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## Modernising Ukraine's enforcement system: Insights from European practices

**Nataliia A. Sergiienko**<sup>1</sup>

*Borys Grinchenko Kyiv Metropolitan University*

**Solomiia B. Tsebenko**<sup>2</sup>

*Lviv Polytechnic National University*

**Maryna I. Saienko**<sup>3</sup>

*Dnipropetrovsk State University of Internal Affairs*

**Mykola M. Potip**<sup>4</sup>

*Dnipro Humanities University*

**Olena V. Dragan**<sup>5</sup>

*Kyiv University of Intellectual Property of National University "Odesa Law Academy"*

**Summary:** 1. Introduction. 2. Methodology. 3. Results. 4. Discussion. 5. Conclusion. 6. References.

**Abstract:** The execution of judicial judgements is an indispensable element of the rule of law that guarantees proper implementation of court decisions. In this regard, the article aims to assess the effectiveness of enforcement mechanisms in Ukraine regarding its compliance with European norms. The study uses a multidisciplinary approach, combining a comparative legal analysis, dialectical and hermeneutic methods. As a result, it can be claimed that mixed and privatised enforcement systems are more effective, according to a comparative study of enforcement

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<sup>1</sup> Ph.D. in Law at Department of Public and Private Law at Faculty of Law and International Relations, Borys Grinchenko Kyiv Metropolitan University. ORCID: <https://orcid.org/0000-0002-7206-3516>. E-mail: natalia.sergiienko@edu-knu.com.

<sup>2</sup> Department of Theory and Philosophy of Law, Constitutional and International Law, Institute of Law, Psychology and Innovative Education, Lviv Polytechnic National University. ORCID: <https://orcid.org/0000-0002-9247-1867>. E-mail: solomiya.b.tsebenko@lpnu.ua.

<sup>3</sup> Faculty of Training Specialists for Preventive Activity, Dnipropetrovsk State University of Internal Affairs. ORCID: <https://orcid.org/0000-0003-1768-2143>. E-mail: MarinaSaen@i.ua.

<sup>4</sup> Faculty of Law and Psychology, Dnipro Humanities University. ORCID: <https://orcid.org/0000-0001-6861-8251>. E-mail: lenylka@meta.ua.

<sup>5</sup> Head of the Department of Criminal Law, Procedure and Forensics, Kyiv University of Intellectual Property, National University "Odesa Law Academy". ORCID: <https://orcid.org/0000-0002-5696-6360>. E-mail: dragan\_ov@ukr.net.

methods in Estonia, Lithuania, Germany, and the UK. The research also identifies institutional and legal obstacles to efficient enforcement in Ukraine, such as the ineffective bureaucracy of state enforcement agencies and the restricted authority of private enforcement personnel. Moreover, it is established that the effectiveness of court enforcement should be improved by restructuring Ukraine's enforcement system by enhancing the role of private enforcement agencies, increasing regulatory control, and adopting best practices from EU practice.

**Keywords:** Court Judgments; Enforcement Procedure; Private Enforcement; Rule of Law; Judiciary; Legal Reform.

**Resumen:** La ejecución de sentencias judiciales es un elemento indispensable del Estado de derecho que garantiza la correcta aplicación de las decisiones judiciales. En este sentido, el artículo pretende evaluar la eficacia de los mecanismos de ejecución en Ucrania en relación con su cumplimiento de las normas europeas. El estudio utiliza un enfoque multidisciplinar, que combina el análisis jurídico comparativo con métodos dialécticos y hermenéuticos. Como resultado, se puede afirmar que los sistemas de ejecución mixtos y privatizados son más eficaces, según un estudio comparativo de los métodos de ejecución en Estonia, Lituania, Alemania y el Reino Unido. La investigación también identifica obstáculos institucionales y legales para una ejecución eficiente en Ucrania, como la burocracia ineficaz de los organismos estatales de ejecución y la autoridad limitada del personal de ejecución privado. Además, se establece que la eficacia de la ejecución judicial debe mejorarse mediante la reestructuración del sistema de ejecución de Ucrania, potenciando el papel de los organismos privados de ejecución, aumentando el control regulatorio y adoptando las mejores prácticas de la UE.

**Palabras clave:** Sentencias Judiciales; Procedimiento de Ejecución; Ejecución Privada; Estado de Derecho; Poder Judicial; Reforma Legal.

