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International legal assistance to business: How foreign jurisdictions contribute to the protection of the rights of Ukrainian companies

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Abstract. The aim of the article was to analyse the mechanisms of international legal assistance that ensure the protection of the rights of Ukrainian companies in cross-border commercial relations. The study used an interdisciplinary approach combining comparative-legal, systemic-structural, formal-legal and case-study methods, based on the analysis of international conventions and acts, Ukrainian legislation, and the case law of the European Union, the United Kingdom and the United States of America. As a result of the study, the theoretical and legal foundations of the functioning of the institution of international legal assistance to business were systematised as a structural element of private international law that ensures the realisation of the rights of business entities in cross-border disputes. It was identified that the national legislation of Ukraine implements these standards, ensuring the effective application in judicial practice. In the course of the analysis, five basic principles of international legal assistance were generalised – reciprocity, sovereign equality, respect for national law, procedural fairness and non-discrimination – which contribute to reducing transaction costs for business and increasing investor confidence in the Ukrainian jurisdiction. It was established that the legal environment of the European Union is based on unified and digitalised procedures of international legal assistance, which ensure electronic service of documents and the exchange of evidence between courts of the Member States. The study found that foreign jurisdictions demonstrate a high level of predictability and legal stability in matters of judicial control over international arbitration. It was revealed that European case law adheres to the concept of limited interference in the activities of arbitral tribunals, which helps preserve the autonomy of the arbitral process. In the Anglo-American model, a trend towards consistent enforcement of foreign arbitral awards, including those rendered in disputes involving foreign states, was confirmed, provided that procedural standards and public policy requirements are observed. The study showed that the institutions of judicial control, state immunity and recognition of arbitral awards in these legal systems function in a complementary manner, ensuring a balanced approach between the sovereign interests of the state and the needs of international business. The results obtained have practical significance for improving Ukrainian mechanisms of international legal assistance and for harmonising national legislation with European and Anglo-American standards

Keywords: procedural barriers to entry; *exequatur*; cross-border commercial dispute; judicial control; enforcement of judgments

Introduction

The globalisation of business and the active integration of Ukraine into the world economy have led to an increase in the number of cross-border legal relations in which Ukrainian companies become parties to international contracts, investment projects and court disputes outside the national jurisdiction. Prolonged martial law,

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internal economic instability and the changing geography of the business activity of Ukrainian companies have generated increased demand for effective international legal instruments to protect the rights and interests of national business entities. However, the effectiveness of the use of such mechanisms remains uneven and depends on the legal environment of foreign states, access to international legal assistance and the quality of interstate cooperation in the field of justice. Among the problems are differences in legal procedures, high costs of legal support, the complexity of the legalisation of documents, as well as insufficient awareness of business regarding the possibilities of international legal protection.

A review of research shows a convergence of procedural standards in the field of cross-border justice. In the work of R. Amato & M. Velicogna (2022), it was emphasised that the digitalisation of service of documents within the European Union (EU) through e-CODEX has significantly reduced the duration of procedures and transaction costs. At the same time, the authors drew attention to the fact that the main obstacles to effective recognition of judgments are caused by technical and linguistic imperfections in the notification of the parties, which preserve asymmetries in access. The conclusion is that technological infrastructure can serve as a catalyst for legal integration only if it is consistently implemented at the national level. Another dimension of the problem is revealed by V.V. Aleksiichuk (2024), who analysed the practical consequences of The Hague Convention on Choice of Court Agreements. The researcher stressed that this instrument strengthens party autonomy and reduces the phenomenon of "forum shopping", but the limited number of participants and heterogeneous practice of interpreting asymmetric clauses generate uncertainty. The author's findings indicate an urgent need to harmonise national case law with the conventional standards of validity and enforceability of jurisdiction agreements. The scholarly position of S.O. Belikova (2020) focused on the decisive importance of procedural guarantees in the *exequatur* procedure. The author argued that the key factor in the successful enforcement of foreign judgments is not the substantive-law aspects, but compliance with procedural requirements – proper notification of the parties, confirmation of jurisdiction and clarity of the grounds for refusal. Excessive interpretation of public policy and a formal approach to reciprocity, in the author's view, provoke instability of case law, which creates risks for participants in international commercial relations.

