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Peculiarities of recognition and enforcement of foreign judgments in Ukraine: problematic aspects

ОСОБЛИВОСТІ ВИЗНАННЯ ТА ВИКОНАННЯ РІШЕНЬ СУДІВ ІНОЗЕМНИХ ДЕРЖАВ В УКРАЇНІ: ПРОБЛЕМНІ АСПЕКТИ

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Abstract


This article examines the legal framework, challenges, and procedural nuances of recognizing and enforcing foreign court decisions in Ukraine. The study analyzes Ukraine's legislative provisions, international treaties, and judicial practices governing the enforcement of foreign judgments, highlighting the impact of Ukraine's commitments under various international agreements. Key factors influencing the enforcement process, such as reciprocity, jurisdictional limits, and procedural fairness, are explored to provide insights into the complexities of cross-border judicial cooperation. The article also discusses recent legal developments in Ukraine that affect the recognition and enforcement of foreign judgments, addressing both practical and theoretical perspectives. The research employs several scientific methods,


Анотація

У статті розглядаються законодавча база, виклики та процесуальні нюанси визнання та виконання рішень іноземних судів в Україні. У дослідженні аналізуються положення законодавства України, міжнародні договори та судової практика, що регулюють виконання іноземних судових рішень, підкреслюється вплив зобов'язань України за різними міжнародними угодами. Ключові фактори, що впливають на процес виконання, такі як взаємність, юрисдикційні обмеження та процесуальна справедливість, досліджуються, щоб зрозуміти складності транскордонної судової співпраці. У статті також розглядаються останні правові зміни в Україні, які впливають на визнання та виконання іноземних судових рішень, розглядаються як практичні, так і теоретичні перспективи. Дослідження

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including the legal, the comparative method to contrast Ukrainian and international approaches, the normative analysis method to examine specific legislative provisions, the systematic method to evaluate the coherence of Ukraine's judicial policies, and the case-study method to illustrate practical challenges through recent legal examples. The article concludes with recommendations for enhancing Ukraine's enforcement practices, thereby promoting more effective international judicial cooperation.

Keywords: protection of person's rights, enforcement proceedings, foreign court decisions, international treaties, judicial cooperation.

використовує кілька наукових методів, зокрема юридичний, порівняльний метод для порівняння українських і міжнародних підходів, метод нормативного аналізу для вивчення окремих законодавчих положень, системний метод для оцінки узгодженості судової політики України та метод кейс-стаді для порівняння проілюструвати практичні проблеми на останніх юридичних прикладах. Стаття завершується рекомендаціями щодо вдосконалення практики виконання в Україні, сприяючи тим самим більш ефективній міжнародній судовій співпраці.

Ключові слова: захист прав особи, виконавче провадження, рішення іноземних судів, міжнародні договори, судова співпраця.

Introduction

The increasing interconnectedness of the global economy and the surge in cross-border legal interactions have amplified the necessity for robust mechanisms to recognize and enforce foreign court decisions. Such mechanisms are pivotal for facilitating international cooperation and fostering trust in legal systems across borders. For Ukraine, the effective recognition and enforcement of foreign judgments are not merely procedural imperatives but also vital steps toward integrating into the global judicial community and strengthening its legal infrastructure.

However, this process is fraught with challenges. Ukraine faces intricate legal and procedural hurdles, including jurisdictional limitations, the principle of reciprocity, and compliance with specific legislative requirements. Addressing these issues is crucial for ensuring the reliability and predictability of Ukraine's judicial system in cross-border contexts.

This article delves into these complexities, focusing on the unique features of Ukraine's legal framework governing the recognition and enforcement of foreign court judgments. It examines how international obligations, domestic legislation, and judicial practices shape this process.

The primary objective is to analyze Ukraine's approach to recognizing and enforcing foreign judgments, identify the challenges encountered, and propose practical recommendations for reform. The analysis centers on key research questions, such as:

What legal provisions and international agreements govern the recognition and enforcement of foreign judgments in Ukraine?

How does Ukraine's approach to reciprocity influence the enforcement process?

What procedural challenges complicate the enforcement of foreign court decisions?

How can Ukraine align its approach with international standards to enhance cross-border judicial cooperation?