## 1. Introduction

In Ukraine, the execution of court judgments is essential for the current state-building initiatives. These initiatives aim to maintain the rule of law and to protect civil and human rights. Therefore, the government should consider implementing policies to enforce court decisions. Such policies would create a reliable system for their prompt and effective implementation. Effective enforcement of court judgments is important for preserving rights and freedoms. It is determined by how the legislation is implemented in terms of upholding court judgements. Although a number of legal scholars such as Sergienko<sup>6</sup>, Fokina<sup>7</sup>, Ivantsova<sup>8</sup>, Vorobyov<sup>9</sup>, and Gyordyai<sup>10</sup> considered different aspects of this problem, there is a need for a fresh legal perspective on how to carry out enforcement court decisions within the framework of national law.

Accordingly, it is essential to ascertain that government decisions are executed. This, in turn, determines the level of rule of law in the state. However,

<sup>6</sup> SERGIENKO, N. A. "Content and object of legal relations in the system of decision enforcement bodies and their officials", *Legal Scientific Electronic Journal*, v. 7, 2021, p. 196-198.

<sup>7</sup> FOKINA, A. O. "Improving the stage of execution of court decisions in national law enforcement practice and European countries", *Journal of Kyiv University of Law*, v. 3, 2019, p. 283-288.

<sup>8</sup> IVANTSOVA, A. "Private contractors in Ukraine and foreign countries. requirements and authorities", *Grail of Science*, v. 17, 2022, p. 148-153.

<sup>9</sup> VOROBYOV, O. "Theoretical Approaches to the Systematization of the problems of the reform of the executive procedure system", *Scientific Perspectives (Naukovi perspektivi)*, v. 6, n. 24, 2022, p. 11-23.

<sup>10</sup> GYORDYAI, V. "Administrative and legal principles of functioning of the institute of private performers in Ukraine", *Scientific Bulletin of the Uzhhorod National University (Series: Law)*, v. 69, 2022, p. 281-286.

the Concept of Improvement of the Judiciary for Establishment of Fair Trials in Ukraine in accordance with European Standards declares that the judgment enforcement system in Ukraine is inefficient. Thus, the ECHR finds violations of the right to a fair trial in Ukraine because national court decisions are not enforced. Moreover, the statistics of the Ministry of Justice demonstrate that 95% of ECHR judgments and around 70% of national court judgments are not executed in Ukraine.

Since Ukraine seeks the European integration, the courts judgements enforcement is significant in upholding the rule of law and guaranteeing the protection of citizens' rights and freedoms. Therefore, it is necessary to consider the world experience in the execution of court decisions that can offer insightful information for enhancing the enforcement procedure in Ukraine. In this connection, this article aims to assess the effectiveness of enforcement mechanisms in Ukraine regarding its compliance with European norms. The aim determines the research objectives, namely: to consider the international experience of regulation of the court enforcement system, analyse the legal status of private enforcement agencies, and develop recommendations for restructuring Ukraine's enforcement system.

## **2. Methodology**

In order to accomplish the aim and objectives, the multidisciplinary approach is adopted, comprising legal, analytical, and empirical methods. This approach allows to study of different legal systems, focussing on the status of enforcement agencies, in order to assess the practical consequences of the implemented enforcement strategies.

Thus, the comparative legal analysis is used to compare and contrast the enforcement systems of Estonia, Lithuania, Germany, and the United Kingdom. It facilitates establishing effective legal changes that might be adopted into the legal system of Ukraine. Moreover, the efficiency of government-controlled enforcement agencies, judicial control procedures, and the functions of private enforcement officers in different countries are analysed. Furthermore, legal standards, legislation, and court decisions on enforcement actions are interpreted with help of the hermeneutic method. In other words, this method helps to evaluate the efficacy of current legislation of Ukraine on enforcement by analysing legislative texts. The impact of court interpretations on enforcement measures implementation is also considered.

The statistical analysis is used to analyse empirical data, including the rate of unexecuted court decisions, the rates of enforcement procedures, and the financial recovery rates. International legal organisations, national statistical agencies, and reports of the Ministry of Justice of Ukraine constitute data sources. The analysis of the official data allows us to identify shortcomings of the enforcement framework in Ukraine. Apart from that, the dialectical method is employed to examine the current legal structures by uncovering inconsistencies within Ukraine's enforcement systems with the European legal practice. This method helps to establish the conflict between state-controlled and private enforcement approaches, bureaucratic inefficiencies, and proposed legislative reforms. The synthesis method combines data from comparative, statistical, and legal research to provide a comprehensive knowledge of enforcement systems in Ukraine and abroad.