K. Paramonova (2022) focused on the innovations of Ukrainian legislation regarding choice of court in cases with a foreign element. The author noted that the expansion of party autonomy contributes to the reduction of jurisdictional conflicts, but at the same time requires clear procedural limitations to prevent abuses. In the author's opinion, the coherence of legal mechanisms and the professional training of practitioners are crucial for the effective application of the new rules. In the work of V.R. Abou-Nigm (2024), a metaphorical distinction between "high-speed motorways" and "jungle paths" of access to justice was traced. The author demonstrated that although digital and conventional mechanisms create effective channels of communication, socio-economic and institutional gaps preserve inequality in the parties' opportunities. Hence, the need for systemic reforms not only of a regulatory but also of an infrastructural nature in order to ensure real access to justice. The contribution of O. Vaycekhovska & N. Fedoruk (2024) is significant for the Ukrainian context. On the basis of an analysis of national case law, the authors identified inconsistencies in the application of the criteria of public policy, the procedures for notifying the parties and the demarcation of jurisdictions. The researchers concluded that the implementation of the Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (2019) and the improvement of procedural legislation can significantly enhance the stability of the legal environment for foreign investors. Similar conclusions can be seen in the study by D. Kolcheko & O. Rusetska (2024), who analysed the peculiarities of legal interaction between EU states and Ukraine in the field of enforcement of judgments. The authors showed that the key problems are the heterogeneous procedures for notifying the parties, the difficulties in confirming jurisdiction and the absence of unified standards for assessing public policy. In their opinion, further convergence of procedural rules with European models is a prerequisite for the effective integration of Ukraine into a common legal area. In turn, in the work of M.R. Arakelian *et al*. (2023), the need for Ukraine's active involvement in the process of unifying private international law acts in the EU is substantiated. The scholars established that the adaptation of Ukrainian legislation to European standards on jurisdiction, recognition, and enforcement of judgments creates more stable conditions for the cross-border activities of business and contributes to strengthening the state's investment attractiveness.

The purpose of the article was to examine the mechanisms of international legal assistance applied in leading foreign jurisdictions in order to protect the rights of Ukrainian companies in cross-border legal relations. To achieve this aim, the following tasks were envisaged: to determine the main directions and forms of participation of foreign jurisdictions in ensuring access of Ukrainian companies to justice; to compare the practice of individual countries in the field of providing legal assistance to foreign companies; to develop recommendations for improving interstate legal cooperation aimed at increasing the level of international protection of Ukrainian business.

Materials and Methods

The study was conducted on the basis of an interdisciplinary approach combining the analysis of international

law, comparative-legal methods, systematisation of normative acts and the practice of the application in cross-border commercial relations. The comparative-legal method was applied to compare the content and legal consequences of the main international instruments, in particular Convention No. 9432 (1965), Convention No. 12140 (1970), and the Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (2019). The purpose of using this method was to identify common approaches to the procedures of service of documents, taking of evidence and recognition of judgments, as well as to establish differences in the implementation in national legal orders. Additionally, the method was used to analyse the provisions of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958) in comparison with Regulation (EU) No. 1215/2012 (2012), which made it possible to trace the evolution of the principle of mutual recognition of court and arbitral decisions. A systemic-structural analysis was applied in order to determine the interconnection between the levels of legal regulation – international, supranational and national. For this purpose, Regulation (EU) No. 2020/1784 (2020), Regulation (EU) No. 2020/1783 (2020) and Regulation (EU) No. 2023/2844 (2023) were analysed. The formal-legal method was used to interpret the provisions of Ukrainian legislation – Law of Ukraine No. 2709-IV (2005), the Civil Procedure Code of Ukraine (2004) and the Code of Commercial Procedure of Ukraine (1991). The application of this method was aimed at determining the procedure for recognition and enforcement of foreign court and arbitral decisions, as well as clarifying the legal force of international treaties in the national legal system.

