

Cross-Regional Court Performance Assessment – Country Report

📍 Ukraine



European Bank
for Reconstruction and Development

DENTONS



Key findings

Macro Data

Eastern Europe and the Caucasus¹

EBRD region of operation

43,792,855 (2021)²

Population size

579,400.0³

Land area (sq.km.)

4,835.6 (2021)⁴

GDP per capita in USD

Ukraine's performance is close to the average across MLAT's dimensions and indicators. Ukraine has slightly higher than average scores in Dimension 2. Commercial Dispute Resolution, and close to the average scores for the other three dimensions compared to other assessed EBRD CoOs.

In terms of **Policies and Infrastructure for E-justice**, Ukraine's scores are not entirely consistent. The country has slightly higher than average scores for the level of development of e-governance and e-infrastructure and justice system's digitalisation. Electronic signatures and electronic documents are regulated and commonly used. The overall level of development of justice system digitalisation is high with work currently underway to establish a new integrated CMS system in Ukraine's courts. The digitisation of court processes is on its way, but further efforts are needed to ensure widespread use of the digital solutions. Like other examined jurisdictions, Ukraine receives low scores for the indicator on stakeholder engagement.

Ukraine earns higher than average scores in **Commercial Dispute Resolution**, mainly due to the extent of specialisation and the efficiency and effectiveness of commercial litigation. Special commercial courts have been functioning within a separate system in Ukraine since 1991. There are meaningful modifications to the general procedural rules in commercial cases. Inception training in commercial law for commercial judges is not provided; however, there is mandatory continuous training in commercial law. While Ukraine has a rather well-established legislation for mediation in civil/commercial issues, mediation settlement agreements are not directly enforceable. No online solutions for out-of-court settlement of commercial disputes are available. Ukraine has an excellent score in respect of effectiveness and efficiency of commercial



litigation. Given how few jurisdictions provide disaggregated statistics on commercial litigation, both the availability of such statistics in Ukraine and the good performance of commercial courts are to be commended.

Ukraine performs close to the average in the area of **Uncontested Procedures for Enforcing a Claim**. Self-representation is allowed but in practice it is difficult to conduct the process without professional help. The law allows for e-filing, but this option is rarely used. The timelines for pronouncement on applications under the procedure are set in the law and are complied with across the country. Debtors need to justify their objection.

¹ See <https://www.ebrd.com/where-we-are.html>.

² See <https://data.worldbank.org/country/ukraine?view=chart>.

³ See <https://data.worldbank.org/indicator/AG.LND.TOTL.K2?locations=UA>.

⁴ See <https://data.worldbank.org/country/ukraine?view=chart>.

When compared to other EBRD CoOs, Ukraine receives close to average scores for **Small Claims Procedures**. There are standard forms for filling the claim in Ukraine, but they are not perceived as user-friendly by either litigants or judges. E-filing is available, but it is rather rarely used. There are few meaningful procedural simplifications of the small claims procedure.

Overall, Ukraine has a slightly higher than average level of readiness for the introduction of ODR. Commercial dispute resolution and, to a lesser extent, uncontested claims procedures would be suitable candidates for such an initiative.



Questionnaire

No.	Indicator Component	Score	Justification for the scoring and sources
Dimension 1. Policies and Infrastructure for E-Justice			
	Link to the strategy that covers e-justice (if any) and time-period of the strategy.		https://zakon.rada.gov.ua/laws/show/231/2021#Text Decree of the President of Ukraine 'On the Strategy of Justice Sector and Constitutional Justice for 2021-2023'
	Which body is responsible for digitization of the judiciary?		State Court Administration of Ukraine, Ministry of Digital Transformation of Ukraine
	Which body is responsible for digitization in public administration?		Ministry of Digital Transformation of Ukraine
	Is there a formal coordination mechanism for digitization projects in the judiciary and public administration? What is it?		Yes. Parliamentary Working Group for Digitalisation of Judiciary (currently is coordinated by MP Roman Babiy)
	Does the Case Management System of the courts allow for auto-generation of parts of the judicial acts?		Yes, but only for the appeal and cassation court and for limited parts of judicial acts such as introductory parts with names of the parties, subject and amount of claim etc. As of now, there is no option to auto-generate any other part of the judicial act.
	Can judges work remotely by accessing the Case Management System of the courts from a distance?	No.	