This research is based on a number of primary and secondary sources. The primary sources include legislative acts of Ukraine such as the Law of Ukraine "On enforcement proceedings". They also embrace international legal instruments regulating the court enforcement and reports from the ECHR on Ukraine's compliance with the enforcement procedure, statistical data from the Ministry of Justice of Ukraine and international organisations on enforcement practices. In addition, the secondary sources consist of academic literature and expert analyses on enforcement models worldwide.

### 3. Results

The need for prompt and equitable justice is emphasised by the ECHR<sup>11</sup>. Hence, the organisation of executive bodies determines how effectively they uphold the rights of citizens and how they support the rule of law in the country. Enforcement procedures are the last phase of a court trial, which involves the execution of court judgements, according to the Law of Ukraine "On enforcement proceedings"<sup>12</sup>. It is a compilation of actions taken by the enforcement agencies with the intention of enforcing court decisions and carried out in accordance with the Constitution of Ukraine<sup>13</sup>.

This Law outlines the status of entities and individuals engaged in enforcement actions and regulates their authority, obligations, and responsibilities. The Constitution of Ukraine, the Civil Code of Ukraine, and the Law of Ukraine "On enforcement proceedings" govern the legal standing of bailiffs, who are permitted to conduct enforcement actions in Ukraine. Bailiffs have the authority to start enforcement procedures. However, they have responsibilities, including preserving confidentiality, defending the rights and interests of those engaged in enforcement proceedings, and adhering to legal norms. Establishing a framework to regulate and control the actions of enforcement agencies is another important aspect of their legal and administrative status. The State Judicial Administration, which is in charge of planning court trials and carrying out court judgements, and the Ministry of Justice, which manages the enforcement system generally, exercise this control in Ukraine. These institutions ensure that the enforcement system functions effectively and upholds the rights of citizens and businesses<sup>14</sup>.

The legal standing of any topic under public administration is based on the general and obligatory rights and responsibilities of the organisations and individuals that uphold court judgements<sup>15</sup>. It is crucial to remember that administrative legal relations represent the influence of administrative legal standards on the conduct of subjects in the sphere of public administration while describing the rights and responsibilities of subjects of administrative legal relations. In other words, an administrative legal standard establishes required regulations that take the shape of reciprocal rights and responsibilities, thus dictating appropriate conduct for each of its recipients<sup>16</sup>. Article 18 of the Law of Ukraine "On enforcement proceedings" establishes the list of bailiffs' competencies and obligations. Thus, bailiffs are required by law to enforce rulings in a fair, effective, timely, and comprehensive manner. In other words, they should adhere to the guidelines outlined in the enforcement document and the actual legislation (Article 18).

The legal responsibility is another characteristic of the administrative and legal standing of enforcement agencies in Ukraine. In this regard, the administrative liability is a specific type of negative reaction to the relevant category of unlawful conduct by the state, as represented by its authorised agencies. Thus, those who do such illegal acts must be subject to the censure of an authorised entity and suffer administrative penalties in the ways and forms

<sup>11</sup> COUNCIL OF EUROPE. "European Convention on the protection of human rights and fundamental freedoms", 1950. Available at: [https://zakon.rada.gov.ua/laws/show/995\\_004#Text](https://zakon.rada.gov.ua/laws/show/995_004#Text). Accessed on: April 15th, 2025.

<sup>12</sup> VERKHOVNA RADA OF UKRAINE. Law of Ukraine "On Executive Proceedings". 2016a. Available at: <https://zakon.rada.gov.ua/laws/show/1404-19#Text>. Accessed on: April 15th, 2025.

<sup>13</sup> CONSTITUTION OF UKRAINE. 1996. Available at: <https://zakon.rada.gov.ua/laws/show/254к/96-вр#Text>. Accessed on: April 15th, 2025

<sup>14</sup> BOOTH, I. O. "System of bodies carrying out enforcement of decisions", *Journal of Civil Studies*, v. 34, 2019, p. 29-35.

<sup>15</sup> SERGIENKO, N. A. "Legal norms that regulate the organization and enforcement of decisions in Ukraine, in the structure of the legal system of Ukraine", *Actual Problems of Domestic Jurisprudence*, v. 3, 2021, p. 24-32.