The case-study method was applied as an analytical tool to identify patterns in the functioning of mechanisms of international legal assistance in foreign jurisdictions and to assess the effectiveness in protecting the rights of Ukrainian companies in cross-border disputes. In particular, the analysis was carried out with regard to cases that were indicative for three jurisdictions – the EU, the United Kingdom (UK) and the United States of America (USA) – and made it possible to identify national particularities of procedural access and judicial control over the enforcement of arbitral and court decisions. The choice of these jurisdictions was conditioned by the status as centres of international commercial justice and leading arbitration hubs, where the largest volume of cross-border disputes involving Ukrainian companies is concentrated. The criteria for selecting cases were: the participation of Ukrainian companies or the state of Ukraine in the dispute, and the procedural representativeness of the cases, that is, the ability to demonstrate key mechanisms of international legal assistance (service of documents, obtaining evidence, recognition, and enforcement of decisions, judicial control over arbitration). Using the example of arbitration proceedings between LLC "Gas Supply Company "Naftogaz of Ukraine"" (n.d.) and Public Joint Stock Company Gazprom (n.d.), considered by the Stockholm Chamber of Commerce Arbitration Institute (SCC) (n.d.), the study examined how Swedish courts, in particular the Case No. T 10191-17 (2019), applied the provisions of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958) and consolidated the principle of minimum interference in the substance of arbitral awards. Another analytical vector of the study covered British case law, represented by JKX Oil & Gas plc, Poltava Gas B.V. and Poltava Petroleum Company JV v. Ukraine (n.d.). The analysis of this example was used to determine how the Arbitration Act 1996 (1996), the State Immunity Act 1978 (1978) and the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ukraine for the Promotion and Reciprocal Protection of Investments (1993) interacted in the process of resolving issues of state immunity and enforcement of arbitral awards. The final element of the empirical analysis was the examination of the practice of the United States of America using the Case No. 2008-8 (2008), considered by the U.S. District Court for the District of Columbia (n.d.). This case was used to analyse how American courts implemented the provisions of the Federal Arbitration Act (FAA) (1925) and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958) in the context of recognition and enforcement of foreign arbitral awards. Content analysis, aimed at processing the texts of court decisions, served as a supplement to the case-study method.

Results

Theoretical and legal foundations of international legal assistance to business

In the context of the intensification of global foreign economic relations and the growth of transnational commercial operations, international legal assistance to business is gaining importance. This term is understood as a complex of interactions that encompasses mechanisms of cooperation between state or supranational bodies of different jurisdictions with the aim of ensuring the realisation of the rights and protecting the interests of business entities involved in cross-border legal relations (Velicogna *et al*., 2018). As a component part of private international law, such assistance serves as a means of overcoming legal, procedural and institutional barriers that arise in connection with business activities outside the state. Private international law coordinates the processes of determining jurisdiction, establishing the applicable law, recognising and enforcing foreign court and arbitral decisions, and also regulates the procedures for the transnational obtaining of evidence and service of documents. In this context, international legal assistance to business functions as a programmed set of rules and mechanisms that

ensures this coordination in practical terms. In a narrow, procedural sense, international legal assistance to business covers the following specific forms of state cooperation: service of procedural or claim documents on addressees in another state (or abroad) – when, for example, a Ukrainian company acts as a claimant or defendant in a case abroad; obtaining evidence or requesting it from a foreign jurisdiction (for example, summoning witnesses, requesting documents, conducting examinations); recognition and enforcement of foreign court or arbitral decisions in another state (or vice versa), which makes it possible to implement the decision obtained or ensure its legal effect in the territory of the relevant jurisdiction (Ticic, 2024).

In the architecture of private international law, normative legal acts that unify cross-border procedural actions and the circulation of court and arbitral decisions provide a business with practical instruments for exercising rights outside its own jurisdiction. Three Hague Conventions form the basis: Convention No. 9432 (1965), Convention No. 12140 (1970), and the Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (2019). The first Convention introduced centralised channels of communication through central authorities and standardised request forms, ensuring proper notification of the addressee abroad and procedural fairness. In the continuum of evidence, a key role is played by Convention No. 12140 (1970), which provided both for letters of request and procedures for the direct taking of evidence, allowing courts and parties to business disputes effectively to overcome jurisdictional borders when obtaining testimony or documents. Finally, the Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (2019) is a new global basis for the mutual recognition and enforcement of judgments which, in contrast to bilateral treaties, formulated unified criteria of jurisdiction and exhaustive grounds for refusal, thereby increasing predictability for commercial creditors and debtors.