To address these questions, the article is structured into four key sections:

Theoretical Framework or Literature Review – This section explores the theoretical foundations and prior research on the recognition and enforcement of foreign court decisions. It situates Ukraine's legal framework within international legal standards and draws comparisons with other legal systems to identify key similarities and differences.

Methodology – This section details the research methods employed, including the comparative method, normative analysis, systematic method, and case-study approach, explaining their relevance to analyzing Ukraine's legislative and procedural practices.

Results and Discussion – The findings are presented here, highlighting Ukraine’s current practices, identifying significant challenges, and analyzing the implications of legal and procedural factors. The discussion emphasizes actionable insights and potential reforms to enhance Ukraine’s approach.

Conclusion – The article concludes by summarizing the main findings and offering specific recommendations to align Ukraine’s framework with international standards, thus facilitating more effective judicial cooperation.

By bridging theoretical analysis with practical insights, this article aims to contribute to a nuanced understanding of Ukraine’s position in the realm of international judicial cooperation and to identify pathways for aligning its practices with global expectations.

Theoretical Framework or Literature Review

The recognition and enforcement of foreign court judgments in Ukraine represent a complex and evolving area within international private law, influenced by various international conventions, domestic laws, and case studies. This literature review offers an in-depth examination of the main issues discussed in Ukrainian and foreign legal research and publications.

1. Kuzmenko S.H. (2010) *International Private Law*. This Ukrainian textbook provides foundational insights into the principles of international private law in Ukraine, with a particular focus on how international agreements influence domestic enforcement of foreign judgments. It highlights procedural requirements and legal principles for recognition processes.
2. Fortuna T.Ya. (2011) *Concept and Legal Nature of Recognition and Enforcement of Foreign Judgments in Ukraine*. This article explores the legal concept of recognition in Ukraine, examining both legislative and practical challenges. Fortuna’s work discusses the conditions under which Ukrainian courts may deny recognition, including matters of public order.
3. Belikova S.O. (2020) *Recognition and Enforcement of Foreign Court Judgments: Theoretical and Practical Aspects*. This study analyzes theoretical frameworks and practical obstacles, including the limited number of international treaties that Ukraine has for mutual legal assistance, impacting the enforcement rate of foreign judgments.
4. Kryshalowych H. and Salomon C.T. (2003). *Enforcing Foreign Arbitral Awards and Foreign Judgments in Ukraine*. Published in the *American Review of International Arbitration*, this article explores Ukraine’s adherence to international arbitration treaties, such as the New York Convention, which facilitate enforcement but have limitations with non-contracting states.
5. Dentons (2023) *Ukraine Strengthens Legislative Framework for Dispute Resolution*. This analysis provides an overview of recent legislative improvements in Ukraine, particularly related to exclusive choice-of-court agreements. Dentons discusses implications for businesses that select Ukrainian or foreign jurisdictions in contracts.
6. King & Spalding (2023) This analysis provides insights into the Hague Judgments Convention, which Ukraine joined in 2023, and examines its impact on the recognition of EU judgments in Ukraine and vice versa. The Convention simplifies the enforcement process, minimizing the grounds on which a judgment can be refused, thus aiding commercial litigation between Ukraine and EU member states amid Ukraine’s EU integration ambitions.
7. CMS Law (2022). This publication details the procedural framework for enforcing foreign court judgments and arbitral awards in Ukraine. It emphasizes the conditions under the Ukrainian Code of Civil Procedure and highlights specific requirements for international commercial arbitration decisions under the New York Convention, focusing on reciprocity and statutory limitations.
8. Solimine, M.E. (2022) explores the challenges of enforcing foreign judgments in the United States within the context of the law market model, which advocates for greater consumer choice in determining applicable law. Solimine argues that, unlike other areas of law where parties can select governing laws, the enforcement of foreign judgments remains highly regulated and often faces significant hurdles. The article suggests that allowing more contractual flexibility in recognizing foreign judgments could enhance efficiency and legal certainty in international disputes.
9. D. Akhmurodov (2024) outlines key principles governing the recognition and enforcement of foreign judgments, emphasizing the importance of reciprocity, due process, and adherence to public policy. It highlights that while regional agreements, such as those in the EU, have made strides in streamlining processes, global harmonization remains incomplete. The article also discusses various practices and recommendations that can enhance international cooperation in recognizing foreign



