



## Harmonization of Civil Procedure: First Steps of Ukraine to a Genuine European Area of Justice

***Iryna Izarova***

Associate Professor at the Department of Justice,

Faculty of Law of Taras Shevchenko National University of Kiev, Ukraine

**Abstract:** The article deals with the ways of the harmonisation of civil procedure of EU and Ukraine in the light of the EU-Ukraine Association Agreement and the Deep and Comprehensive Trade Area, established from the January 1, 2016.

**Keywords:** Harmonization of Civil Procedure, European integration, judicial cooperation, cross-border litigation

Harmonization of civil procedure is an essential part of European integration, thus, it plays very important role on the way towards Ukraine`s membership in the EU<sup>1</sup>. The provisions of the EU-Ukraine Association Agreement have identified the priority spheres of cooperation, aimed at strengthening the judiciary, improving its efficiency, safeguarding its independence and impartiality, and combating corruption. Respect for human rights and fundamental freedoms will guide all cooperation on justice, freedom and security (Article 14 of the

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<sup>1</sup>Ізарова І.О. Теоретичні засади цивільного процесу ЄС : монографія / І. О. Ізарова. — Київ: ВД Дакор, 2014. — 328 с.



Agreement). Judicial cooperation on civil procedure shall be done fully using relevant international and bilateral instruments and on the basis of the principles of legal certainty and the right to a fair trial (Article 24 of the Agreement). The Parties agree to facilitate further EU-Ukraine judicial cooperation in civil matters on the basis of the applicable multilateral legal instruments, especially the Conventions of the Hague Conference on Private International Law in the field of international Legal Cooperation and Litigation as well as the Protection of Children (Part 2 of Article 24 of the Agreement).

The development and improvement of judicial cooperation in civil matters between EU Member States have gradually led to the forming of special approach, which safeguards judicial defense in cross-border matters. By using this approach, the so-called cross-border civil procedure, or European Civil Procedure, has been introduced to help to solve cross-border civil and commercial matters.

One of the main prerequisites for the harmonization of civil procedure is the necessity to provide a single market<sup>2</sup>. The consummate legal system, especially in the sphere of civil proceedings, stands as the basis for sustainable economical development; that is why was necessary to form the common legal space. Its creation has gained an extremely important value because it secured the existence of stable economical relationship between the European countries; simultaneously, it has become an inevitable process which accompanies the further development of the European Union.

According to the provisions of the EU-Ukraine Association Agreement, on January 1, 2016 the Deep and Comprehensive Trade Area was established, which allows free movement of goods, capital, services and, partly, labor and safeguards the prerequisites for gradual entrance of Ukraine economy into the single market of the EU. The Agreement aims at securing the implementation of political, economical, trade and judicial reforms in Ukraine. That is why of the highest topicality today is the harmonization of civil procedure of Ukraine and the EU with

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<sup>2</sup>Storme M. *Approximation of Judiciary Law in the European Union* / M. Storme ; *Rapprochement du Droit Judiciaire de l'Union europeenne*. — Kluwer Dordrecht, 1994. — 225 p. — P. IX.



the aim to ensure the protection of the citizens of the deepened economical relationships, which are being established between Ukraine and the EU.

The topic of the harmonization of civil procedure of the EU and the state, which is only on its way towards the integration into the European community, is controversial. According to the traditional scientific approach, and on the basis of legislative provisions of the EU treaties, the harmonization of the civil procedure shall take place only within the borders of the EU. However, in our opinion, it is reasonable to start the process of the harmonization of civil procedure legislation, given the purpose and the prerequisites of the harmonization of civil procedure, which aims at ensuring the normal functioning of the single EU market at the stage of Association Agreement concluding and under conditions of the Deep and Comprehensive Trade Area introducing. In this process, it is reasonable to use the common grounds, which characterize the harmonization of the civil procedure within the borders of the EU itself.

It should be noted that Ukraine has already made some steps towards *A Genuine European Area of Justice*. In particular, Article 9 “Features of action proceedings in matters of assets recognition as unjustified and their reclamation” of Part III “Action Proceedings” has been introduced to the state civil procedural legislation.

The final stage is the preparation of the changes to the Civil Procedure Code of Ukraine establishing proceedings, the prototype of which is the *European Order for Payment Procedure* at the request of the IMF.