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 1.1. Level of Development of E-governance and E-infrastructure⁵			
1.1.1.	Level of internet penetration	2	75% in 2020. Data source: https://data.worldbank.org/indicator/IT.NET.USER.ZS
1.1.2.	Level of development of electronic signatures	3	A separate law has been adopted on 05.10.2017 № 2155-VIII “On electronic trust services” and implemented. E-signatures are widely used. Date source: https://zakon.rada.gov.ua/laws/show/2155-19#n534
1.1.3.	Level of development of electronic documents	3	Electronic documents are widely acceptable in banking, insurance, tax services, communication between citizen and state authorities as well as between the later themselves.
1.1.4.	Level of development of national electronic identification	3	Significant progress has been achieved over the last 3 years as Ukraine has introduced first fully e-passport in Diia. Besides this, Bank ID (verification in external services using your bank account identification) is widely used in Ukraine. One example is the process of signing of electronic petition before the President of Ukraine using Bank ID or e-signature.
1.1.5.	Level of online access to administrative services	3	As evidenced by independent reports, nearly 18 million Ukrainians used online versions of the following public services i.e.: <ul style="list-style-type: none"> • registering as an individual entrepreneur • registering a limited liability company • registering a non-governmental organization • applying for maternity benefits • applying for housing subsidies • applying for confirmation of a clean police record • registering in an electronic queue to apply for biometric documents; • checking the validity of documents Data source: https://egap.in.ua
1.1.6.	Level of broadband internet access	2	Upload 56 Mbps; Download 58 Mbps Data source: https://www.speedtest.net/global-index/ukraine

⁵ Please note all the data provided does not reflect dramatic damage caused (including by cyber attacks) by Russian full-scale invasion on 24 February 2022 and aims rather to assess period before February 2022.

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 1.2. Overall level of development of justice system digitalisation			
1.2.1.	Status of e-Justice strategy	2	There is no separate strategy on e-Justice. Some key objectives on court digital transformation are partially in a very generic manner covered by the Strategy for Justice Sector for 2021 – 2023. There is no assessment report on strategy implementation as its period is ongoing.
1.2.2.	Case management system (CMS) deployment rate	3	Case Management Systems are available in all Ukrainian courts.
1.2.3.	Level of integration of the Case Management System	2	There is no one unified CMS for all courts as there is a separate system for commercial court, separate system for civil and criminal courts, and separate system for administrative court. It is however planned to introduce one single CMS in the future. Some first steps toward this aim are being completed by the State Court Administration of Ukraine.
1.2.4.	Official information about the justice system available over the internet	3	Contact information of all courts/ schedules of court hearings are provided here: https://court.gov.ua Forms that can be used by citizens and businesses for various filings with the court are provided in e-cabinet of court e-filing system Unified Judicial Information and Telecommunication System (UJITS).
1.2.5.	Publication of court judgments and free online access to them	3	All judgements are being published here: https://reyestr.court.gov.ua

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 1.3. Digitisation of court processes			
1.3.1.	Availability and use of e-filing	2	E-filing is available via UJITS e-court cabinet. It is available for all types of cases including commercial. There is no official statistics as to the user rate. However, the officials says that e-filing is being on the level of 5% (to compare with of the total number of cases)
1.3.2.	Availability and use of electronic service of process (e-service)	2	There is legislation governing e-service for court procedures but only if parties are register in e-court system UJITS. Moreover, it is mandatory for parties registered in UJITS. The problem is that the percentage of the parties registered in UJITS is rather low. However, there are draft law pending in the Parliament to oblige all the litigants to have an official email address to be used for e-service of court documents.
1.3.3.	Possibility to check case files and track case progress remotely	2	Parties can track progress of the case and key procedural events remotely by two options. First by following https://reyestr.court.gov.ua to assess procedural documents. Second by following status of the case in UJITS e-cabinet.
1.3.4.	Possibility to hold online / videoconference hearings (for any type of case)	3	It is possible to hold the entire hearing online for most types of cases (criminal and civil, at a minimum) and in practice, such hearings are frequently being held. Due to the COVID a special application – EasyCon - was introduced in Ukraine. Also, it's possible to hold online hearings via Diia MinDig app.
1.3.5.	Court fees	3	There are both official online calculators for determining the amount of court fees due and available means for online payment of court fees in UJITS e-cabinet through online banking. Date source: https://wiki-ccs.court.gov.ua/w/Інструкція_користувача_Електронного_суду_ЄСІТС
1.3.6.	Ability to initiate enforcement based on electronic enforceable titles	1	There is no legislation governing electronic enforceable titles and enforcement can only be initiated based on an enforceable title presented on paper. Data source the Law of Ukraine on Enforcement Procedure: https://zakon.rada.gov.ua/laws/show/1404-19#n275

