



Further support for the execution by Ukraine of judgments in respect of Article 6 of the European Convention on Human Rights

Report

of the Draft Regulation “On the Unified State Register of Enforcement Documents”

Executive summary

Kyiv, June 2020

Summary

1. This report is prepared on the basis of the review of the draft Regulation on the Unified State Register of Enforcement Documents proposed by the State Judicial Administration of Ukraine.

The draft of this subordinate regulatory instrument was prepared to comply with the requirements of the Law of Ukraine "On amendments to the Code of Commercial Procedure of Ukraine, the Civil Procedure Code of Ukraine, the Code of Administrative Procedure of Ukraine and other legislative acts" adopted by the Verkhovna Rada on 3 October 2017. The draft Regulation aims at establishing the procedure for the functioning and management of the Unified State Register of Enforcement Documents and the procedure for entering enforcement documents in the Register.

2. In order to prepare the analysis, the research was conducted, according to the set target, of whether the contents of the draft Regulation were consistent with the provisions of the Ukrainian legislation in force and appropriate law enforcement practices in the context of the relevant Council of Europe standards of enforcement proceedings.

The analysis was, inter alia, based on the following criteria:

- assessment of tools provided for in the draft Regulation and definition of the key functions of the Unified State Register of Enforcement Documents possibly relating to the implementation of the general measures for the execution of the Burmych group of ECtHR judgements;
- establishment of whether the new Register provides sufficient information on the number of enforced/non-enforced court decisions including court decisions against the state and the relevant sums of recovery payments;
- assessment of the interoperability of the Unified State Register of Enforcement Documents with other existing registers and of whether it can be further integrated or interact with the Unified Judicial Information and Telecommunication System and other state registers;
- assessment of the registers' interoperability and analysis of their potential user-friendliness;
- ensuring that all necessary information can be entered in the registers in the electronic mode and if the opposite happens, identification of the exact stage where enforcement proceedings are to be provided in the paper;
- identification of whether the authorities participating in the enforcement of court decisions have access to the information contained in the Unified State Register of Enforcement Documents and the level of such access;
- assessment of whether the draft Regulation contains instruments for the interaction of various authorities participating in the enforcement of court decisions, and to prepare recommendations on how to enhance these instruments, if any.

General conclusions

3. In response to the questions raised within the work assignment of the consultant, it should be noted that the proposed draft Regulation corresponds in general to the objective of its development and may serve as a reference for its further finalisation.
4. The main deficiency of this draft Regulation is that it does not sufficiently outline the concept of functioning and use of the Unified State Register of Enforcement Documents. While analysing the draft Regulation, incoherence was found in

identifying system software to be used to create electronic enforcement documents and in the procedures for the use of web addresses of such documents in the Register.

5. No interrelationship was found in the course of analysing the draft Regulation between the Unified State Register of Enforcement Documents and other registries, in particular, the Unified State Register of Court Decisions and the Automated System of Enforcement Proceedings.

Entering documents in the Unified State Register of Enforcement Documents

6. This analysis found no evidence either that the Register would ensure automatic inventory of decisions against the state, or automatic calculation of the state debt under such decisions, or moreover, prompt and automatic enforcement of decisions against the state.
7. As the Unified State Register of Enforcement Documents should become a part of the Unified Judiciary Information and Telecommunication System, affordable technical means should be implemented to create automatic links, through electronic enforcement documents, to relevant court decisions in the Unified State Register of Court Decisions, which serve as a basis for their issuance.

Use of the Unified State Register of Enforcement Documents

8. The Unified State Register of Enforcement Documents should particularly provide for its openness to users and a free search of enforcement documents by their details.
9. It is necessary to ensure the automatic aggregation of statistics on enforcement documents entered in the Register with the purpose to enable the inventory of court decisions and enforcement documents as provided for in the legislation and the provision of data from the Register. The Unified State Register of Enforcement Documents should particularly provide an inventory system for the issuance and execution of enforcement documents issued on the basis of court decisions against the state.

Measures to be taken in the context of the execution of the Ivanov/Burmych group of judgments

10. It is recommended that a separate inventory system for the issuance and execution of enforcement documents on the basis of court decisions against the state be established within the Unified State Register of Enforcement Documents. Such a system may function as a special statistics unit to record information with respect to:
 - the name of the entity exercising effective power against which the decision is handed down;
 - the number of decisions handed down and the sum of recovery payments under them (the number of mandatory injunctions should be recorded separately);
 - the number of decisions executed and the sum of payments recovered under them (the number of mandatory injunctions should be recorded separately);
 - the time periods of the issuance of decisions and the time periods of their execution.