Recognition of Foreign Money Judgments in the United States with a Special Emphasis on the Recognition of Ukrainian Judgments

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I. Introduction

Many litigants who obtain money judgments from courts outside the United States incorrectly believe they cannot enforce their judgments against the judgment-debtor's assets in the United States because the United States is not currently a party to any international treaty concerning the recognition[1] of foreign money judgments.[2] Although it is true that the United States is not a party to any such treaty, foreign money judgments can be recognized in the United States under the laws of individual states. The first part of this article discusses generally the legal framework for recognition of foreign money judgments in the United States, while the second part deals with issues that may be specific to the recognition of judgments rendered by Ukrainian courts.

II. Recognition of Foreign Money Judgments by Courts in the United States

Before discussing whether courts in the United States will recognize foreign money judgments, it is important to note for readers unfamiliar with the United States legal system that the United States has state laws (including both statutes and common law) and federal laws (also including both statutes and common law). Generally, when state and federal laws addressing the same substantive areas conflict, federal law controls.[3] Because the United States has not yet joined any treaty or enacted federal laws that would be binding on the states concerning recognition of foreign money judgments, our discussion in this article focuses on state laws.[4]

Of the fifty states in the United States, thirty have adopted some version of a uniform set of laws on judgment recognition, named the Uniform Foreign Money-Judgments Recognition Act (UFMJRA or the "Act").[5] The Act was first proposed in 1962 by the National Conference of Commissioners on Uniform State Laws (NCCUSL).[6]

The Act allows recognition in the United States of "any foreign judgment that is final and conclusive and enforceable where rendered."[7] "Foreign judgment" is defined by the Act as "any judgment of a foreign state granting or denying recovery of a sum of money, other than a judgment for taxes, a fine or other penalty or a judgment for support in matrimonial or family matters."[8]

Of the twenty states that have *not* adopted the Act, the majority have common law concerning the enforcement of foreign judgments that is similar in many respects to the Act and to the 1895 U.S. Supreme Court case *Hilton v. Guyot*,[9] which set out the following factors for the recognition of foreign judgments: (1) "a full and fair trial," (2) rendered by a "court of competent jurisdiction," (3) "after due citation or voluntary appearance of the defendant," (4) "under a system of jurisprudence likely to secure an impartial administration of justice," (5) without anything "to show either prejudice in the court, or in the system of laws," (6) with no "fraud in procuring the judgment," and (7) with no "other special reason" for withholding recognition.[10] Although the *Hilton* court also required reciprocity (i.e., that the foreign court also recognize U.S. court judgments), most states in the United States have rejected the reciprocity requirement.[11]

A. The Uniform Foreign Money-Judgments Recognition Act

The starting point of the Act is that "final and conclusive" foreign money judgments are presumptively recognizable and should be treated like judgments rendered by a court of any state within the United States.[12] Thus, when a court in the United States that follows Section 3 of the Act is presented with a foreign money judgment, it must recognize the judgment unless one of the exceptions to recognition that are set forth in the Act is established.

Despite the presumption of recognition of foreign money judgments under the Act, courts in jurisdictions that have adopted the Act have discretion to deny recognition of the foreign judgment if the defendant did not receive timely notice, the foreign judgment was obtained by fraud, the cause of action underlying the foreign judgment is repugnant to the public policy of the state, the judgment conflicts with another final and conclusive judgment, the foreign forum was chosen contrary to an agreement between the parties, or if the foreign forum was "seriously inconvenient" to the defendant and personal jurisdiction was obtained only on the basis of personal service of process.[13] The Act also provides that the foreign judgment must be denied recognition if the issuing court lacked personal jurisdiction over the defendant.[14] Finally, the Act requires that the judgment to be recognized "grant[] or den[y] recovery of a sum of money," and it expressly excludes from recognition judgments concerning taxes, the imposition of a fine or penalty, and those concerning support in domestic matters.[15]

B. A Minority of U.S. States Have also Adopted a Reciprocity Requirement

Although most jurisdictions in the United States have abandoned the reciprocity requirement established by the Supreme Court in *Hilton v. Guyot*,[16] eight states have expressly added the reciprocity requirement back into their versions of the Act.[17] In these states, a party seeking recognition of a foreign money judgment must establish that the jurisdiction from which the judgment originated would recognize a money judgment originating from one of its courts.