- judgments, underscoring the necessity for jurisdictions to balance their sovereign interests with the need for effective dispute resolution in an increasingly interconnected world.
10. O. Tsybulska (2023) claims that since the full-scale invasion of Ukraine by the Russian Federation, there has been an increasing need to recognize foreign court decisions within Ukraine. This trend is primarily driven by the mass exodus of Ukrainian citizens seeking refuge abroad. While these individuals may keep their status as Ukrainian citizens, they retain the right to seek protection either in their host country or back in Ukraine, depending on the nature of the legal issues involved. In this context, one viable way to safeguard their rights, freedoms, and interests is by filing a petition with the Ukrainian courts in a separate proceeding.
 11. Susan L. Stevens (2002) in her article «Commanding International Judicial Respect: Reciprocity and the Recognition and Enforcement of Foreign Judgments» explores the historical, social, and legal foundations of sovereign recognition and enforcement of foreign judgments. She evaluates three proposed versions of reciprocity laws, focusing on the version adopted by the American Law Institute (ALI). Using game theory, the author constructs two basic models to illustrate the strengths and weaknesses of each version, ultimately identifying the most effective strategy for the United States within these frameworks. The discussion highlights the benefits of reciprocity and concludes that the ALI's adopted reciprocity law represents the optimal approach for ensuring effective foreign judgment recognition and enforcement in the U.S.
 12. Yehya Ibrahim Badr (2021) presents a comparative study between the rules governing the recognition and enforcement of foreign judicial decisions in the jurisdictions of the Latin Civil Law School, such as France and Egypt, and the rules in force in the countries of the Anglo-Saxon Common Law School, such as England and the United States of America, to show the similarities and differences between the two schools. Among other things the article demonstrates how the Hague Convention 2019 rules work to integrate the provisions of the convention within the national legal system, with an overview of the legal implications of Egypt's adoption of the provisions of the convention.

These sources collectively illustrate the challenges and progressive developments in Ukraine's handling of foreign judgments. Through international conventions, legislative updates, and court rulings, Ukraine is gradually refining its legal framework to improve international cooperation in private law matters. However, as several authors point out, the country still faces procedural barriers and legal inconsistencies that complicate enforcement, particularly with nations outside of its direct treaty obligations. This literature review provides a basis for understanding the complex legal environment surrounding the recognition and enforcement of foreign judgments in Ukraine, setting the stage for a discussion of empirical findings in the following sections of this article.

Methodology

1. Legal Analysis

The legal analysis entails an in-depth review of Ukrainian legislation, international treaties, and comparative laws from other jurisdictions. Key documents include the Ukrainian Civil Procedure Code, the New York Convention, and the Hague Convention. This method examines the legal framework governing the recognition and enforcement of foreign judgments in Ukraine and evaluates recent amendments reflecting geopolitical and legal changes.

This method was chosen because it provides a foundation for understanding the legal environment. Unlike statistical or purely empirical methods, legal analysis directly examines primary sources of law, enabling precise identification of the rules, principles, and interpretations guiding judicial decisions. It is indispensable for legal research focused on normative frameworks and compliance with international standards.

2. Qualitative Interviews

Qualitative interviews involve collecting insights from legal practitioners, judges, and scholars with experience in cross-border judicial cooperation and enforcement processes in Ukraine. These interviews aim to capture expert opinions and real-world challenges faced in applying relevant legal provisions.

This method enriches the study by incorporating practical perspectives that cannot be derived solely from legal texts. It was chosen over surveys because interviews allow for more nuanced, in-depth discussions about specific issues, providing qualitative insights into how laws function in practice, particularly in a rapidly changing geopolitical context.

3. Case Studies

The study includes case studies of Ukrainian court decisions regarding the recognition and enforcement of foreign judgments. These cases are selected based on their relevance to contemporary issues, such as the challenges faced by displaced Ukrainian citizens. The analysis explores the courts' legal reasoning, the outcomes for the parties involved, and broader implications for judicial practice.