It is important to note, however, that for the last two decades the harmonization of the civil procedure has been an extremely complex process for the EU Member States. For Ukraine, which has just begun this process, borrowing their positive experiences is extremely important.

So, firstly we should define the main stages of harmonization, since the latter is a consistent process that includes a number of interrelated actions. It should also be noted that harmonization of civil procedure arose only because of the need to solve a specific problem, which is the participation of the EU citizens (citizens of various Member States) in civil proceedings. This again defines the scope and limits of harmonization – these processes are



aimed at resolving the cross-border civil procedural relations. However, the reforming of national procedural law must take into account the need for a Genuine European Area of Justice, which means establishing efficient interaction of national and supra-national forms of the EU and Ukrainian citizens' rights protection.

The signing of the Association Agreement between Ukraine and the EU determines the occurrence of mutual obligations, the proper implementation of which could lead to the desired entry of Ukraine into the EU. Since this entry is preceded by implementing a comprehensive reform according to the EU standards, the harmonization of civil proceedings as a universal form of legal protection of civil rights becomes of paramount importance.

The harmonization of civil procedure should be carried out gradually, systematically and comprehensively, taking into account the direction of Ukraine's development, because partial changes in national legislation will not lead to the desired result, i.e. the creation of a stable and effective system of civil justice, which would meet the requirements of the EU treaties. It is a necessary condition for further adaptation of the EU legislation in the case of Ukraine's entry to the EU. Until that time comes, during the period of Ukraine entering the EU, the harmonization of legislation will be the necessary foundation that will provide real prospects of integration and active cooperation between our countries.

Thus, the following should be included to the stages of harmonization of civil procedure of the EU and Ukraine, which is currently in the process of accepting the Association Agreement and FTA Agreement.

In the first stage, under conditions of preparing and development of deep and comprehensive free trade area, which will provide gradual integration of Ukraine's economy into the EU single market, it is appropriate to join the EU legislation governing the relations of cross-border civil proceedings arising from the development of the single market. Thus, Ukraine will fulfill its part by making the necessary steps forward and providing a common legal space expansion, providing effective protection of participants of cross-border relations – the EU residents.



For this the following steps need to be taken:

**1) Free circulation of court judgments;**

It would be a mistake to say that Ukraine has made every effort to expand free judgment space with the EU. In the appeal to the EU in 2013 in order to explain the possible mechanisms in this regard, it was noted that Ukraine's accession to the Brussels Convention of 1968 and to the Lugano Convention of 1988 is not seen as appropriate, as these international treaties have lost their relevance with the coming in force of Regulation № 44/2001<sup>3</sup>. So the issue of introducing a mechanism of recognition and enforcement of judgments of the EU Members States courts remains open.

According to Articles 81-82 of the Law of Ukraine "On private international law"<sup>4</sup> with changes according to the Law № 245-VII (245-18) of 16<sup>th</sup> May 2013 the following cases may be recognized and executed in Ukraine: decisions of foreign courts in matters arising from civil, labor, family and economic relationships, foreign judgments courts in criminal proceedings in the part concerning damages and reparations, as well as decisions of foreign tribunals and other bodies of foreign states and competent to civil and commercial matters which have come into force, the procedure for recognition and enforcement of judgments established by law. Special Law of Ukraine "On the recognition and enforcement of foreign courts judgments in Ukraine» № 2860-III of 29<sup>th</sup> November 2001 has lost its power under Law № 2798-IV of September 6<sup>th</sup>, 2005.

Under the provisions of section 8 CPC of Ukraine, a foreign court (court of a foreign state, other competent authorities of foreign countries, whose competence is to consider civil or commercial matters, foreign or international arbitration) is recognized and enforced in Ukraine, if their recognition and enforcement is in accordance with an international treaty, ratified by the Verkhovna Rada of Ukraine or the *principle of reciprocity* (Art. 390).

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<sup>3</sup>Інформаційно-довідкові матеріали до комітетських слухань на тему: «Лібералізація візового режиму між Україною та ЄС» станом на 14.06.2013 [Електронний ресурс]. — Режим доступу : [comeuroint.rada.gov.ua/komevrouint/doccatalog/document?id=56234](http://comeuroint.rada.gov.ua/komevrouint/doccatalog/document?id=56234).