C. The Revised Act

In 2005, the NCCUSL revised the original Act to address issues that had arisen in the states that had adopted it.[18] Specifically, the revised Act, known as the Uniform Foreign-Country Money Judgments Recognition Act (the "Revised Act"), clarifies that the party seeking recognition bears the burden of proving that the judgment is subject to the Act, but the opposing party bears the burden of proving any specific ground for non-recognition.[19] The Revised Act also sets out a procedure for recognition and enforcement, providing that recognition may be sought by filing an original action or it may be raised as a counterclaim, cross-claim or affirmative defense in a pending action.[20] And, the Revised Act establishes that a foreign money judgment must be enforced within fifteen years or within the period established by the jurisdiction that rendered the judgment, whichever is earlier.[21]

Currently, only the states of Idaho and Nevada have adopted the Revised Act, but adoption of the Revised Act is also pending before the legislatures of California and Michigan.

D. Conclusion

Subject to the various factors for judgment recognition discussed above, in a majority of states in the United States, a foreign judgment may be recognized even if the jurisdiction from which it was issued does not reciprocally recognize judgments from the United States. A minority of states in the United States, however, require that the foreign state reciprocally recognize judgments from the U.S. before they will recognize the foreign judgment. This point becomes especially important concerning judgments from countries like Ukraine, where reciprocity with the United States is not a settled issue.

III. Judgment Recognition in Ukraine

Like many parties that obtain money judgments outside the United States, a Ukrainian party that obtains a money judgment from a Ukrainian court, for example, may be reluctant to seek recognition of the judgment in the United States, because of a mistaken belief that recognition is not possible in the absence of a bilateral or multilateral treaty with the United States.

Although an international agreement on judgment recognition is required by the Civil Procedure Code of Ukraine to recognize foreign money judgments in Ukraine, the wording of the Civil Procedure Code of Ukraine indicates that it is also possible for foreign court decisions to be recognized on the basis of reciprocity.[22] In particular, according to the Code, the decision of a foreign court can be enforced in either of the following cases:

(i) if the recognition and enforcement is provided by an international treaty ratified by the Parliament of Ukraine; or

(ii) on the basis of reciprocity by an ad hoc agreement with the foreign country that issued the decision to be recognized.[23]

The Ukrainian Resolution on recognition and enforcement of foreign arbitral awards and foreign judgments[24] supports the first criterion and provides that, when considering recognition of a foreign judgment, Ukrainian courts must confirm the existence of an international treaty between Ukraine and the state where the foreign judgment was rendered before they may recognize it. If there is no such treaty, the court must deny the application for recognition[25]

As for the second criterion, the Resolution does not define an "application of reciprocity by an ad hoc agreement with a foreign country." This is not surprising, because the Resolution was adopted at the end of 1999 and the Code entered into force in September 2005. The authors of this article have not found any Ukrainian court case that explains how the reciprocity defined by the Ukrainian Civil Procedure Code applies in practice.

Accordingly, on the one hand, a literal reading of the Code suggests that reciprocity exists only if a respective ad hoc agreement is reached with the relevant foreign country. On the other hand, one might argue that absence of an ad hoc agreement is not an obstacle for the Ukrainian court to recognize foreign judgments from jurisdictions that recognize Ukrainian judgments. This latter view may be supported by reasoning that reciprocity is a principle of international law and that the Ukrainian Constitution provides recognition by Ukraine of international law principles and norms.[26]

The national courts of the Russian Federation arguably are a step ahead of those in Ukraine because they have already granted recognition of a U.K. court decision on grounds of reciprocity as a principle of international law. The importance of this development is underscored by the fact that international reciprocity is not defined in any statute of the Russian Federation and for a long time remained nothing but a doctrinal theory.[27] In fact, the Arbitrazh Procedure Code of the Russian Federation makes no mention of reciprocity and affirmatively re-

quires an international agreement on the subject before it will recognize the money judgment of a foreign state.[28] However, the invocation of international reciprocity by the Arbitrazh Court of the Moscow District (or Moscow Arbitrazh Court) in March 2006 erased any doubts regarding its applicability to the recognition of foreign judgments by the Russian Federation.[29] The Moscow Arbitrazh Court confirmed[30] the decision of the Arbitrazh Court of the City of Moscow,[31] which had allowed recognition and enforcement of a judgment rendered by the High Court of England and Wales in the case No HC 05 C01219 of June 2005 against OJSC "NK YUKOS" for payment of US $475,284,466.67.[32]

The Moscow Arbitrazh Court relied on the European Convention on Human Rights of 1950, together with Article 15, Paragraph 4 of the Russian Constitution, stating that commonly recognized principles and norms of international law and international treaties of the Russian Federation shall be a component part of its legal system.[33] Because it appears that the Russian Federation has accepted reciprocity as a norm of international law and a part of its legal framework, it appears that all U.S. jurisdictions, including those that have adopted a reciprocity requirement, could recognize money judgments of Russian Federation courts.