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 1.4. Stakeholder engagement			
1.4.1.	Existence of an obligation for professional court users to interact with the court only electronically	1	There is no legislation governing the obligation for any types of professional court users to interact with the court only electronically.
1.4.2.	Availability of monetary incentives for conducting certain court actions electronically	1	There are no monetary incentives for conducting certain court actions electronically.
1.4.3.	Availability of user guides, help desk and guidance in the e-filing system	3	UJITS e-filing is available and provides user guides and frequently asked questions (FAQs). Date source: https://wiki-ccs.court.gov.ua/w/Категорія:Електронний_суд
1.4.4.	Whether court user surveys are conducted by the courts/ the judicial system on a regular basis	1	No official surveys are being conducted by the State Judicial Administration does not conduct surveys. Usually, it's done by international organisations on an ad hoc basis or by particular courts sporadically.

No.	Indicator Component	Score	Justification for the scoring and sources
Dimension 2. Commercial Dispute Resolution			
	What is the definition of commercial case for the purposes of determining the jurisdiction of the commercial courts/divisions/chambers (if available in the country)?		As provided by the Article 20 of the Commercial Procedure Code of Ukraine, commercial courts consider cases in the disputes arising in connection with implementation of commercial activity (except the cases provided by part two of this Article), and other matters in the cases determined by the law. Parties to the commercial dispute are usually legal entities and sole traders. Data source the Commercial Procedure Code of Ukraine: https://zakon.rada.gov.ua/laws/show/1798-12#n2450
	Have significant reforms of commercial dispute resolution been introduced in the previous three years in the country (e.g., changes to the practice and procedure of commercial litigation and/or related alternative dispute resolution (ADR))? Briefly describe the nature and impact of the reforms.		No major commercial dispute resolution reform has been introduced in the last three years.
	What has been the impact of the COVID-19 pandemic on commercial litigation in the country, e.g. introducing more electronic interactions?		No major impact except of introduction of the online hearing system as mentioned in indicator 1.3.4.
	Number of female/male judges in the country.		As of 2020, the number of judges in the courts of Ukraine is 5,288, of which 2,517 are men, 2,771 are women. Data source media with reference to the High Qualification Commission of Judges of Ukraine.
	Number of female/male first-instance commercial judges in the country.		No separate statistics on commercial courts available.

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 2.1. Level of specialisation of commercial dispute resolution			
2.1.1.	Availability of a specialised commercial court or specialised commercial divisions in courts	3	Special commercial courts have been functioning within a separate system since 1991.
2.1.2.	Modifications of the general procedural rules in respect of commercial cases as compared to general civil cases	3	Separate Procedural Code regulates the commercial procedure. It differs from the Civil Procedure Code in terms of: (1) expedited court proceedings; (2) special rules regarding evidence.
2.1.3.	Inception training in commercial law for commercial judges	1	There is no mandatory or voluntary training in commercial law provided to commercial judges upon entry/appointment. However, there is a special comprehensive training before the appointment of a judge.
2.1.4.	Continuous (regular) commercial law training for commercial judges	3	There is mandatory training in commercial law provided regularly (continuously) to commercial judges (as provided by Article 89 of the Law on the Status of Judges each judge shall complete mandatory 40h training every 3 years)
2.1.5.	Capacity building for commercial judges' judicial assistants or for other types of specialised judicial clerks engaged in commercial justice (e.g., rechtspflegers)	3	Commercial judges have judicial assistants and secretaries and they have to receive specialized commercial law training. In turn, Supreme Court judges also benefit from the assistance of scientific consultants (many of them with doctoral degree)

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 2.2. Use of mediation/ADR tools			
2.2.1.	Availability of mediation in civil/commercial disputes	3	There is legislation governing mediation in civil/commercial disputes as the Law on Mediation was adopted in 2021. Also, procedural codes regulate court-annexed mediation (although this is not being used much on practice).
2.2.2.	Availability of an official register of mediators accessible online	3	Accreditation of mediators is required by law. There is an official registry of mediators publicly available online on the National Association of Mediators of Ukraine (NAMU): http://namu.com.ua/ua/members/ . Please note that according to the Law on Mediation there is no one single register of mediators. Each of the organisations of mediators might have its official register which will be recognised by law (Article 14 of the Law). NAMU is one of these organisations.
2.2.3.	Availability of incentives for mediation	2	There is a financial incentive namely 40% reduction of court fees if the agreement reached during the process by means of mediation. Data source the Law of Ukraine on Court Fees: https://zakon.rada.gov.ua/laws/show/3674-17#Text
2.2.4.	Enforceability of mediation settlement agreements	1	Mediation settlement agreements of commercial disputes are not directly enforceable.
2.2.5.	Availability and use of online solutions for out-of-court settlement	1	No online solutions for out-of-court settlement of disputes are available.

