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The working group for reforming the procedural legislation established by the Council for Judicial Reform under the President of Ukraine developed amendments to the *Code of Commercial Procedure*, the *Civil Procedure Code* and the *Code of Administrative Court Proceedings* of Ukraine. How could you comment on these initiatives from the perspectives of the effectiveness of judicial trial?



Maxim SALII
Associate, FCLEX

“Any change, even a change for the better is always accompanied by drawbacks and discomforts” — Arnold Bennett.

No matter how good the ideas and innovations may be, as in any system, early at the stage of introduction, when a theory is transformed into practice, there is rejection on the part of the user. People do not easily escape their comfort zone or view long-established behavior patterns from a new angle.

Predictably, if new procedural codes are adopted, the legal community will need time to adapt to the change.

A large number of problems and errors may result from a change in the rules of court venue, as well as from a number of innovations that are fundamentally new to our system, which will entail the reduced effectiveness of the judiciary for a period of “trials and errors”.

Since the “updated” cassation instance has still not been formed, we

anticipate problems during the provision of clarifications as to the procedure for application of new procedural rules. Potentially, this may temporarily reduce the efficiency of the courts.

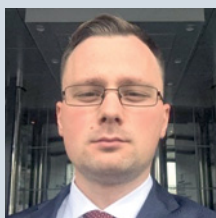
Considering the past experience of implementation of the new *Criminal Procedure Code*, those changes could destabilize the judiciary for at least one year.

However, after passage of the adaptation period, the judicial system should work faster and more efficiently. Draft codes contain new, fresh ideas, which given proper implementation, can optimize the quality of our judicial system.

The working group on procedural legislation reform formed by the Council on Judicial Reform under the President of Ukraine, drafted amendments to the *Economic Procedure Code*, *Civil Procedure Code*, and *Code of Administrative Court Proceedings of Ukraine*. The aim of the project is to implement the practice of an electronic court.

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The published draft laws prepared by the Judicial Reform Council envisage implementation of “e-court”. How could you comment on this initiative? What is your opinion on its impact on judicial trial?



Semen KRAVTSOV
Associate, LCF Law Group

At the beginning of February Draft Law No. 6027 was submitted to the Verkhovna Rada. MPs propose to make amendments to several legislative acts, including the *Laws On Banks and Banking*, *On Mortgage*, and the *Civil Code of Ukraine*.

This Draft will allow better defending of one of the most important constitutional rights, the right to property. Due to the existence of different legal loopholes, some debtors of banks use schemes to avoid repayment of loans or the relevant legal responsibility.

The Draft proposes to introduce amendments regarding the institute of bail (for example, provisions about responsibility of surety, limitation of actions, cancellation of a right of pledge), introduces mechanisms of a floating bank interest rate and methods of alternative dispute resolution,

which potentially would reduce the risks of illegal alienation of property. These measures will create instruments for better protection of property rights, lowering credit value and encouraging investment.

Nonetheless, some amendments, for example, an opportunity to receive a credit card under power of attorney instead of the cardholder might be used as another instrument for machinations.

Besides, the Draft excludes provisions regarding the definition of a maximum amount of a bank interest rate from the *Civil Code*, while applying a floating bank interest rate, which might untie the hands of banks and would provide an opportunity to manipulate their strong position.

Generally, the Draft seems to fill some legislative gaps, but also reveals to us certain new ones.