Whether Ukraine will similarly recognize reciprocity as a norm of international law and part of its legal framework, and/or whether it will otherwise conclude that reciprocity with the United States can be found in the absence of an express treaty, remains an open question.

We next discuss in general terms the contours and procedural safeguards of the Ukrainian legal system, for the purpose of demonstrating why Ukrainian judgments could be found enforceable under the laws of the various U.S. states that require such safeguards as a condition of recognition.

IV. Recognition of Money Judgments Rendered by Ukrainian Courts

A. Ukrainian Courts and Procedures

The Ukrainian court system is divided into two broad categories: (i) the public courts and (ii) the Constitutional Court.[34] The Constitutional Court is the sole court vested with jurisdiction to decide constitutional issues, and is not of immediate relevance to this article.[35] The public courts are divided into commercial courts, administrative courts, military courts and courts of general jurisdiction (which resolve disputes in civil and criminal matters). The commercial courts and courts of general jurisdiction are the courts relevant to this article because they have jurisdiction to enter money judgments.

Under the Ukrainian Constitution, the Supreme Court of Ukraine is the highest public court.[36] There are also lesser high courts that supervise resolution of disputes in specific judiciary areas, including the High Economic Court and the High Administrative Court.[37] The Constitution and the Court System Law prohibit creation of any extraordinary and particular courts.[38] Any delegation of the courts' powers to other state bodies and/or officials is forbidden.[39]

The jurisdiction of Ukrainian courts over particular judicial areas relating to commercial issues and the procedural rules of the courts are regulated by the Commercial Procedure Code[40] and the Civil Procedure Code.[41] The Ukrainian commercial courts resolve disputes in commercial matters between legal entities, or between legal entities and the state or its agencies, according to the rules of the Commercial Procedure Code.[42] The disputes that relate to civil, land, family, labor and housing matters are considered by the general courts under the rules of Civil Procedure Code.[43]

Ukrainian court proceedings are presided over by professional judges, and, when prescribed by law, assessors and juries.[44] The Ukrainian Constitution guarantees the independence and inviolability of judges.[45] Professional judges are elected for life by the Verkhovna Rada (Parliament).[46] Every appointed judge must be a lawyer with legal education equivalent to the U.S. juris doctor and have at least three years of experience as a practicing lawyer.[47] A judge cannot be a member of any political party or trade union, nor may he or she participate in any political activities.[48] Also, judges cannot occupy any other paid positions, except certain scientific, teaching or creative positions.[49]

B. Procedural and Substantive Rules Governing Ukrainian Courts

The administration of justice in Ukraine is premised on the equal application of the law and rules to all litigants without regard to sex, race, color of skin, language, political, religious or other views, national or social origins, wealth, occupation, place of residence, or other similar bases.[50] The Court System Law guarantees to every person (Ukrainian, foreign individual or legal entity) the protection of its rights, freedoms and legitimate interests by independent and impartial courts.[51] No one may be deprived of his or her right to the adjudication of his or her case by the appropriate court vested with jurisdiction over it.[52] Also, no one may be deprived of his or her right to participate in the court hearings of his or her case at any level of the process (e.g., trial court, appellate court, highest appellate court),[53] and any purported waiver of these rights is unenforceable as a matter of law.[54]

It is possible to appeal any decision of any trial court or court of first instance.[55] It is also possible to file a petition for certiorari (contesting the decision of the court of first instance and appellate court) with the relevant high court. In commercial cases this would be the High Commercial Court and in general jurisdiction cases,

the Supreme Court of Ukraine.[56] Under certain limited circumstances, petitions for certiorari of judgments of the High Commercial Court may also be made to the Supreme Court of Ukraine.[57]

Each of the Codes provides parties with a variety of equal procedural rights. The parties, in particular, may: review the materials in the court clerk's files; copy those files; participate in the court's hearings; submit evidence; file applications and claims; submit oral and written statements; defend against claims, evidentiary submissions and arguments of the opposing party; provide the court with an opinion as to any question that arises in the court hearing; participate in the investigation of evidence; and challenge the neutrality of the particular judge considering the case.[58]

Because of the importance of proper personal jurisdiction in any attempt to recognize foreign money judgments, we next review the Ukrainian rules governing service of process.

