has the right to settle the case on the available materials of the case.

The participants in the trial are required to inform the court of the reasons for non-appearance in the court session. In case of failure to inform the court about the reasons for non-appearance, it is considered that the participants of the trial did not appear in the court session without valid reasons.
Amendments of CPC:

- Chapter 6 "Consideration of cases on establishing facts of legal significance by the court" of the CPC of Ukraine was supplemented by Article 317 of the following content:

  - **Article 317.** Peculiarities of proceedings in cases on establishment of the fact of birth or death of a person on the temporarily occupied territory of Ukraine
  
  1. The application for establishing the fact of the birth of a person on the temporarily occupied territory of Ukraine, as determined by the Verkhovna Rada of Ukraine, may be filed by parents, relatives, their representatives or other legal representatives of the child to any court outside of such territory of Ukraine, regardless of the place of residence of the applicant.

- ...
Example of case:

- The applicant FTY appealed to the court with a statement on the establishment of the death of her mother on the TOT of Ukraine.
- Place of death is a TOT.
- Establishing the death is necessary for the adoption of the inheritance by the applicant.

- Apply to the registration bodies, refusal of which is the ground to appeal to the court,
- As well as apply to the Court of Appeal of Kyiv, which will determine the court that will consider the application.
Other example:
The fact establishment
To conclude
Goal 16: Promote just, peaceful and inclusive societies

Goal 16 of the Sustainable Development Goals is dedicated to the promotion of peaceful and inclusive societies for sustainable development, the provision of access to justice for all, and building effective, accountable institutions at all levels.
Law, Legislation and Constitution:

As noted by F.A. von Hayek, the history shows, that the very idea of power distribution in hard to implement in real life:

- *In the form in which we know this division of power between the legislature, the judiciary, and the administration, it has not achieved what it was meant to achieve. Governments everywhere have obtained by constitutional means powers which those men had meant to deny them (I)8.*

THANK YOU!

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