<sup>16</sup> SHEVCHENKO, A.; ANTOSHKINA, V. "Modern legal education in Ukraine as the basis of professional activity: Problems and prospects", *Legal Horizons*, v. 17, n. 2, 2023, p. 8-21.

specified by law<sup>17</sup>. It appears that legal obligations, which may be regarded as a component of the legal status of enforcement agencies, may give rise to the legal liability of organisations and officials involved in the implementation of court decisions. For example, Article 13 of the Law of Ukraine "On enforcement proceedings" specifies that bailiffs who fail to make decisions and carry out enforcement operations within the allotted time frames may be held legally responsible. By Article 37 of the Law of Ukraine "On bodies and persons enforcing court decisions and decisions of other bodies"<sup>18</sup>, a private enforcement officer is subject to disciplinary liability in accordance with this law as well as civil, administrative, or criminal liability for their decisions, actions, or inaction, and any harm they cause to third parties. Moreover, this law outlines the reasons for private enforcement officials to be held responsible (Article 38). According to Article 65 of the same law, a state enforcement officer may be held liable for committing a disciplinary crime while serving as a civil servant.

The legal grounds for state and private bailiffs' disciplinary liability show that these two enforcement organisations have distinct legal standings. As a result, a state enforcement officer represents the government, acts on its behalf, and is protected by the state. According to section 2 of Article 7, the government grants an official permission to conduct enforcement actions in the way that the law specifies. In contrast, a private enforcement officer is the focus of a professional activity (part 2 of Article 16). In addition to disciplinary liability, state and private bailiffs may be held liable in various other legal domains, such as administrative, civil, criminal, and material ones<sup>19</sup>.

Therefore, the idea of administrative legal personality refers to the satisfaction of particular requirements outlined in administrative law. An ability to participate in administrative and legal relationships is guaranteed by this fulfilment. As a result, administrative legal personality helps to clarify the legal standing of enforcement agencies. Thus, administrative legal personality, which includes both administrative legal ability and administrative capacity, is granted to anybody involved in enforcement actions. Participants in administrative legal relations are entities and individuals engaged in the execution of court rulings and those of other entities, thanks to this legal identity.

Unlike a state enforcement officer, a private enforcement officer is not a civil servant, but he or she is authorized by the state to perform public functions. In other words, a private enforcement officer can be equated to persons authorized to perform the functions of the state or local self-government. Thus, the administrative and legal status of private enforcement officers is specific because they are vested with certain authorities to enforce court decisions and decisions of other bodies in Ukraine. Thus, these authorities include seizure of funds and property, inventory of property, seizure, sale, etc. In other words, the enforcement procedure is the same for both public and private enforcement officers, but it has its own characteristics due to the specific administrative and legal status of private enforcement officers. Thus, the scope of private enforcement officers' activities is limited by the prohibition on enforcement of decisions containing public law requirements<sup>20</sup>.

The duties and responsibilities of enforcement agencies make up a unique aspect of their administrative and legal status in the context of Ukraine's implementation of court judgements and decisions made by other organisations. Article 3 of the Law of Ukraine "On bodies and persons enforcing court judgements

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<sup>17</sup> KORTUKOVA, T.; NEVARA, L. "Features of the principle of non-discrimination in international trade and economic law", *Legal Horizons*, v. 17, n. 2, 2023, p. 40-50.

<sup>18</sup> VERKHOVNA RADA OF UKRAINE. The Law of Ukraine "On Bodies and Persons Enforcing Enforcement of Court Decisions and Decisions of Other Bodies", 2016b. Available at: <https://zakon.rada.gov.ua/laws/show/1403-19#Text>. Accessed on: April 15th, 2025.

<sup>19</sup> KUTS, V.; TRYNOVA, Y. "Concerning the concept of criminal offense and its types", *Legal Horizons*, v. 21, n. 2, 2024, p. 46-52.

<sup>20</sup> FURSA, S.; FURSA, E. "The system of executive process science: Current issues", *Scientific Bulletin of the Uzhhorod National University (Series: Law)*, v. 1, n. 72, 2022, p. 177-182.

and decisions of other bodies” outlines the responsibilities of both state and private enforcement agencies. Ensuring the prompt, thorough, and unbiased enforcement of legal judgements is the responsibility of the state enforcement agency and private enforcement agents. The duties carried out by organisations and individuals involved in enforcing court rulings and those of other bodies are tied to the functions they perform. Although this Law does not specify the roles of private and public enforcement officials, public bailiffs carry out the following tasks: 1. the establishment of justice, the enforcement of court judgements; 2. maintaining social and governmental stability; 3. the provision of legal protection for the legitimate rights and interests of people and legal entities; 4. restoring the economic stability of people, organisations, and the state<sup>21</sup>.