C. Personal Jurisdiction and Service of Process

According to each of the Codes, the defendant must be properly notified of the allegations being made against him and of the time and place of all court hearings. Proper notice of the claims against a party is the basis upon which the personal jurisdiction of a Ukrainian court over that party comes into existence. Resolution of any case without proper service of process or notice of hearings is ground for reversal on appeal.[59]

D. Personal Jurisdiction over Foreign Defendants

Ukrainian courts (both general and commercial) may exercise personal jurisdiction over any defendant who resides[60] or has a permanent place of business[61] in Ukraine. And the Law of Ukraine "On Private International Law" (PIL),[62] adopted in June 2005, sets forth uniform rules that allow general and commercial courts of Ukraine to exercise personal jurisdiction over a foreign defendant, if one the following requirements is met:[63]

a) parties to the contract agree that disputes arising thereunder will be resolved by the Ukrainian courts;

b) the foreign defendant has goods or immovable property located in Ukraine;

c) the foreign defendant's branch or representative office is located in Ukraine;

d) in tort cases, the harm was caused within Ukrainian territory;

e) in tort cases, the plaintiff is an individual who resides in Ukraine (regardless of whether the harm to the plaintiff occurred outside of Ukrainian territory); or

f) certain acts or events that are grounds for filing claim took place within Ukrainian territory.

In addition to the provisions of the PIL, the Civil Procedure Code allows general courts to establish personal jurisdiction over a foreign defendant if:

a) the dispute arose out of a contract signed with a foreign defendant, which states that the place of execution of the contract is in Ukraine or because of the contract's peculiarities it may be executed only in Ukraine;[64]

b) the claim is filed against a foreign defendant who was previously stayed or domiciled in Ukraine, then the respective general court that according to Civil Procedure Code has jurisdiction over that place of stay or residence may exercise personal jurisdiction over such foreign defendant;[65]

c) the claim naming the Ukrainian defendant and foreign defendant as co-defendants is filed in a general court.[66]

The Commercial Procedure Code of Ukraine similarly provides commercial courts of Ukraine with opportunities to exercise personal jurisdiction over a foreign defendant if any of the following applies:

a) the matter relates to infringement of intellectual property rights that occurred in Ukraine;[67]

b) the foreign defendant has a stake in a business entity registered in Ukraine and the dispute relates to the creation, activity, management or liquidation of that entity;[68] or

c) the claim naming the Ukrainian defendant and foreign defendant as co-defendants is filed in a commercial court.[69]

E. Service of Process under the Ukrainian Procedural Law

According to the Ukrainian procedural law and court practice, service of process in proceedings related to monetary issues is regulated by the Civil Procedure Code,[70] the Commercial Procedure Code,[71] the Hague Convention on Service Abroad (the Hague Convention),[72] and the International Agreements on Legal Assistance ratified by the Parliament of Ukraine. The provisions of the Codes apply when service of process is within the territory of Ukraine. The Hague Convention and international agreements apply to service of process outside Ukraine.

1. Service of Process under the Civil Procedure Code

According to the Civil Procedure Code, the court must send its subpoena in a way that allows the defendant (or other participant)[73] sufficient time to appear before the court and to prepare for the court hearing.[74] It allows service to be accomplished in one of the following ways:[75]

a) by "recommended letter". According to the Rules on providing mail services,[76] this is a type of letter that must be delivered in person to the recipient. Also, the recipient has to acknowledge the receipt of the letter by signature;

b) by courier at the address indicated by the recipient;

c) upon the consent of one party, the court may provide that party with the subpoena to be served on any other party;

d) by telegram, fax or other means of service which ensure actual notice; or

e) directly during a court hearing.

According to the Civil Procedure Code, individuals are served at their places of residence, and legal entities are served at the addresses of their permanent place of business.[77] If the individual does not reside at the place of his or her residency, the subpoena may be served to the address of such individual's place of employment.[78]

To be properly served in any of above ways, the subpoena has to be delivered in person.[79] In turn, the individual has to acknowledge receipt of the subpoena by signing the document.[80] In the case of service over a legal entity, any officer of the company may acknowledge receipt.[81] If the person to whom the subpoena is to be served is not found at the address of his or her residency, the subpoena may be delivered to any member of such person's family who is above eighteen years of age and resides at the same address.[82] If no family members reside at the address, the subpoena may be delivered to the operator of the residency area[83] or respective executive body of the local authority.[84] Delivery of the subpoena to a person with power of attorney from the party to which the subpoena is addressed to receive process constitutes effective service of process.[85]

If the recipient of a subpoena resides or has its permanent place of business outside the territory of Ukraine, the subpoena must be served in accordance with the relevant provisions of the Hague Convention or other international agreement on legal assistance (discussed in more detail below).[86]