Case studies offer a concrete illustration of how abstract legal principles are applied in practice. They were selected over large-scale data analysis methods because the focus is on qualitative depth rather than statistical trends. This approach is particularly effective in addressing specific legal challenges and their practical implications.

4. Comparative Method

This method involves comparing Ukraine's legal framework with that of other jurisdictions, particularly EU member states and countries with established precedents in recognizing and enforcing foreign judgments. The analysis identifies best practices and potential reforms by examining how different legal systems handle similar issues.

The comparative method provides a broader context, enabling the identification of effective solutions used elsewhere. It was chosen over purely domestic analysis because cross-border judicial cooperation inherently requires understanding foreign practices and aligning with international standards. This method highlights discrepancies and opportunities for harmonization.

5. Systematic Method

The systematic method involves a structured review of existing literature, including academic articles, legal reviews, and empirical studies. It synthesizes findings to create a comprehensive understanding of the current legal landscape and its implications for Ukraine.

This method ensures that the study builds on a well-documented foundation, avoiding duplication of prior research and identifying gaps in the current body of knowledge. It was selected over less structured literature reviews because systematic methods provide rigor, transparency, and reproducibility, which are critical for robust legal scholarship.

The combination of these methodologies provides a holistic approach to the subject matter, addressing theoretical, practical, and comparative dimensions. Methods like legal analysis and case studies are central to understanding the specific legal framework and its application in Ukraine. Qualitative interviews and the comparative method add broader perspectives and insights, while the systematic method ensures a grounded and comprehensive basis for conclusions. This mixed-methods approach avoids the limitations of relying on a single perspective, ensuring a robust and multidimensional analysis of the topic.

Results and discussion

Legal Provisions and International Agreements Governing the Recognition and Enforcement of Foreign Judgments in Ukraine

In Ukraine, the recognition and enforcement of foreign judgments are regulated by a combination of national laws, procedural codes, and international agreements. Each normative act plays a specific role in defining how foreign court decisions are integrated within the Ukrainian legal framework. The primary legislative instruments include the Civil Procedure Code of Ukraine, various bilateral treaties, and relevant multilateral agreements such as the Hague Convention on the Recognition and Enforcement of Foreign Judgments and the New York Convention on Arbitral Awards.

Civil Procedure Code of Ukraine

The Civil Procedure Code of Ukraine (Law 1618-IV, 2004) serves as the foundational national legislation for the recognition and enforcement of foreign court judgments. Under the Code, recognition and enforcement procedures are outlined in Chapter IX, specifically in Articles 464–468, which detail the types of foreign judgments eligible for recognition, the process for filing a petition, and the conditions under which Ukrainian courts may refuse recognition. This Code emphasizes reciprocity, requiring foreign judgments to be recognized in Ukraine only if there is evidence of reciprocal recognition for Ukrainian judgments in the foreign jurisdiction. Additionally, the Code allows for the refusal of recognition if the foreign judgment contradicts Ukraine's public policy, was obtained under procedurally unfair conditions, or pertains to exclusive jurisdiction reserved for Ukrainian courts.

Bilateral Agreements

Bilateral agreements between Ukraine and other countries play an essential role in regulating the recognition and enforcement of foreign judgments, complementing the provisions of the Ukrainian Civil Procedure Code. These agreements establish specific reciprocal terms and offer a clear legal foundation for judicial cooperation between Ukraine and other countries, ensuring that judgments rendered in one jurisdiction can be effectively recognized and enforced in another.

Treaties with EU Countries

Ukraine has established bilateral treaties with several European Union member states, such as Poland, Hungary, and the Czech Republic, which streamline the process for recognizing and enforcing judgments (The Verkhovna Rada of Ukraine, 2001a; The Verkhovna Rada of Ukraine, 2001b; The Verkhovna Rada of Ukraine, 1993). These treaties typically outline mutual obligations, specifying criteria for recognition, conditions under which enforcement may be denied, and procedural requirements for filing a recognition petition. For instance, in the Ukrainian-Polish treaty, each country agrees to honor civil and commercial judgments, provided they are rendered by competent courts and meet due process standards. Such agreements aim to facilitate smoother cross-border litigation, especially for civil and commercial matters, and they reduce the administrative burdens and costs typically associated with recognition and enforcement.