<sup>4</sup>Закон України «Про міжнародне приватне право» від 23 червня 2005 р. № 2709-IV [Електронний ресурс]. — Режим доступу : <http://zakon2.rada.gov.ua/laws/show/2709-15>.



It should be noted that the principle of reciprocity is an essential principle of international civil procedure and therefore it plays a significant role in cross-border relations of the EU Civil Procedure.

The recognition of foreign judgments is made by countries in two ways: either by a separate procedure for recognition of foreign court decisions on the basis of international treaty or reciprocity (international comity), or without any procedures.

According to Article 390, 399 CPC of Ukraine, decisions of foreign courts are recognized and enforced in Ukraine if their recognition and enforcement of an international treaty is ratified by the Verkhovna Rada of Ukraine or the principle of reciprocity<sup>5</sup>.

*In the local general courts of Ukraine from January 1 2015 till January 1 2016 were more than 1100 applications for permission to enforcement of foreign court decisions and more than 800 of them was end by decrees: refusing (11,4%), applications were leave without resolving (20%), and satisfy (68%)<sup>6</sup>.*

An example of the second method of recognition of foreign judgments – without any procedures – is the practice of the European Union. Given that Ukraine has not ratified either the Brussels Convention of 1968 or the Lugano Convention of 2007<sup>7</sup>, the recognition and enforcement of foreign judgments is carried out under the principle of reciprocity or under an international agreement between Ukraine and the respective EU Member State.

Meanwhile the Lugano Convention of 2007, which came into force in 2010, marked the final reformation of the mechanism of recognition and enforcement of foreign countries resolutions. The Convention, adopted by the European Union of the EFTA, greatly expands the possibilities for harmonizing the provisions on the recognition and enforcement of judgments in

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<sup>5</sup>Україною укладено двосторонні договори та угоди про правову допомогу в цивільних справах з 21 країною та виконуються в порядку правонаступництва аналогічні договори СРСР, укладені ще з 10 країнами. Ці договори зобов'язують сторони здійснювати певні дії процесуального характеру на взаємній основі.

<sup>6</sup>Єдиний реєстр судових рішень [Електронний ресурс]. — Режим доступу : <http://reyestr.court.gov.ua>.

<sup>7</sup>У вітчизняній науці висловлювалися пропозиції щодо приєднання України до Конвенції Лугано 1968 р., Див.: Міжнародний цивільний процес України : навч. посіб. : Практикум / За ред. д-ра юрид. наук, проф. С. Я. Фурси. — Київ : КНТ 2010. — 328 с.; Буковецька Н. В. Визнання та виконання рішень іноземних судів у Франції / Н. В. Буковецька // Юридична наука. Міжнародне право. — 2011. — № 2. — С. 211–215 та ін.



civil and commercial matters outside the EU and European Economic Area, in particular to third countries. It is open to accession by three groups of countries: firstly, for future members; secondly, for EU Member States, acting on behalf of non-European territories that are part of their territory or for whose external relations they are responsible; thirdly, any other state provided the unanimous consent of all parties involved<sup>8</sup>.

Participants of Lugano Convention of 2007 are the EU as well as Denmark, Iceland, Norway and Switzerland. Ukraine's accession to the convention is a necessary and important step that will certify the desire for European integration and expand the free circulation of judgments space for economic cooperation in the free trade zone. But on the current phase it cannot be acknowledged as the most relevant.

The principle of mutual trust in the administration of justice leads to abolishing any additional procedures of decision recognition adopted in the various Member States. Moreover, the desire to reduce the time and cost of cross-border procedures requires the cancellation of interim procedures and establishing the presence of the executive power of the court decision, giving the opportunity to comply with any decisions made by courts of EU Member States as such, which was adopted in Ukraine.

The implementation of the EU-Ukraine automatic recognition and enforcement mode will be an evolutionary step in the development of a genuine European area of justice and a reliable foundation for further harmonization and adaptation of the EU legislation.

## **2) the harmonization of rules on jurisdiction and Lis Pendans in cross-border civil and commercial matters in the EU and Ukraine;**

In the Report of European Parliament, Rada and European Economical and Social Committee Commission on the implementation of the Regulation № 44/2001 of 21<sup>st</sup> April 2009 (hereinafter – Report 2009) it was mentioned that the absence of the unified rules of

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<sup>8</sup>Summary of Treaty [Electronic resource]. — Mode of access : <http://ec.europa.eu/world/agreements/prepareCreateTreatiesWorkspace/treatiesGeneralData.do?redirect=true&treatyId=7481>.



jurisdiction leads to an uneven access to justice for the citizens of the EU. It is especially true for those matters, in which a party doesn't receive a fair trial or an adequate defense in the courts of third countries.