If the person or company officer to whom the subpoena is delivered in one of the above ways refuses to accept the subpoena, the person who delivered the subpoena may note this fact on the subpoena and return the subpoena to the court.[87] In such case, the person or entity who has refused to acknowledge service of process may nonetheless be determined to have been properly served.[88]

Finally, if the address of an individual's residence or legal entity's permanent place of business is unknown, the subpoena may be published in the press by the parties to the hearing, provided prior court authorization is granted.[89] Once the subpoena is published, the subpoena recipient will be considered to have been properly served with process.[90]

2. Service of Process under the Rules of the Commercial Procedure Code

The particulars of service of process in commercial courts are defined by the Commercial Procedure Code and practical rules of the High Economic Court of Ukraine (Practical Rules). According to the Commercial Procedure Code, the judge informs the parties about the time and place of a court hearing by sending a document titled "ruling" by mail or messenger, with receipt to be acknowledged by signature.[91] According to the Practical Rules,[92] the respective legal entity to receive the ruling of court hearing is considered to have been properly notified if the notice of hearing is sent to the address or addresses indicated in the claim (which addresses are taken from the official business register).

In the case of service over foreign participants in the court hearing, the court practice requires that service be performed pursuant to the Hague Convention or other applicable international agreement on legal assistance.[93]

3. Service of Process under the Hague Convention and International Agreements on Legal Assistance

Ukraine ratified the Hague Convention on 19 October 2000; however, it enacted the following reservations concerning the way process is served:[94]

(i) With regard to Article 8 of the Convention, service of judicial documents through diplomatic or consular agents of another State within the territory of Ukraine may be effected only upon nationals of the State in which the documents originate.[95]

(ii) With regard to Article 10 of the Convention, Ukraine will not use methods of transmission of judicial documents provided for in Article 10 of the Convention.[96]

Also, according to Ukraine's reservations, if all the requirements of the second paragraph of Article 15 of the Convention are met, in particular the following:

a) the document was transmitted by one of the methods provided for in this Convention;

b) a period of time of not less than *six months,* considered adequate by the Ukrainian judge in the particular case, has elapsed since the date of the transmission of the document; and

c) no certificate of service of any kind has been received, even though every reasonable effort has been made to obtain it through the competent authorities of the State addressed;

then, notwithstanding the provisions of the first paragraph of Article 15 of the Convention, the Ukrainian judge may render judgment even if no confirmation of receipt or delivery of court documents was received.[97]

If the subpoena recipient is located in a country that is not a party to the Hague Convention, service of process will be effected based on international treaty on legal assistance ratified by the Parliament of Ukraine. For example, although Kazakhstan is not a party to the Hague Convention, it is a party to the Minsk Convention "On Legal Assistance and Legal Relations in Civil, Family and Criminal Matters" (the "Minsk Convention") [98] in which Ukraine also participates. The Minsk Convention contains the respective provisions on service of court documents on Kazakh nationals/companies.

If the participant of the court hearing is located in a country that is both a member of the Hague Convention and the respective international treaty on legal assistance (e.g., Russia participates both in the Hague Convention and the Minsk Convention), then the provisions of the treaty that entered into force most recently govern.[99]

If the participant of the court hearing is located in a country that is neither a member of the Hague Service Convention nor party to an independent agreement with Ukraine, then, according to the Civil Procedure Code, service will be effected through diplomatic or consular institutions of Ukraine.[100]

4. Conclusion Concerning Ukrainian Money Judgments

Based on these procedural and substantive guarantees of due process, the transparency of the Ukrainian court system, the impartiality of Ukrainian judges and proceedings and the conclusiveness of Ukrainian money judgments, generally speaking, Ukrainian money judgments may be enforceable in many U.S. states. Of course, litigants should expect that, when seeking recognition of a Ukrainian judgment in the United States, the judgment debtor would try to challenge recognition by establishing one or more of the elements discussed in Section 1 that would permit a U.S. court to avoid application of the presumptions under the Act and Revised Act in regard to recognition of foreign judgments. The authors of this article have been unable to locate any reported decision to date in which a court in the United States has considered the recognition of a Ukrainian judgment.

V. Conclusion

Although there appear to be no published opinions in the United States in which a court has expressly recognized a Russian or Ukrainian judgment, the Act, the Revised Act and relevant common laws in effect in the United States certainly provide a mechanism that would support the recognition from these jurisdictions. However, recognition of Ukrainian money judgments is unlikely in those U.S. states with a reciprocity requirement, because there is no treaty or precedent that would ensure enforcement in Ukraine of a money judgment entered by a U.S. court.