Agreements with Neighboring Countries

Besides the EU, Ukraine has bilateral treaties with neighboring non-EU countries, such as Turkey. These treaties often emphasize similar standards for reciprocity and due process, ensuring that judgments made in one jurisdiction can be upheld in the other as long as they adhere to fundamental legal standards, including fairness and jurisdictional competence. The Ukrainian-Turkish treaty, for example, provides for the mutual recognition of court decisions in civil and family law matters (The Verkhovna Rada of Ukraine, 2000). This agreement benefits individuals and businesses engaged in cross-border relationships by providing a level of predictability and legal assurance that judgments will be respected across borders, provided they comply with treaty terms.

Agreements with Asian and Middle Eastern Countries

Ukraine also maintains bilateral treaties with several countries in Asia and the Middle East, including Israel and China (The Verkhovna Rada of Ukraine, 1992). These treaties are crucial given the significant trade and personal ties between Ukraine and these regions. For example, the Ukrainian-Israeli agreement outlines specific procedures for recognizing court decisions, emphasizing the importance of due process and aligning closely with Ukraine's national standards on public policy exceptions. Such agreements are vital for businesses and individuals with transnational interests, as they offer a reliable means to enforce judgments and navigate legal disputes across jurisdictions.

Limitations and Challenges of Bilateral Agreements

While these bilateral treaties provide a structured approach to the recognition and enforcement of foreign judgments, there are still limitations and challenges. Differences in procedural requirements and legal traditions can create complexities, as each treaty must be individually analyzed for its specific provisions. Additionally, the treaties generally apply only to civil and commercial judgments, with enforcement of

family law or other specific areas requiring further negotiation or judicial discretion. The bilateral nature of these agreements also means that they cannot provide universal standards, necessitating reliance on broader multilateral frameworks or individual negotiation where treaties are absent.

Hague Convention on the Recognition and Enforcement of Foreign Judgments (2019)

The Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters is a critical international framework aimed at harmonizing cross-border enforcement (HCCH, 2019). The Hague Convention entered into force on September 1st, 2023, between the EU Member States (excluding Denmark) and Ukraine. The principles outlined in the Convention influence Ukrainian judicial practices, as the Convention promotes global standards in judgment recognition. The Convention outlines general conditions for recognition, including requirements for jurisdiction, procedural integrity, and public policy. After the ratification of the Convention, Ukraine is able to benefit from a more streamlined, internationally accepted procedure for judgment recognition, which simplifies cross-border dispute resolution and increases predictability in enforcement practices.

New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958)

The New York Convention (United Nations, 1958) is pivotal in the enforcement of arbitral awards, providing an international framework that Ukraine has incorporated into its legal system. Under this Convention, which Ukraine ratified in 1960, Ukrainian courts recognize and enforce foreign arbitral awards, provided they meet certain criteria. Article V of the New York Convention specifies limited grounds for refusal, including issues related to public policy, procedural fairness, and jurisdictional excesses. The Convention's binding nature in Ukraine means that foreign arbitral awards from contracting states generally face fewer obstacles in enforcement, making this framework highly beneficial for international arbitration cases. The Convention's adoption into Ukrainian law underscores the country's commitment to honoring arbitration as a form of dispute resolution, ensuring that foreign arbitral awards receive swift and fair consideration in Ukrainian courts.

Together, legal provisions and international agreements establish a robust framework for the recognition and enforcement of foreign judgments in Ukraine. However, the application of these provisions is subject to certain challenges, particularly concerning the public policy exception and issues related to reciprocity. By adhering to these standards, Ukraine continues to develop a predictable and legally sound environment for foreign judgments, reinforcing its commitment to international cooperation and the protection of rights across borders.

Answering the second research question of the current article we can state that Ukraine's approach to reciprocity plays a significant role in the recognition and enforcement of foreign judgments, functioning as a safeguard to ensure that Ukrainian judgments receive reciprocal treatment abroad. Under the Civil Procedure Code of Ukraine, reciprocity is a key requirement for enforcing foreign court decisions, and it serves as a basis for determining which foreign judgments will be considered valid within the Ukrainian legal system.