This study compares and contrasts the enforcement process systems in various counties. The analysis is organised according to the following systematisation criteria: a. how enforcement is organised; b. how regulations enforcement proceedings; c. the extent of authority and jurisdiction of enforcement agencies; d. the legal status of a bailiff; e. how work is organised and how bailiffs are integrated into professional associations; f. how financing and material incentives are organised for bailiffs; and g. how responsible bailiffs are for their work. According to the suggested algorithm, national enforcement systems may be differentiated based on shared characteristics while taking centralisation and decentralisation into consideration.

Analysing international experience facilitates identifying the benefits and drawbacks of different enforcement systems and applying successful techniques to Ukraine’s enforcement framework in order to improve it. The legal literature classifies enforcement proceedings systems according to how the enforcement agencies are organised and the extent to which non-governmental entities can participate in court decisions enforcement. Thus, worldwide bailiff governance systems involve public, private, and hybrid models<sup>22</sup>.

The distinction between centralised and decentralised systems of enforcement procedure is based on an analysis of their features and forms of distribution of their authorities. Centralised enforcement systems are characterised by the following components: a single state enforcement agency and a regulation framework for the implementation of court rulings and other legal acts. Ukraine, the Republics of Armenia, Belarus, and Kyrgyzstan, Sweden, Finland, and Spain are examples of countries that have adopted this model of enforcement proceedings. By this model, an independent body is established within the enforcement sector, with a focus on enforcement. This body is characterised by a vertically integrated management structure, which is typically complex and multi-level<sup>23</sup>.

In decentralised enforcement systems, the government delegates part of its enforcement authority to non-governmental organisations and individuals. The United States, Canada, and France adopt this enforcement model. In a decentralised system, licensing, control, and supervision are handled by several agencies, while enforcement is handled by various departments and authorities. Decentralisation also implies the existence of a legal framework to control enforcement through relevant laws. Decentralisation requires a formalised approach to the redistribution of powers, which is ensured by the relevant regulations. At the same time, the scope and content of state control over the activities of decentralised structures is constrained<sup>24</sup>.

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<sup>21</sup> VOROBYOV, O. V.; KORCHAK, N. M. “Theoretical basis of the development of the executive proceeding system in the USA”, *Taurian Scientific Bulletin (Series: Public Management and Administration)*, v. 3, 2022, p. 36-45.

<sup>22</sup> AKERBOOM, S.; CRAIG, R. K. “How law structures public participation in environmental decision making: A comparative law approach”, *Environmental Policy and Governance*, v. 32, n. 3, 2022, p. 232-246.

<sup>23</sup> LARSON, B. “The illusion of the public policy exception: Arbitration, law enforcement discipline, and the need to reform Minnesota’s approach to the public policy exception”, *The Mitchell Hamline Law Review*, V. 48, 2022, p. 338.

<sup>24</sup> Ibid

In this connection, it is essential to consider how enforcement is conducted in different countries. The judicial enforcement procedure system of Ukraine is characterised by the existence of a single entity in charge of carrying out public legal duties in this area, i.e., the Department of State Enforcement Service, the Autonomous Republic of Crimea's State Enforcement Service, the Kyiv and Sevastopol regions and cities, and the State Enforcement Service in the districts and cities. Enforcement proceedings represent the final stage of judicial proceedings and the enforcement of decisions made by other authorities. They are regarded as a series of actions undertaken by relevant bodies and officials with the aim of enforcing court decisions. These actions are conducted in accordance with the Law of Ukraine "On enforcement proceedings", other regulatory legal acts and decisions subject to enforcement. The participants in enforcement proceedings include the state enforcement officer, parties, representatives of the parties, the prosecutor, expert, specialists, translators, and appraisers. However, the actual enforcement of decisions is carried out by state enforcement officers, whose requirements are binding on all bodies, organisations, officials, individuals and legal entities in Ukraine. The state enforcement officer is tasked with the execution of decisions in a timely manner, as specified in the enforcement document, and in accordance with the established procedure<sup>25</sup>.

The goal of increasing the efficacy of enforcement measures motivated the installation of private bailiffs in Lithuania and Estonia. Thus, in Estonia, a bailiff, who is an independent contractor and an organisation distinct from other businesses, handles enforcement actions. It is critical to distinguish between a bailiff's discretionary authority and the required responsibilities as a state-authorized individual to enforce judgements. According to the Chamber of Bailiffs and Insolvency Officers, bailiff's formal duties include administering inherited property, distributing court papers, performing enforcement actions, and holding auctions upon request. However, voluntary acts are also allowed for a bailiff. At the same time, a bailiff in Lithuania is a person appointed by the government to perform specific duties. These include assisting with moving and storage of property and ensuring that legal agreements are followed. They can also assist with international legal paperwork and mediation. These services include fact-checking, document delivery and transfer, property storage or disposal, legal advice, property obligation mediation, bankruptcy case administration, international judicial and non-judicial document serving, and auctioning off movable and immovable property.