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 2.3. Efficiency and effectiveness of commercial litigation (to be assessed only if statistical disaggregation of commercial cases is available)			
2.3.1.	Clearance rate of first-instance commercial cases for the latest year for which statistics is available	2	96%. Data source: State Court Administration statistics
2.3.2.	Disposition time of 1st instance commercial cases as compared to CoE median for first-instance civil/commercial cases	3	151 days for 1st instance commercial court in 2019 (data source: State Court Administration statistics) as compared to 237 days of the CEPEJ median for 2020.
2.3.3.	Disposition time of commercial cases as compared to the disposition time of general 1st instance civil cases in the latest year for which statistics is available	1	In 2018, 186 days – for 1st instance commercial courts while 167 for civil courts. Data source: State Court Administration statistics
2.3.4.	Dynamic of commercial cases disposition time over a 3-year period (the latest 3 years for which data is available)	3	Decreased for more than 20% (151 days – 2019; 186 days – 2018; 189-2017) Data source: State Court Administration statistics

No.	Indicator Component	Score	Justification for the scoring and sources
Dimension 3. Uncontested Procedures for Enforcing a Claim			
	What is the name of the procedure (e.g., order for payment, issuance of a writ of execution based on document, other)? If there are several such procedures, please, describe each of them.		Court order procedure (Chapter II of the Commercial Procedure Code of Ukraine)
	Which authority is entrusted with examining claims that may be uncontested by the debtor?		Commercial court
	If the courts are competent to examine such claims, do the general rules of territorial jurisdiction apply to them or is the process centralized?		Territorial jurisdiction applies
	What claims is the procedure applicable to (i.e., only claims based on certain trustworthy documents such as checks, bills of exchange, notary deeds, utility claims, or also all types of civil and commercial monetary claims)?		As provided by Article 148 of the Code, the court order procedure may be issued only as to the claims for recovery of monetary debt under a contract concluded in writing (including electronic), if the amount of the claim does not exceed one hundred living wage for able-bodied persons (approximately 8500 EUR).
	Is there a monetary threshold for applying the uncontested claims procedure?		One hundred living wage for able-bodied persons (approximately 8500 EUR)

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 3.1. Ease of filing			
3.1.1.	Effective self-representation	2	Self-representation is allowed but in practice it is difficult to conduct the process without professional help and most creditors tend to engage a lawyer.
3.1.2.	Availability and use of forms for filing the claim	2	There are standard forms for filing the claim within UJITS e-cabinet, but they are perceived as not user-friendly (both by litigants and judges).
3.1.3.	Availability and use of online filing	2	The law allows for e-filing, but this option is rarely used (see 1.3.1)
3.1.4.	Level of court fees for filing a claim	3	The fees for court order claims are easily affordable (less than 10 EUR) and do not depend on the value of a claim (Article 4 of the Law on Court Fees of Ukraine). Thus, fee for filing the claim in this procedure is more than 50% lower than the fee for filing a general commercial claim.
3.1.5.	Simplified rules on attachment of evidence to the claim	2	Documentary evidence is required but may also be sent by electronic means (Article 150 of the Commercial Procedure Code of Ukraine)

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 3.2. Efficient processing			
3.2.1.	Predictability of the timelines for pronouncement	3	The timelines for pronouncement on applications under the procedure are set in the law (according to the Article 154 of the Commercial Procedure Code of Ukraine it's 5 days since the moment court receives a claim) This timeline is complied with across the country.
3.2.2.	Length of timelines for pronouncement	3	5 days as stated in 3.2.1
3.2.3	Availability of options for service to the debtor without proof of receipt	3	According to the Article of 156 of the Commercial Procedure Code of Ukraine, <u>at least two</u> of the methods for service without proof of receipt under Art. 14 of Regulation (EC) No 1896/200 are allowed: a) personal service at the defendant's personal address on persons who are living in the same household as the defendant or are employed there and (f) electronic means attested by an automatic confirmation of delivery, provided that the defendant has expressly accepted this method of service in advance.
3.2.4.	Ease of debtor's objection	1	When objecting to the claim, debtors need to give justification thereof (Article 157 of the Commercial Procedure Code of Ukraine).