Endnotes

1. Before a money judgment can be enforced, it must be recognized by the court in the jurisdiction in which the assets against which the judgment-creditor wants to enforce are located. *See, e.g., Matusevitch v. Telnikoff*, 877 F. Supp. 1, 2 (D.D.C. 1995).
2. Although the U.S. is not a party to any convention on the enforcement of money judgments, it is a party to the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards. T.A.I.S. No. 6997, 3 U.S.T. 2517, 330 U.N.T.S. 38 (10 June 1958).
3. U.S. Const. art. VI, § 2.
4. Some federal courts in dicta have suggested that federal common law may guide aspects of the enforcement of foreign judgments, but regulation of this field is generally regarded to be governed by substantive state law. *See, e.g., Samportex Ltd. v. Phila. Chewing Gum Corp.*, 318 F. Supp. 161, 167 (E.D. Pa. 1970) ("It is clear . . . that the law governing the enforceability of foreign judgments by a federal court is the law of the state in which the court is located."). In June 2005, the Hague Conference on Private International Law finalized the Hague Convention on Choice of Court Agreements, which governs recognition of foreign money judgments. As of the date of this article, only Mexico had ratified the text. *See* http://www.hcch.net/index_en.php?act=conventions.text&cid=98 (visited 17 April 2008). It will likely be several years before the United States ratifies and implements the Convention, which addresses the recognition of foreign money judgments.
5. *Uniform Foreign Money-Judgments Recognition Act of 1962*, 13 U.L.A. 149 (1986) (UMFJRA).
6. Additionally, the District of Columbia and the U.S. Virgin Islands have adopted the UFMJRA. For a current list of states that have adopted the Act, see the National Conference of Commissioners on Uniform State Laws UFMJRA Fact Sheet at http://www.nccusl.org/Update/uniformact_factsheets/uniformacts-fs-ufmjra.asp, (visited 17 April 2008).
7. UFMJRA § 2.
8. *Id.* § 1.
9. 159 U.S. 113 (1895).
10. *Id.* at 202-03 (1895). *See, e.g., In re Marriage of Goode*, 997 P.2d 244, 248 (Or. Ct. App. 2000) ("A rule of general application is that a judgment entered by a court of a foreign nation is entitled to recognition to the same extent and with as broad a scope as it has by law or usage in the courts of the jurisdiction where rendered") (restating material elements of *Hilton* factors).
11. *See Hilton*, 159 U.S. at 228; *compare, e.g., Tahan v. Hodgson*, 662 F.2d 862, 867-68, n.21 (D.C. Cir. 1981) ("It is unlikely that reciprocity is any longer a federally mandated requirement") (discussing undesirability of court involvement with "national," "political" issue of reciprocity).
12. *See* UFMJRA § 3. Article IV § 1 of the U.S. Constitution provides that each state must give full faith and credit to the judgment of a sister state. *See, e.g., Pac. Employers Ins. Co. v. Indus. Accident Comm'n*, 306 U.S. 493, 497 (1939).
13. UFMJRA § 4(b)(6).

14. *Id.* § 4(a)(2).
15. *Id.* §§ 1, 3.
16. 159 U.S. 113 (1895).
17. *See* Memorandum from the Uniform Law Commissioners to the Drafting Committee to Amend the Uniform Foreign Money-Judgments Recognition Act, 8 (June 7, 2004), available at www.law.upenn.edu/bll/archives/ulc/ufmjra/2004AnnMtgRpt.doc (visited 17 April 2008).
18. www.law.upenn.edu/bll/archives/ulc/ufmjra/2005AMAPPText.pdf, last visited on 3 July 2008.
19. *See* Revised Act §§ 3(c), 4(d).
20. *Id.* § 6.
21. *Id*. § 9.
22. Civil Procedure Code of Ukraine, adopted on March 18, 2004 (entered into force September 2004) # 1618-IV, http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi (Ukrainian text) (visited 17 April 2008).
23. *I*d. art. 390.
24. Resolution of the Plenum of the Supreme Court of Ukraine "On the Practice of Consideration by the Courts of Applications on Recognition and Enforcement of the Judgments of Foreign Courts and Foreign Arbitral Awards Rendered in the Course of International Commercial Arbitration on the Territory of Ukraine" ("Resolution"), adopted on December 24, 1999 # 12, http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi (Ukrainian text) (visited 17 April 2008). *See* art. 3. The Resolutions of the Supreme Court of Ukraine are documents explaining application of the Ukrainian legislation. Resolutions are addressed by the Supreme Court of Ukraine to the courts of lower instances.
25. *Id*. art. 4.
26. Constitution of Ukraine, adopted on June 28, 1996, http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi (Ukrainian text) (visited 17 April 2008).