A comparison of the legal status of bailiffs in Estonia and Lithuania reveals notable distinctions. In Estonia, bailiffs are organised as an enforcement agency, exercising both statutory and discretionary authorities. In contrast, Lithuanian bailiffs are permitted to undertake tasks beyond the enforcement of judgements, including legal counselling and mediation, provided these activities do not conflict with their primary responsibilities. The Lithuanian Law on Bailiffs stipulates that bailiffs are obligated to execute judgements, and they are not at liberty to decline such requests from individuals in need.

Given these reservations, the experience of Lithuania and Estonia suggests the efficacy of private enforcement systems in enhancing the effectiveness of enforcement services. The suitability of such a system for Ukraine depends on a number of variables. Such factors as the prevailing legal system, the degree of economic and civil society growth, and the capacity of relevant organisations to carry out and enforce rules must be given due consideration. The Estonian case demonstrates the issue of excessive enforcement costs in certain circumstances, despite its widespread reputation as a success narrative in the context of enforcement reform. In 2019, the Estonian Justice Minister acknowledged that enforcement proceedings were financially burdensome for individuals, as bailiffs frequently demanded payment of at least EUR 66, despite the actual fine amount being EUR 50, resulting in the real fine amount exceeding the demanded sum.

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<sup>25</sup> SOBKO, G.; MOLOTAI, V.; LYSEIUK, A.; KRYZHANOVSKYI, O.; NIKOLAIENKO, T. "Military violent crime in the Ukrainian criminal law system: Analysis, gaps and prospects", *Archiwum Kryminologii*, v. 46, n. 2, 2024, p. 5-27.

Therefore, it is vital to enhance the accessibility of enforcement processes for individuals and ensure that the debt is paid instead of being used to pay bailiffs' fees. The state-requested enforcement cost is expected to be reduced by nearly 10 times in the future, according to preliminary projections.

The Estonian Minister of Justice recommended a reassessment of bailiff fees, particularly in light of the plan to delegate the enforcement of state and municipal property claims to the Tax and Customs Board. This plan would empower bailiffs to focus on private claims that require professional knowledge. However, the shift to a non-budgetary enforcement system displays such obstacles as the need to control tariffs for enforcement actions and other bailiff-related activity. Moreover, there is a danger that non-budgetary bailiffs may be hesitant to enforce small penalties such as alimony and fines because it would be labour-intensive and unprofitable for them<sup>26</sup>. The matter of the enforcement fee assumes particular significance when initiated by a private individual. On the one hand, the fee should be adequate to incentivise the enforcement officer to carry out their duties. On the other hand, it should not be unduly overwhelming for the debtor. For instance, if the amount to be recovered from the debtor is minimal, the enforcement costs may prove excessive. Conversely, if the enforcement officer's fee is low, they may lack motivation to pursue the case. On the other hand, if the fee is too high, it may be disproportionate to the amount being recovered. It is unfortunate that there is no universally applicable solution to this problem.

Therefore, it may be challenging to enforce modest fines. The goal is to ensure that the enforcement charge is sufficient to pay the expenditures of the enforcement officer while not placing an undue burden on the debtor. Allowing private enforcers to collect all penalties, including minor ones, with a predetermined sum of money that the state guarantees is one proposal. However, there is disagreement about whether the state should pay private enforcement officials even if their compensation exceeds the funds allocated for fine collection. Furthermore, the state may need to consider if it is still worthwhile to collect minor penalties. The notary system is an excellent illustration here, as unpaid fees were added to the notary's expenditures, reducing their taxable income and pushing them to undertake notarial actions for free. So, it is not straightforward to establish how much private enforcement officers should be compensated for collecting tiny penalties.

Hence, the Estonian experience shows that the enforcement reform should also be modified over time to address new problems and balance the interests of all parties. This maintains the enforcement system current in defending the rights of debtors and creditors. It is also important to note that the effectiveness of these systems differs from nation to nation based on factors like the legal culture and the degree of legal respect. Enforcement procedures are often quite successful in nations with robust systems for the state and self-regulatory groups to collaborate, such as the United States, the United Kingdom, Germany, and Finland. For instance, bailiffs appointed by the district court and the highest regional court in Germany implement the law and other judicial actions as a state role<sup>27</sup>.