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 3.3. Effective linkages between the uncontested procedure and the procedure following a statement of opposition			
3.3.1.	Consequence of debtor's lack of objection	2	If the debtor objects partially, an enforceable title is being dismissed by the court (Article 158 of the Commercial Procedure Code of Ukraine). If the debtor is silent, the order enters into force on the expiration of 15 days from the last day for debtor to object the order.
3.3.2.	Launching the litigious stage of the procedure	1	If the debtor lodges a statement of opposition, the uncontested procedure is terminated or suspended and the claimant wishing to pursue the claim may file it under the general procedure (Article 158 of the Commercial Procedure Code of Ukraine).
3.3.3.	Link between the fees due in the uncontested claims procedure and in the litigious procedure	3	The amount of the fee for the litigious procedure that follows a statement of opposition is reduced with the amount of the already paid fee for the court order procedure as compared to the fee that would have been due if the litigious procedure was launched without using the uncontested claims procedure first (Article 151 of the Commercial Procedure Code of Ukraine).
3.3.4.	Management of statements of opposition	1	The jurisdiction does not track claims that continue as litigious procedures (either by reason of objection or for any other reason).

No.	Indicator Component	Score	Justification for the scoring and sources
Dimension 4. Small Claims Procedures (this dimension is to be evaluated only in case a small claims procedure is available)			
	What is the name of the procedure (e.g., small claims procedure, simplified procedure, written procedure, fast-track procedure, other)? If there are several such procedures, please, describe each of them.		Small claims procedure (Chapter 10 of the Commercial Procedure Code of Ukraine)
	Is there a special small claims court or a special court division examining small claims?	No.	
	What is the monetary threshold for the applicability of the procedure?		One hundred living wage for able-bodied persons (approximately 8500 EUR) – by default Five hundred living wage for able-bodied persons (approximately 42500 EUR) – as decided by a judge upon his/her discretion.
	What claims is the procedure applicable to?		All claims below the monetary thresholds mentioned above except for some categories (such as insolvency, corporate, intellectual property, competition, privatization disputes)

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 4.1. Ease of filing			
4.1.1.	Effective self-representation	2	Self-representation is allowed but in practice it is difficult to conduct the process without professional help and most creditors tend to engage a lawyer.
4.1.2.	Existence of forms for filing the claim	2	There are standard forms for filing the claim within UJITS e-cabinet, but they are perceived as not user-friendly (both by litigants and judges).
4.1.3.	Availability and use of online filing	2	The law allows for e-filing, but this option is rather rarely used (see 1.3.1)
4.1.4.	Guidance to self-represented litigants	1	There are no special rules that require judges/court clerks to provide guidance to self-represented litigants.

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 4.2. Availability of meaningful procedural simplifications of the small claims procedure			
4.2.1.	Statutory timelines in the small claims procedure	3	Some statutory timelines in the small claims procedure are shorter than the statutory timelines in the general commercial procedure and they lead to a significantly shorter process overall (up to 60 days for small claims and up to 90 days within general procedure).
4.2.2.	Simplified evidentiary rules	1	Evidentiary rules in the small claims procedure are the same as the evidentiary rules in the general commercial procedure.
4.2.3.	Simplified rules on hearings	3	The rules on hearings in the small claims procedure as compared to the general commercial procedure are simplified of the following ways: (1) general commercial procedure provides for a preliminary/case management hearing, the small claims procedure allows the court to omit it unless one of the parties suggest otherwise; (2) a hearing can be avoided altogether and the case can be decided based only on the written submissions of the parties.
4.2.4.	Special rules on encouraging conciliation or mediation	1	There are no special rules or practices that encourage conciliation or mediation in the framework of small claims litigation as compared to general commercial procedure.
4.2.5.	Simplified content of the judgment	1	The rules on the content of the judgment in the small claims procedure are the same as the rules on the content of the judgment in the general commercial procedure.
4.2.6.	Modifications to the rules on appealing the judgment in the small claims procedure	1	The rules on the appealing the judgment in the small claims procedure are the same as the rules on appealing the judgment in the general commercial procedure.

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