The Civil Procedure Code mandates that for a foreign judgment to be recognized in Ukraine, there must be an indication that Ukrainian judgments would receive similar recognition in the foreign jurisdiction. This requirement emphasizes the principle of mutual respect and legal parity between Ukraine and the foreign state. The approach is designed to prevent potential imbalances in cross-border judicial cooperation, where one country might consistently recognize judgments from another without receiving equivalent recognition in return.

In Ukraine, reciprocity can be formal or implied. Formal reciprocity exists when there is a bilateral or multilateral agreement between Ukraine and the foreign country, explicitly stipulating mutual recognition of judgments. Treaties with countries like Poland, Hungary, and Turkey serve as examples of formal reciprocity, where both countries have agreed to mutually enforce each other's judgments under specific conditions. Implied reciprocity, on the other hand, is more complex. When no formal treaty exists, Ukrainian courts may still recognize a foreign judgment if there is sufficient evidence that the foreign country would enforce a comparable Ukrainian judgment. Courts often rely on case-by-case analysis, past practices, or precedent decisions to determine implied reciprocity.

The reciprocity requirement influences the efficiency and predictability of the enforcement process. When formal treaties are in place, the enforcement process tends to be more streamlined, as the terms are clear and standardized. In these cases, the procedure is simplified, and parties are more likely to predict the outcome. However, in the absence of formal treaties, proving implied reciprocity can add uncertainty to the process. Litigants may face challenges in providing evidence of reciprocity, particularly when judicial practices or legal standards differ significantly between Ukraine and the foreign jurisdiction. This can lead to delays and increased legal costs, potentially deterring individuals or companies from pursuing cross-border litigation.

While reciprocity is a primary consideration, Ukrainian courts retain the discretion to refuse recognition based on public policy exceptions. Even in cases where reciprocity exists, the court may deny enforcement if the foreign judgment violates Ukrainian public policy or fundamental legal principles, as outlined in the Civil Procedure Code. This ensures that Ukraine can maintain sovereignty over its judicial standards and protect its national interests in situations where foreign judgments may conflict with Ukrainian laws or social values.

Ukraine's reliance on reciprocity reflects both the strengths and limitations of its current legal framework for cross-border judgment enforcement. While reciprocity ensures fairness and equality in international legal cooperation, it can also pose challenges in a globalized environment where countries may have vastly different legal standards and procedures. Ukraine's enforcement process could benefit from future ratification of multilateral frameworks, like the 2019 Hague Convention on the Recognition and Enforcement of Foreign Judgments, which could reduce the need for case-by-case reciprocity determinations and create a more predictable enforcement process for cross-border judgments.

Thus, Ukraine's approach to reciprocity significantly shapes the enforcement process, balancing international cooperation with protection of domestic judicial standards. While formal reciprocity agreements facilitate smoother enforcement, the need to establish implied reciprocity in the absence of treaties can introduce complexities that affect the efficiency and accessibility of legal remedies in international cases.

As an example, it is worth citing a court case in which the principle of reciprocity was applied.

Case No. № 2-к/205/2/23 (2023)

The Southern Interregional Department of the Ministry of Justice (Odesa) sent petition to the court, in which the applicant requested to recognize in the territory of Ukraine and send for execution the decision of the Sumgait City Court of the Republic of Azerbaijan dated November 10, 2020 to make changes to the birth records. The court decided to recognize and grant permission for the execution in the territory of Ukraine of the decision of the Sumgait City Court of the Republic of Azerbaijan dated November 10, 2020, applying the principle of reciprocity.

One of the foremost procedural hurdles is the requirement to establish reciprocity when no formal agreement exists between Ukraine and the foreign state. In cases of implied reciprocity, petitioners are often tasked with proving that the foreign country would reciprocate by enforcing a comparable Ukrainian judgment. However, this can be a complex and time-consuming process, requiring substantial evidence of similar enforcement practices or case precedents in the foreign jurisdiction. The ambiguity surrounding implied reciprocity often leads to unpredictable outcomes and increased litigation costs, as petitioners must present extensive documentation to demonstrate that reciprocity exists.