The bailiff is obliged to carry out their professional duties independently, at their own expense, and with state authority as a civil servant. In the UK, a mixed approach is adopted, with both civil servant bailiffs and licensed private bailiffs being present. Bailiffs are part of the Association of Bailiffs of the High Court of England and Wales as a mandatory and self-regulatory association. The claimant can select the type of bailiff to resort to. In Scotland, a distinction is drawn between a sheriff and a bailiff officer, with sheriff officers being appointed by the chief sheriff within a specific geographical area. Before 1996, in Finland, the chief of the local

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<sup>26</sup> STUART, R. "Webcam performers resisting social harms: 'You're on the Web masturbating. It's just about minimising the footprint'". *International Journal of Gender, Sexuality and Law*, v. 2, n. 1, 2022, p. 171-198.

<sup>27</sup> BAINBRIDGE, D. "Staging aural fugitivity through nineteenth-century freak show archives", *Performance Matters*, v. 8, n 1, 2022, p. 37-53.

police assumed responsibility for enforcing court judgments, in addition to police and prosecutorial functions.

In the Republic of Kazakhstan, the role of private bailiffs changed along with the movement of the enforcement system towards a mixed model. The significance of private organisations in executing court decisions emerged as a result of the recently established concept of enforcement procedures. The enforcement system in the United States functions in a manner that differs from the systems previously discussed. It is subject to state regulation, which means that court decisions issued in one state must be authorised in another state. In some states, this authorisation is attained by initiating a lawsuit against the judgment, while in others, it is accomplished through a registration process. The legal foundation for enforcement actions is a writ of execution issued by a clerk of court or an authorised sheriff in other states.

#### 4. Discussion

The European Union Summit in Brussels on June 23, 2022, reached the decision to grant Ukraine the official status of an EU candidate, marking a historic moment in Ukraine's European trajectory, as enshrined in the Constitution of Ukraine. This presents a substantial incentive and pragmatic opportunity for Ukraine to effect positive change. However, the implementation of a comprehensive array of reforms, particularly in the justice and finance systems, is imperative for this purpose. The European Commission articulated seven principal requirements for Ukraine as a candidate for EU membership, the first of which is the rule of law, and more specifically, the establishment of an effective and transparent justice system.

Court rulings are mostly theoretical in the absence of real enforcement actions. However, Ukraine's enforcement efficacy has been reduced. Thus, just 3% of judgements are upheld, compared to 50% to 70% on average among EU countries. This means that only UAH 3 is given back to the creditor for every UAH 100 in debt acknowledged by the court. This results in a bad debt proportion of almost 20% of GDP of Ukraine. Given that a sizable amount of money is taken out of the economy, it is thus not unexpected that investment in Ukraine has drastically decreased. The 2016 reform represented an attempt to effect a positive change in the situation, with the introduction of the institution of private enforcement officers under the Laws of Ukraine "On enforcement proceedings" and "On bodies and persons enforcing court decisions and decisions of other bodies". This development can be considered a fulfilment of the terms of the 2015 Memorandum of Economic and Financial Policies between Ukraine and the International Monetary Fund. This development aligns with a prevailing global trend towards the privatisation of public functions and services<sup>28</sup>.

Empirical evidence demonstrated the efficacy of the private sector in delivering services with efficiency and expediency, characteristics that are often absent in public administration due to the inherent challenges of bureaucracy and sluggish management. According to the current legislation, a private enforcement officer in Ukraine is defined as a professional engaged in independent activities, authorised by the state to undertake enforcement proceedings in accordance with the procedural framework established by law. A private enforcement officer is entitled to 10% of the proceeds from the collected debt in the event that a property judgement is executed. However, the person cannot engage in other paid activities (apart from teaching, research, artistic endeavours, etc.) or entrepreneurial activities, and there are some qualification criteria that must be fulfilled. The kind of choices that private enforcers are allowed to enforce are also immediately restricted at the legislative level. Interestingly, they are not allowed to collect in the state's favour or from it<sup>29</sup>.