    According to Article 18 of the Constitution, the external policy of Ukraine is directed for guaranteeing of its national interests and security via supporting of peaceful and mutually beneficial cooperation with other members of world community under universally known principles and norms of international law.
27. Dmitry Dyakin and Alexander Vaneev, *New perspectives for business litigation in Russia*, 71 THE EUROPEAN LAWYER 56 (Sept. 2007).
28. Artbitrazh Procedural Code of the Russian Federation, art. 241, http://www.consultant.ru/popular/apkrf/ (Russian text) (visited 17 April 2008).
29. Dyakin and Vaneev, note 27 s*upra*.
30. Order of the Arbitrazh Court of the Moscow district No. KG–A40/698–06–P of 2 March 2006 (*cert. denied*).
31. Decision of the Arbitrazh Court of the City of Moscow in the case No. A40-53839/05-8-388 of 21 December 2005.
32. In the U.K. proceeding the defendant was sued by multiple plaintiffs, including BNP Paribas S.A., Citibank N.A., Commerzbank Aktiengesellschaft, Caylon S.A., Deutsche Bank A.G., ING Bank N.V., Societe Generale Bank S.A., KBS Bank N.V., UFJ Bank Nederland N.V., Hillside Apex Fund Ltd., Thames River Traditional Funds PLC, VR Global Partners L.P., Shephert Investments International Ltd. and Stark Trading.
33. Dyakin and Vaneev, note 27 s*upra*.
34. The Law of Ukraine "On court system of Ukraine," adopted on February 07, 2002, No. 3018-III, http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi (Ukrainian text), art. 3 (visited 17 April 2008).
35. *Id.*
36. Constitution of Ukraine, note 26 s*upra*, art. 125.
37. *Id.*
38. *Id.* Court System Law of Ukraine, note 34 *supra,* art. 3.
39. Constitution of Ukraine, note 26 s*upra*, art. 124.
40. Commercial Procedure Code of Ukraine, adopted on November 06, 1991, No. 1998-XII, http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi (Ukrainian text) (visited 17 April 2008).
41. Civil Procedure Code of Ukraine, note 22 s*upra*.
42. Commercial Procedure Code of Ukraine, note 40 s*upra*, art. 1, art. 12.
43. Civil Procedure Code of Ukraine, note 22 s*upra*, art. 15.
44. Constitution of Ukraine, note 26 s*upra*, art. 127.
45. *Id.* art. 126.
46. *Id.*
47. *Id.* art. 127.
48. *Id.*
49. *Id.*
50. Court System Law of Ukraine, note 34 *supra,* art. 7.
51. *Id*. art. 6.
52. *Id.*
53. *Id.*
54. *Id*.
55. Commercial Procedure Code of Ukraine, note 40 s*upra*, art. 91; Civil Procedure Code of Ukraine, note 22 s*upra*, art. 292.
56. Commercial Procedure Code of Ukraine, note 40 s*upra*, art. 107; Civil Procedure Code of Ukraine, note 22 s*upra*, art. 324.
57. Commercial Procedure Code of Ukraine, note 40 s*upra*, art. 111 (14).
58. Commercial Procedure Code of Ukraine, note 40 s*upra*, art. 22; Civil Procedure Code of Ukraine, note 22 s*upra*, art. 27.
59. Commercial Procedure Code of Ukraine, note 40 s*upra*, art. 104, art. 111 (10); Civil Procedure Code of Ukraine, note 22 s*upra*, art. 311, art. 338.
60. Civil Code of Ukraine art. 29, adopted on 16 January 2003 (entered into force 1 January 2004), http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi (Ukrainian text) (visited 17 April 2008). Article 29 of the Civil Code states that *place of residence* means house, apartment and room in the hotel, hostel, etc. in certain inhabited locality where the individual resides on a permanent or temporary basis.
61. *Id*. art. 93 defines "permanent place of business" of legal entity as the address of its governing body or individual that/who according to charter or law acts on behalf of such legal entity.
62. Law of Ukraine, "On Private International Law," No. 2709 – IV adopted on 23 June 2005, art. 76, http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi (Ukrainian text) (visited 17 April 2008).
63. *Id.*
64. Civil Procedure Code of Ukraine, note 22 s*upra*, art. 110.
65. *Id.*
66. *Id.* art. 113.
67. Commercial Procedure Code of Ukraine, note 40 s*upra*, art. 16.
68. *Id*.
69. *Id*. art. 12.
70. Civil Procedure Code of Ukraine, note 22 s*upra*.
71. Commercial Procedure Code of Ukraine, note 40 s*upra*.
72. Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters ("The Hague Convention") (concluded on 15 November 1965, entered into force 10 February 1969), http://www.hcch.net/index_en.php?act=conventions.text&cid=17 (visited 17 April 2008).