The lack of common rules determining jurisdiction over third defendant states could also jeopardize the application of mandatory Community legislation, for example the legislation on consumer protection. In Member States where there are no additional forms of protection, consumers can not break the matter against the defendants who are residents of a third state. The same as, for example, employees, commercial agents, victims of defective products, other persons who intend to use the rights given to data protection law in the EU. In all these areas, where Community law is mandatory, applicants may be deprived of such protection.

The current civil procedural law contains no contractual jurisdiction, which significantly reduces the individual's right of access to justice and effective trial.

Also, there is no facilitation of the process by the implementation of special rules for "weak" parties in legal relations connected with labor and consumer relations, whose claimant is a physical person.

The prevention of parallel proceedings principle or *Lis Pendens* is particularly important. To ensure the effective judicial protection of rights it is important not only to prevent a reconsideration of the matter by the court, which has already been approved by a court decision, but also to prevent simultaneous proceedings of the matter in several courts in different EU Member States or states that are not EU Members.

According to the provisions of Article 33 of Regulation № 1215/2012, if the matter is considered by the court of a third state, and the court of the EU Member State begins proceedings involving the same side and the same subject matter as in the matter in the court of a third state, the court of a Member State may suspend the proceedings, if:

- ◆ it is expected that the court of the third State will give a judgment capable of recognition and, where applicable, of enforcement in that Member State; and





◆ the court of the Member State is satisfied that a stay is necessary for the proper administration of justice<sup>9</sup>.

The court of the Member State may continue the proceedings at any time if:

- the proceedings in the court of the third State are themselves stayed or discontinued;
- it appears to the court of the Member State that the proceedings in the court of the third State are unlikely to be concluded within a reasonable time; or
- the continuation of the proceedings is required for the proper administration of justice.

This is very important for Ukraine. Reconsideration of the matter by the court, which has already been approved by a court decision, should not be allowed, and the possible simultaneous proceedings of the matter in several courts on the territories of the EU Member States and Ukraine should be prevented.

According to chapter 2, Article 75 of the Law of Ukraine "On private international law", the court refuses to initiate proceedings if the court or other foreign state jurisdiction has a matter of dispute between the same parties on the same subject and on the same grounds<sup>10</sup>. However, the procedural order of the question (if the proceedings are opened and found that identical matter is considered by the court of another state) is not defined.

According to a general provision of para. 4, chapter 1, Article 207 of CPC of Ukraine, the court decides on leaving the claim without consideration if the dispute between the same parties on the same subject and for the same reasons is considered in another court.

However, in accordance with Article 33 of Regulations № 1215/2012, if the matter is considered by the court of a third state and a court of the EU Member State begins proceedings

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<sup>9</sup>Regulation (EU) No. 1215/2012 of the European Parliament and of the Council on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters of 12 December 2012 [Electronic resource]. — Mode of access : <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32012R1215>.

<sup>10</sup>Закон України «Про міжнародне приватне право» від 23 червня 2005 р. № 2709-IV [Електронний ресурс]. — Режим доступу : <http://zakon2.rada.gov.ua/laws/show/2709-15>.



involving the same parties on the same subject matter, as is the matter in the court of a third state, it can suspend proceedings if it is expected that the third state court will make a decision that can be recognized in the EU Member States, if it is convinced that the proceedings are required for the proper administration of justice<sup>11</sup>.

Thus, the court of a Member State may continue the proceedings at any time if the proceedings in the court of the third state is suspended or closed and there is a reason to expect that a court of a Member State that is holding proceeding will hardly adopt its decision within a reasonable time; or the continuation of proceedings is necessary for the proper administration of justice.

The principle of controlled plurality of processes or preventing parallel proceedings in different courts derives from the principles of equality of litigation and reciprocity, according to which foreign judges are as honest and intelligent as their own judges and therefore, there is no need to resolve to the same matter in courts of different countries. However, it is intended to prevent parallel litigation to avoid conflict of jurisdictions and the possible adoption of contradictory court decisions.