<sup>28</sup> Ibid

<sup>29</sup> ECONOMIC TRUTH. "What system of execution of court decisions is needed for the integration of Ukraine into the EU?", 2022. Available at:

In 2016, Ukraine implemented a hybrid system of enforcing court rulings that included a regular state enforcement agency and a new institution of private bailiffs, though with uneven powers. The Strategy for Reforming the Judiciary, Judicial Proceedings, and Related Legal Institutions for 2015-2020, approved by Presidential Decree, called for a gradual equalisation of the powers of private and state bailiffs, leading to the establishment of a mixed system. The first private bailiffs began their professional duties in the summer of 2017, quickly demonstrating their effectiveness. For example, in 2021, 285 private bailiffs recovered UAH 6,6 billion from debt collectors, while 4134 state enforcement officers returned UAH 13,2 billion to creditors. Furthermore, the number of private enforcement personnel is 14 times lower than that of state enforcement personnel. This finding suggests that, in terms of the recouping of investments, the typical private enforcement officer is seven times more effective than a public one. In addition to its efficiency, the private bailiff sector has the advantage of not costing the state budget any money.

The private sector pays high taxes (over 40%) and maintains offices and recruits employees on their own dime. In other words, the government benefits from this as it increases state budget revenue and creates new employment. However, as it turns out, private enforcement personnel by themselves are insufficient to have a significant impact on a national scale<sup>30</sup>. Since Ukraine has not yet implemented a full-fledged mixed enforcement system and equalised the powers of public and private enforcement officials, the 2016 reform is still essentially unfinished. The Ministry of Justice's statistics show that in 2021 the financial efficiency of the government enforcement agency is 1,91%<sup>31</sup>. The bureaucracy and outdated enforcement instruments reduce the efficacy of private enforcement officials significantly. The majority of automation is theoretical. As a result, extensive change is needed to bring the enforcement system of Ukraine into compliance with European norms.

## 5. Conclusions

The inefficiencies in enforcement system of Ukraine were analysed in this article, along with the legislative and structural gaps that reduce its efficacy. Thus, the research identified best practices that can be used as models for changing Ukrainian enforcement mechanisms by comparing them with those of Estonia, Lithuania, Germany, and the United Kingdom.

In this connection, some problematic issues with the enforcement system of Ukraine were identified, which involve an imbalance between government-controlled and private enforcement models, bureaucratic obstacles, and the lack of clear legislative rules. Although the employment of private enforcement agencies helped to increase enforcement rates, the limitations placed on their authority prevent them from reaching their maximum potential. Therefore, it was established that the beneficial enforcement system should blend the extensive power of private bailiffs with appropriate governmental control, as proved by the experiences of nations with mixed or privatised enforcement systems.

Hence, reforms must be implemented in Ukraine in order to improve the effectiveness of its enforcement systems. These improvements should broaden the role of private enforcement agencies, boost the judicial involvement, and facilitate bureaucratic processes. In this regard, making the legal structure of Ukraine consistent with European norms can increase the efficiency of enforcement proceedings. Furthermore, tackling structural problems including court enforcement

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<https://www.epravda.com.ua/columns/2022/07/27/689668/>. Accessed on: April 15th, 2025.

<sup>30</sup> SAVCHYN, M.; ZAVYDNIAK, A.; OLASHYN, V. "Direct action of the constitution of Ukraine in focus: Access to justice and judicial control over the execution of court decisions", *Scientific Bulletin of the Uzhhorod National University (Series: Law)*, v. 70, 2022, p. 146-155.

<sup>31</sup> CASTELLACCI, F.; OGUGUO, P. C.; FREITAS, I. M. B. "Quality of pro-market national institutions and firms' decision to invest in R&D: evidence from developing and transition economies", *Eurasian Business Review*, v. 12, n. 1, 2022, p. 35-57.

delays, corruption threats, and the lack of financial incentives for enforcement agencies is essential. In order to ensure accountability and transparency, a well-designed enforcement system should include procedures for assessing the effectiveness of both public and private enforcement agencies. Therefore, digitalisation of court decisions enforcement can improve enforcement procedures and reduce procedural delays.

Moreover, increasing public awareness of enforcement actions and the role of bailiffs would boost public trust and encourage compliance with the law. To maintain a legal culture and make sure that citizens understand their rights and obligations within the enforcement framework, it is essential to develop legal education programs and provide clear communication regarding enforcement procedures.

Finally, the effectiveness of these changes depends on the government's willingness to confront current difficulties and incorporate best practices from foreign experiences. A well-functioning enforcement mechanism is essential for protecting rights and maintaining the rule of law. Thus, strengthening enforcement procedures with the legislation of Ukraine will help to create a more transparent legal system that adheres to national and international legal norms. In addition to being critical for legal clarity, a strong enforcement system is also an indispensable element of Ukraine's initiatives to preserve democratic government and conform to European legal norms.

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