Ukrainian courts can refuse recognition and enforcement if a foreign judgment is deemed contrary to Ukrainian public policy. While the public policy exception serves as a safeguard against enforcing judgments that may conflict with Ukraine's legal or moral standards, its broad and sometimes subjective interpretation by courts poses a challenge. Courts may reject enforcement based on perceived violations of public policy even when these issues are minor, leading to inconsistency in enforcement decisions. The uncertainty surrounding what constitutes a violation of public policy complicates the process for both litigants and judges, making outcomes less predictable.

Jurisdictional conflicts often arise when Ukrainian courts determine whether a foreign court had the proper authority to render the judgment in question. If a foreign court's jurisdiction is found to overlap with matters

reserved exclusively for Ukrainian courts, enforcement may be denied. For instance, certain family law matters or issues of state sovereignty may be considered the exclusive domain of Ukrainian courts. This restriction creates procedural barriers, particularly when foreign judgments involve complex, cross-border legal issues where jurisdiction may not be straightforward.

Ukrainian courts are mandated to assess the procedural fairness of foreign court proceedings before enforcing judgments. If a judgment was issued under conditions deemed unfair – such as lack of proper notice to one of the parties, denial of the right to legal representation, or absence of an impartial tribunal—the judgment may be denied enforcement. However, this requirement introduces significant procedural complexity, as it requires Ukrainian courts to scrutinize foreign judicial practices, which may differ greatly from domestic norms. Determining procedural fairness becomes even more challenging when the foreign jurisdiction's legal standards and processes are unfamiliar to the Ukrainian judiciary.

The enforcement process in Ukraine requires the submission of certified translations of foreign judgments and supporting documents. Obtaining certified translations can be costly and time-consuming, particularly when dealing with lengthy legal documents. Additionally, foreign litigants may face difficulties ensuring the accuracy of translations to meet Ukrainian legal standards, as nuances in legal language can sometimes lead to misinterpretation or disputes over the document's meaning. The need for precise translations, especially for complex judgments, can add considerable expense and delay to the enforcement process.

In cases where Ukraine does not have a bilateral treaty or multilateral framework agreement with a foreign country, enforcement relies heavily on the Civil Procedure Code and implied reciprocity. However, the absence of standardized procedures for non-treaty countries results in a reliance on the discretion of the judiciary, which may vary from case to case. This lack of a streamlined approach for non-treaty countries places additional procedural burdens on litigants and introduces uncertainties, as outcomes may depend on individual judges' interpretations and familiarity with foreign legal systems (Solimine, 2022).

Thus, the procedural challenges in enforcing foreign judgments in Ukraine highlight areas where the legal framework could benefit from reforms. Streamlining reciprocity requirements, clarifying public policy exceptions, and developing more standardized procedures for non-treaty countries could enhance predictability and efficiency in cross-border judgment enforcement, fostering a more accessible and reliable system for litigants.

Enhancing Ukraine's Approach to Align with International Standards and Facilitate Cross-Border Judicial Cooperation

To improve its approach to recognizing and enforcing foreign judgments, Ukraine can benefit from aligning more closely with international standards and adopting measures to streamline the enforcement process. By addressing current procedural barriers, adopting international conventions, and fostering judicial cooperation, Ukraine could create a more predictable, efficient framework for cross-border judgment enforcement.

Ratification of the Hague Convention on the Recognition and Enforcement of Foreign Judgments

One of the most impactful steps Ukraine made is ratifying the 2019 Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters. This convention provides a uniform framework for judgment recognition among contracting states, simplifying procedures and ensuring greater legal certainty in cross-border litigation. Ratification reduced reliance on the reciprocity principle, particularly in cases involving non-treaty countries, as judgments are recognized based on harmonized global standards rather than bilateral agreements. By joining this convention, Ukraine is able to foster international cooperation and create a more predictable enforcement environment, making it easier for foreign judgments to be recognized without case-by-case determinations of reciprocity.

Clarifying and Limiting Public Policy Exceptions

Ukrainian courts often rely on public policy exceptions to refuse recognition and enforcement of foreign judgments, but this exception can be broadly interpreted, resulting in inconsistencies and unpredictability. Developing more precise definitions and guidelines for applying public policy exceptions would help minimize judicial discretion and align with international standards. The New York Convention, for

example, provides narrowly defined public policy exceptions for arbitration awards, a model Ukraine could emulate for judicial decisions. Limiting the scope of public policy exceptions would reduce unnecessary barriers to enforcement while still protecting Ukraine's core legal principles.