At the same time, according to para. 4, chapter 1, Article 396 of CPC of Ukraine, the decision of a court of Ukraine about a dispute between the same parties on the same subject and on the same grounds that came in force, or the proceedings in the court of Ukraine in a dispute between the same parties on the same subject and the same grounds before the time of the proceedings in a foreign court can be a reason to refuse petition for permission to enforcement of a foreign court<sup>12</sup>. That means that despite the fact that the court of a foreign

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<sup>11</sup>Regulation (EU) No. 1215/2012 of the European Parliament and of the Council on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters of 12 December 2012 [Electronic resource]. — Mode of access : <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32012R1215>.

<sup>12</sup> Article 396. Grounds for denial of a motion for permission to enforcement of foreign court decisions

1. Application for permission to enforcement of foreign court decisions is not satisfied in the cases stipulated by international treaties, ratified by the Verkhovna Rada of Ukraine.

2. If in international treaties, ratified by the Verkhovna Rada of Ukraine, such cases are not provided for the petition may be denied:

1) if the decision of a foreign court under the laws of the State in which it was decided have not gained legal force;  
2) if the party against whom the decision was made by a foreign court was unable to participate in the trial because he was not properly notified of the proceedings;



state is considering an identical matter, the courts of Ukraine may adopt a decision that would be a reason for refusal of enforcement of a foreign court.

While considering identical matters, one should be guided by the principle of a fair trial by a court which can properly carry out justice. Given the need to harmonize civil procedure of the EU and Ukraine, as well as ensuring the rights of individuals for a fair trial, one should complement the existing procedural law of the court to determine in what court the proceedings shall be held for the proper administration of justice.

**3) the effective judicial cooperation between the courts of the EU and Ukraine in cross-border civil and commercial matters (the service of judicial and extrajudicial documents, the taking of evidence, the preservation of account);**

Association Agreement between Ukraine and the EU has identified the priority areas of cooperation to strengthen the judiciary, improving its efficiency, guarantee its independence and impartiality. The judicial cooperation in civil matters is a very important element among them.

The development of judicial cooperation aims at broadening and deepening the scope of mutual assistance between judicial authorities of the EU Member States and Ukraine for the proper and timely consideration and resolution of civil matters. This requires the improvement of existing mechanisms to provide legal assistance to courts, which includes the execution of court orders, mutual assistance in obtaining information on foreign law and so on.

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- 3) if the decision taken in the case, consideration of which belongs exclusively to the competence of a court or other authorized body according to the law of Ukraine;
  - 4) if the Court of Ukraine decided the dispute between the same parties on the same subject and on the same grounds that entered into legal force or if court proceedings in the case of Ukraine is the dispute between the same parties, with the same subject and on the same grounds, the time of opening of proceedings in foreign courts;
  - 5) if it was omitted the term presenting the decision of a foreign court to enforce in Ukraine set by international treaties and this Law, ratified by the Verkhovna Rada of Ukraine;
  - 6) if the subject of the dispute under the laws of Ukraine is not subject to judicial review;
  - 7) if the decision threatened the interests of Ukraine;
  - 8) in other cases established by laws of Ukraine.



The mentioned above requires a detailed research by the EU civil proceedings institutes, which would determine the order of interaction and cooperation between the courts of the EU Member States on the consideration and resolution of cross-border civil and commercial matters as well as clarifying the prospects of harmonizing civil procedural law of Ukraine.

For the effective and timely resolution of the dispute, the implementation of some procedural actions on the territory of a Member State may be necessary, including a delivery of summons or obtaining evidence in the matter. In such matters, according to the current Code of Civil Procedure of Ukraine, a party can appeal to the court demanding that it will apply to the court of another state in time prescribed by law with a judicial request for legal assistance. Courts of Ukraine may apply to a foreign court or other competent authority of a foreign state if the court is required to hand over documents, collect evidence or carry out some procedural actions on the territory of another state in the course of the proceedings.

The proceedings, for the implementation of which courts can seek legal assistance, include the following: the service of documents to the participants of the process residing or staying in another state than that of a competent court; taking evidence in other states, including the transfer of written evidence, the testimony of the parties, third parties, witnesses, experts and other stakeholders, the transfer of physical evidence or examination by tribunal expertise; calling a witness or an expert; clarifying information on the law that is to be applied, and so on.