73. Civil Procedure Code of Ukraine, note 22 *supra,* art. 26, the participants of the court hearing are parties (claimants and defendants), third parties on the side of either claimant or defendant, representatives of the parties or third parties.

    There are two kinds of third parties under Ukrainian procedural law: (1) those that have a personal interest in the subject matter of the claim and (2) those that do not have a personal interest in the subject matter of the claim; however, [a] [the] decision of the court may influence their legal relationships with either claimant or defendant.

74. Civil Procedure Code of Ukraine, note 22 s*upra*, art. 74.

75. *Id*.

76. The Resolution of the Cabinet of Ministers (Government) of Ukraine "On providing post services in Ukraine," adopted on 17 August 2002, http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi (Ukrainian text) (visited 17 April 2008).

77. Civil Procedure Code of Ukraine, note 22 s*upra*, art. 74.

78. *Id.*

79. *Id.* art. 76.

80. *Id.*

81. *Id.*

82. *Id.*

83. The Code refers to the organization that operates residency area matters as "ZHEK." ZHEK is a municipal enterprise that is empowered by the local authorities to operate and control residency areas' commercial matters (including buildings where all apartments were privatized) which were constructed at state expense.

84. Civil Procedure Code of Ukraine, note 22 s*upra*, art. 76.

85. *Id.*

86. *Id.*

87. *Id*.

88. *Id*.

89. According to the special Order of the Cabinet of Ministers (Government) of Ukraine, the subpoena has to be published in newspaper of national circulation and newspapers of local circulation at the last known place of residence of the party to be served. Civil Procedure Code of Ukraine, note 22 s*upra*, art. 74.

90. *Id*.

91. Commercial Procedure Code of Ukraine, note 40 s*upra*, art. 87.

92. Explanation of the High Economic Court of Ukraine "On certain issues of application the Commercial Procedure Code of Ukraine," No. 02-5/289 adopted on 18 September 1997, clause 3.6, http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi (Ukrainian text) (visited 17 April 2008).

93. Explanation of the High Economic Court of Ukraine "On certain issues of consideration of cases with participation of foreign legal entities and organizations," No.04-5/608 adopted on 31 May 2002, clause 8, http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi (Ukrainian text) (visited 17 April 2008).

94. *See* reservations of Ukraine to the Hague Convention, http://travel.state.gov/law/info/judicial/judicial_686.html (visited 17 April 2008).

95. The Hague Convention, note 72 s*upra*, art. 8, "Each contracting state shall be free to effect service of judicial documents upon persons abroad, without application of any compulsion, directly thorough its diplomatic or consular agents; Any state may declare that it is opposed to such service within its territory, unless the document is to be served upon a national of the State in which the documents originate."

96. The Hague Convention, note 72 s*upra*, art. 10,

    > Provided the state of destination does not object, the present Convention shall not interfere with:
    >
    > (a) the freedom to send judicial documents, by postal channels, directly to persons abroad,
    >
    > (b) the freedom of judicial officers, officials or other competent persons of the State of origin to effect service of judicial documents directly through the judicial officers, officials or other competent persons of the State of destination,
    >
    > (c) the freedom of any person interested in a judicial proceeding to effect service of judicial documents directly through the judicial officers, officials or other competent persons of the State of destination.

97. The Hague Convention, note 72 s*upra*, paragraph first, art. 15,

    > Where a writ of summons or an equivalent document had to be transmitted abroad for the purpose of service, under the provisions of the present Convention, and the defendant has not appeared, judgment shall not be given until it is established that:
    >
    > a) the document was served by a method prescribed by the internal law of the State addressed for the service of documents in domestic actions upon persons who are within its territory, or
    >
    > b) the document was actually delivered to the defendant or to his residence by another method provided for by this Convention,
    >
    > and that in either of these cases the service or the delivery was effected in sufficient time to enable the defendant to defend.

98. The Minsk Convention "On Legal Assistance and Legal Relations in Civil, Family and Criminal Matters," adopted on 22 January 1993, http://www.rada.gov.ua (Ukrainian text), (visited 17 April 2008).

99. Resolution, note 24 *supra,* art. 1.

100. Civil Procedure Code of Ukraine, note 22 s*upra*, art. 76.

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