Streamlining Procedural Requirements for Non-Treaty Countries

Ukraine's enforcement process can be complex for judgments originating from non-treaty countries, as these cases rely on implied reciprocity. To simplify the process, Ukraine could establish a streamlined set of procedures and requirements specifically for non-treaty countries, reducing the procedural burden on petitioners. This might include creating standard guidelines for evidence of reciprocity, procedural fairness, and other factors that Ukrainian courts consider in these cases. Such a framework would improve predictability and make Ukraine more accessible for foreign litigants, contributing to a more internationally aligned judicial system.

Promoting Judicial Training on International Standards

Training Ukrainian judges and legal professionals on international standards for judgment recognition and enforcement can further enhance the alignment of Ukraine's practices with global norms. By educating judges on multilateral conventions, such as the Hague and New York Conventions, and on foreign legal practices, Ukraine can improve the consistency and fairness of decisions regarding foreign judgments. Judicial training initiatives would also help judges interpret procedural fairness requirements in a way that respects both Ukrainian and international standards, fostering a more reliable cross-border judicial process.

Improving Access to Certified Translation Services

Language and translation requirements present another barrier in the enforcement process. To address this, Ukraine could develop a government-supported platform for certified translations of foreign legal documents. Streamlining access to reliable translation services would reduce costs and delays, particularly for foreign litigants, and ensure that judgments are accurately understood by Ukrainian courts. This would facilitate smoother proceedings and improve the accessibility of the Ukrainian legal system for international parties.

By implementing these measures, Ukraine would align more closely with international standards, thereby improving its cross-border judicial cooperation and enhancing predictability for foreign judgments. This alignment would also strengthen Ukraine's position as a cooperative and accessible jurisdiction in international legal matters, encouraging foreign investment and fostering trust in the rule of law.

Conclusions

This study provides a comprehensive analysis of the recognition and enforcement of foreign judgments in Ukraine, emphasizing the intricate interplay of legal and procedural factors that shape the process. It identifies strengths in Ukraine's foundational legal framework while addressing challenges such as reliance on reciprocity, broad interpretations of public policy exceptions, and procedural inefficiencies in cases involving non-treaty countries.

Novel Contributions and Key Findings

The study fills critical gaps in the literature by providing a focused examination of Ukraine's unique legal landscape, particularly:

Reciprocity Challenges: It highlights the unpredictability and evidentiary burdens associated with implied reciprocity in the absence of formal agreements, advocating for adherence to international conventions to standardize enforcement.

Public Policy Exceptions: The analysis addresses inconsistencies in judicial interpretation and proposes clear criteria and judicial training to mitigate subjective discretion.

Procedural Obstacles: Practical hurdles such as translation requirements and court delays are addressed with actionable recommendations for streamlined processes and enhanced translation access.

Role of the Hague Convention

The ratification of the 2019 Hague Convention significantly strengthens Ukraine's international judicial cooperation framework. This study underscores the convention's benefits:

Standardization: Adoption of uniform rules reduces reliance on unpredictable reciprocity.

Legal Certainty: Clear enforcement mechanisms attract foreign litigants and investors.

Efficiency: Streamlined procedures reduce delays and costs.

Public Policy Alignment: Uniform application of public policy exceptions enhances predictability and reduces refusals based on subjective grounds.

Recommendations for Further Reform

Beyond ratifying the Hague Convention, the study suggests:

Refining Public Policy Regulation: Establish clear legislative guidelines to prevent overly broad interpretations of public order.

Judicial Training: Equip judges with expertise in international law to ensure consistent application of principles.

Procedural Amendments: Introduce requirements for reasoned analysis when invoking public policy exceptions to enhance transparency and predictability.

By addressing these issues, the study advocates for a modernized enforcement framework that fosters legal accessibility, international cooperation, and economic integration. This comprehensive approach positions Ukraine as a more reliable participant in the global legal and economic system.

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