In Ukraine, the letters of request for service of documents abroad are based on the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters of 1965<sup>13</sup>. They are managed by a court or other concerned competent authority of Ukraine in a form of a request. Two parts of the form require filling – "Request" and "Summary of the document." The court or the other competent authority of Ukraine sends the order on the basis of the Convention to the central authority of a foreign state.

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<sup>13</sup>Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters [Electronic resource] — Mode of access : [http://www.hcch.net/index\\_en.php? act=conventions.status&cid=17](http://www.hcch.net/index_en.php?act=conventions.status&cid=17).



In Ukraine, court orders of obtaining evidence are executed according to Article 3 of the Hague Convention of 18 March 1970 on recovery of evidence abroad in civil or commercial matters<sup>14</sup>. They are managed by the court in the form of a request for international legal assistance and contain: the name of the requesting authority and, if possible, the requested authority; the name (full name) and residence (location) of the judicial proceedings and, where appropriate, their representatives; the nature and the object of the proceedings and a summary of the facts of the matter; required evidence or other legal actions to be done. If necessary, the document specifies: the names and addresses of the persons to question; questions to be put to persons under interrogation or facts about which they must be questioned; documents or other objects that should be investigated; special request concerning obtaining evidence; special forms that must be applied in accordance with Article 9 of the Convention. This order is sent to Ukraine through the Ministry of Justice, which forwards it to the central authority established by the state.

*According to statistics in the courts of Ukraine in recent years the number of court orders has decreased. In the first half of 2015, 952 orders of foreign courts were located in local court proceedings (in the first half of 2014 – 1.1 thousand.).*

Considering the European aspirations of Ukraine, the need to protect the violated rights and real enforcement of judgments, it is important to ensure the harmonization of the institute of civil proceedings in Ukraine and the EU.

Civil Procedure Law of Ukraine contains procedures designed to secure a claim in civil proceedings (securing a claim). In particular, securing a claim at any stage of the proceedings could be applied in the matter of difficulty or inability to enforce judgment. Among the security measures law identifies both those, intended to prevent the possibility of enforcement (seizure of property or money) and those, aimed at preserving the status quo (prohibition to make payments or transfer property)<sup>15</sup>. However, these provisions do not reflect the peculiarities of

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<sup>14</sup>Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters [Electronic resource]. — Mode of access : [http://www.hcch.net/index\\_en.php?act=conventions.status&cid=82#mem](http://www.hcch.net/index_en.php?act=conventions.status&cid=82#mem).

<sup>15</sup>Article 152. Types of claim securing. 1. The claim shall be secured: 1) seizure of property or money belonging to the defendant and is in his or other persons` possession; 2) prohibition to perform some specific action; 3)



various kinds of requirements provision that may be present in civil proceedings, which also negatively affects the jurisprudence.

In accordance with the requirements of the International Monetary Fund, Ukraine is preparing a Law that will be adopted, which strengthens the provisions in the Code of Civil Procedure on Order for Payment for domestic transactions and on garnishment of bank accounts (modified structural benchmark)<sup>16</sup>. But currently the available project for the study is not yet prepared.

With further reforming and improving the institutions of provision in civil proceedings, keeping in mind the European aspirations of Ukraine, one should take into account the experience of the EU. In particular, it is necessary to summarize the position of the documents provision in civil proceedings and separate the institute of providing in a CPC of Ukraine. Separating and systematization of these provisions will allow to theoretically solve the problem of unequal applications of provision in civil proceedings, to determine the grounds and procedure for providing various requirements, including requirements of monetary and non-monetary nature.

#### **4) the harmonization of civil procedural legislation of Ukraine with the EU Directives (including Directive number 2013/11 / EU of 21 May 2013 on alternative ways of resolving consumer disputes<sup>17</sup>, Directive 2002/8 / EC of 27 January 2003 on legal assistance<sup>18</sup>, Directive**

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establishing the obligation to carry out certain actions; 4) prohibition to others to make payments or transfer the property to the defendant or the performance of other related to him obligations; 5) stop of the distress sale, if a claim on ownership of the property or on excluding it from the description is filed; 6) stop the recovery on the basis of executive document claimed by the debtor in court; 7) the transferring of the thing that is in dispute to the deposit of others. Цивільний процесуальний кодекс України від 18 березня 2004 р. [Електронний ресурс]. — Режим доступу : <http://zakon3.rada.gov.ua/laws/show/1618-15/print1371132704516576>.

