

Ukrainian Parliament passes the largest ever Ukrainian Court Reform Bill, introducing significant amendments to the judicial procedures

Introduction

On 3 October 2017, the Ukrainian Parliament passed at the second reading the long-awaited draft Law No. 6232 "On Amendments to the Code of Commercial Procedure, Code of Civil Procedure, Code of Administrative Justice and other legislative acts" (hereinafter, the "**Court Procedure Reform Bill**"). As we [have earlier reported](#), the Court Procedure Reform Bill was adopted at the first reading on 20 June 2017 during the previous session of the Parliament. It has yet to be signed into law by the President of Ukraine.

The Court Procedure Reform Bill amends more than 25 Laws of Ukraine governing the organisation and operation of the judicial system.

The Court Procedure Reform Bill is by far the most ambitious and far-reaching piece of legislation aimed at improving the judiciary since Ukraine gained its independence in 1991. It is also claimed to be the largest bill in the Parliament's law-making history.

Key issues

- Electronic Court System
- New Forms of Evidence
- Summoning via Website
- Summary Procedure for Insignificant, and Less Sophisticated, Disputes
- New Procedure for Complex Disputes
- One-stop Cassation Proceedings
- Prevention of Abuse of Procedural Rights
- Interaction between State Courts and Arbitration
- Delineation of Subject Matter Jurisdiction
- New Higher Intellectual Property Court
- Changes in Administrative Justice
- Binding practice

Below is a short overview of the most important changes that the Court Procedure Reform Bill introduces.

Electronic Court System

The Court Procedure Reform Bill introduces an Electronic Court System, which will allow the uploading and downloading of parties' submissions, digitalised evidence and court rulings,

as well as participation in the proceedings via videoconferencing. It will also facilitate communications between parties and the court through encrypted electronic channels. The Electronic Court System will eventually dispense with almost all paperwork in Ukrainian courts.

New Forms of Evidence

The Court Procedure Reform Bill also allows electronic documents and web pages to be admitted as evidence in the Commercial Courts, on a par with documentary evidence. Previously, only hard copies were admissible. Witnesses are also introduced to commercial court procedures for the first time, so as to provide auxiliary evidence where allegations cannot be proved by other sources of evidence. Previously, witness testimony could not be taken into account as evidence in commercial courts.

Summoning via Website

The Court Procedure Reform Bill supplements the civil procedure and administrative procedure with an option of summoning a respondent, a third party, or a witness – the work or residence of whom is unknown – through the publication of an announcement on the official website of the Judicial System of Ukraine.

Summary Procedure for Insignificant, and Less Sophisticated, Disputes

The Court Procedure Reform Bill allows consideration of insignificant disputes and less sophisticated disputes within no more than 60 days following commencement of the proceedings.

Furthermore, the Court Procedure Reform Bill introduces an *ex parte* summary procedure for insignificant disputes relating to the recovery of indebtedness in civil and commercial cases. This newly introduced summary procedure is available to persons entitled to claim undisputed monetary indebtedness (of insignificant value (approximately, up to UAH 160 000)) accrued under contracts in writing. Upon the application of any such person, the court can issue an order for recovery of indebtedness from the debtor in question without giving notice to the debtor. The procedure will enable and greatly accelerate maintenance recovery claims, utility services debts, reimbursement of cost of unsuitable goods, or those not fit for purpose, &c.

New Procedure for Complex Disputes

The Court Procedure Reform Bill envisages a 60-day preparatory stage of written pleadings for complex disputes. In tandem with the above, the Court Procedure Reform Bill provides for a mandatory procedural hearing to determine all the procedural issues and further streamline consideration on the merits. Further, the duration of oral hearing including breaks shall now not exceed 30 days in its entirety.

One-stop Cassation Proceedings

The Court Procedure Reform Bill provides for a one-stop cassation review by the Supreme Court of Ukraine, which may sit as a panel, chamber, or consolidated chamber of the respective court of cassation; for instance, the Grand Chamber of the Supreme Court of Ukraine.

Prevention of Abuse of Procedural Rights

The Court Procedure Reform Bill introduces fines, measures of procedural coercion, procedural restrictions, disciplinary liability of an advocate or prosecutor &c. for failure to comply with procedural duties, abuse of procedural rights and similar violations.

Interaction between State Courts and Arbitration

The Court Procedure Reform Bill provides the state courts with powers to issue injunctions in support of international arbitration; for example, by ordering conservatory measures or preserving evidence.

The procedure of enforcement and setting aside of arbitral awards will be streamlined, as all such applications will now have to be submitted to the Kyiv City Court of Appeal. Rulings of the Kyiv City Court of Appeal shall be appealable to the Supreme Court only. Moreover, applications for recognition and enforcement of arbitral awards and for their setting aside can be considered in consolidated proceedings.

Delineation of Subject Matter Jurisdiction

According to the Court Procedure Reform Bill, the jurisdiction of the courts will be determined predominantly by the subject matter of the dispute in question. In particular, commercial courts shall resolve disputes which arise from commercial agreements, privatisation of property, protection of competition, as well as corporate disputes, whereas general courts shall consider labour, family and housing disputes.

New Higher Intellectual Property Court

Disputes concerning intellectual property rights (expressly provided in the amended Commercial Procedural Code of Ukraine) shall be considered by the newly-established Higher Intellectual Property Court, the judgments of which will be appealable directly to the Supreme Court.

Changes in Administrative Justice

Guided by the practice of the European Court on Human Rights and its procedure pilot judgments, the Court Procedure Reform Bill provides for a procedural mechanism to deal with classes of similar cases. The Supreme Court will be authorised to issue model judgments to be followed by the lower courts.

Moreover, Court Procedure Reform Bill expands the jurisdiction of administrative courts. From now on these can hear disputes concerning decisions of competition, medical and social expert commissions and other similar bodies whose decisions have binding effect; and disputes concerning the formation of state and local government bodies, and the election, appointment and/or dismissal of their officials.

Binding practice

The Court Procedure Reform Bill has also affected the area of Civil Service by imposing disciplinary liability on state officials for violating or disregarding Supreme Court case law.

Contact details

If you would like to know more about the subject covered in this publication, or our services, please contact:

Sergiy Gryshko +380 44 390 2213
sergiy.gryshko@redcliffe-partners.com