<sup>16</sup>Letter of Intent, Memorandum of Economic and Financial Policies, and Technical Memorandum of Understanding [Electronic resource]. — Mode of access : <https://www.imf.org/external/np/loi/2015/ukr/072115.pdf>.

<sup>17</sup>Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC [Electronic resource]. — Mode of access : <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:165:0063:0079:EN:PDF>.

<sup>18</sup>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 [Electronic resource]. — Mode of access : <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32003L0008>.



№ 2009/22 / EC of 23 April 2009 on injunctions for Consumer Protection <sup>19</sup>), and other recommendations on the harmonization of civil procedural laws of the Member States (particularly the Commission Recommendation of 11 June 2013 on common principles for injunctive and compensatory collective redress mechanisms in the Member States concerning violations of rights granted under Union Law <sup>20</sup> et al.).

Creating the necessary basis for resolving cross-border disputes will provide an opportunity to introduce a single procedure for resolving cross-border civil and commercial matters in Ukraine and the EU (*European Civil Procedure*) to provide of deep and comprehensive free trade area. At this development stage of relations between Ukraine and the EU the scientific concept of civil harmonization process of the EU and national civil procedural legislation is of great interest.

The development of relations between Ukraine and the EU requires the establishment of effective protection of their citizens. Reforming the national civil procedural law will ensure the harmonization of the provisions of the EU legislation, with which Ukraine has complied with the provisions of national procedural law. The next stage of harmonization of civil procedure is associated with Ukraine's entry into the EU and the need for further coordination of supranational EU legislation and the legislation of Ukraine, Ukraine's participation in the development of common rules of civil procedure (e.g., *European Regional Rules of Civil Procedure*).

The following court statistics are from the Supreme Specialized Court of Ukraine on civil and criminal matters

**Table 1 - Matters and materials received in the local general courts in the first half of 2014–2015 (by type of justice)**

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<sup>19</sup> Директива № 2009/22/ЄС від 23 квітня 2009 року про судові заборони на захист прав споживачів (кодифікована версія [Електронний ресурс]. — Режим доступу : <http://old.minjust.gov.ua/45878>.

<sup>20</sup> Commission Recommendation of 11 June 2013 on common principles for injunctive and compensatory collective redress mechanisms in the Member States concerning violations of rights granted under Union Law [Electronic resource]. — Mode of access : [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:JOL\\_2013\\_201\\_R\\_NS0013](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:JOL_2013_201_R_NS0013)



Characteristic	Received in the first Semester of 2014	Received in the first Semester of 2015	Dynamics,%
Criminal proceedings	418 036	391 379	- 6,4
Civil proceedings	688 904	595 288	- 13,6
Administrative offenses	399 036	330 649	-17,1
Administrative proceedings	61 848	46 490	- 24,8
<b>TOTAL:</b>	<b>1 567 824</b>	<b>1 363 806</b>	<b>- 13</b>

Table 2 - Matters and materials received in the appeal courts in the first half of 2014–2015 (by type of justice)

Characteristic	Received in the first Semester of 2014	Received in the first Semester of 2015	Dynamics %
Criminal proceedings	74 420	87 553	17,6
Civil proceedings	65 617	59 225	-9,7
Administrative offenses	6 078	5 142	-15,4
<b>TOTAL:</b>	<b>146 115</b>	<b>151 920</b>	<b>4</b>

Table 3 - Matters and materials received in the Supreme Court of Ukraine for Civil and Criminal Matters in the first half of 2014–2015

Category of document	Received in the first Semester of 2014	Received in the first Semester of 2015	Dynamics, %
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in civil proceedings	38 032	31725	- 16,6
in criminal proceedings	11 175	7 308	- 34,6
<b>TOTAL:</b>	<b>49 207</b>	<b>39 033</b>	<b>- 20,7</b>

Table 4 - The average monthly load per judge of the local general court in the first half of 2014–2015 (the number of **working judges** on 01.07.2014 and 01.07.2015)

First Semester	Working staff	Incoming matters and materials	The average monthly load per judge
year 2014	4 507	1 567 824	63,3
year 2015	4 384	1 363 806	56,6

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