In the structure of private international law, an important factor in ensuring the predictability and stability of cross-border commercial relations is the proper enforcement of both court and arbitral decisions. In this context, the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958) is of particular importance. The instrument established unified procedural standards for the states parties regarding the obligation to recognise arbitration agreements, to confer on arbitral awards the legal force of national decisions and to ensure the compulsory enforcement in the territory. The Convention creates a universal mechanism that guarantees that an arbitral award rendered in one contracting state can be enforced in another without a re-hearing of the case. This significantly increases predictability and legal certainty in international commercial activity, which is a fundamental factor of trust between counterparties from different legal systems.

In the European legal order, the mechanism for the enforcement of court decisions and the provision of access to justice is supplemented by an internal system of European Union regulations (European Union, 2022), which codify the principles of jurisdiction, mutual recognition and procedural cooperation. The central instrument in this field is Regulation (EU) No. 1215/2012 (2012) – an act that regulates the jurisdiction of the courts of the Member States and the mutual recognition and enforcement of court decisions in civil and commercial matters. This normative act unified the criteria for determining jurisdiction, abolished the requirement for prior permission for the enforcement of decisions, and established the principle of mutual trust between the judicial systems of the Member States. In the study by E.A. Onțanu (2023), it was emphasised that, as a result, this Regulation has become the basis for the free movement of court decisions within the EU, providing business with rapid and predictable enforcement of judgments without duplication of proceedings.

In 2020, the procedural mechanisms of judicial cooperation were updated through the adoption of Regulation (EU) No. 2020/1784 (2020) and Regulation (EU) No. 2020/1783 (2020). These regulations codified modern procedural instruments, created unified electronic request forms and introduced the possibility of direct communication between courts via decentralised Information Technology Systems (IT-systems). These instruments reduced states' dependence on diplomatic channels and increased the speed of exchange of procedural information, which is important for transnational business that faces the need for prompt gathering of evidence or service of documents in several jurisdictions. The further evolution of this area is reflected in Regulation (EU) No. 2023/2844 (2023), which launched the digitalisation of judicial cooperation and established the principle of digital by default – the mandatory use of electronic means of communication and the e-CODEX system (Regulation (EU) No. 2022/850, 2022) for the exchange of procedural documents between the justice authorities of the EU. According to the analysis by F.G. Inchausti (2023), this decision marked the transition from the traditional paradigm of paper-based requests to digital formats of judicial interaction, which reduces transaction costs and increases the efficiency of legal assistance in cases with a foreign element.

The system for the implementation of international legal instruments in Ukraine is characterised by a combination of multilateral conventions that unify standards of legal assistance in civil and commercial matters and an extensive network of bilateral treaties aimed at specifying the procedures for cooperation with individual states. Such an approach forms a multi-level normative framework within which Ukraine's obligations under international treaties are fulfilled, and legal

mechanisms are created for protecting the interests of national business entities in foreign jurisdictions. The implementation of international obligations is ensured through national legislation that incorporates international standards into the procedural mechanism. The Law of Ukraine No. 2709-IV (2005) established the general principles for resolving disputes with a foreign element, in particular determining the jurisdiction of Ukrainian courts, the grounds for recognition and enforcement of foreign decisions, and the priority of international treaties over national norms. The Civil Procedure Code of Ukraine (2004) details the procedure for examining applications for recognition and permission to enforce foreign court acts and arbitral awards. The Code of Commercial Procedure of Ukraine (1991) regulates similar issues in the field of commercial disputes between business entities, ensuring the harmonisation of national case law with international standards. According to the official data of The Hague Conference on Private International Law (n.d.), Ukraine is a party to two Conventions – Convention No. 9432 (1965) and Convention No. 12140 (1970) – and also participates in the process of acceding to the Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (2019). The application of these instruments in Ukrainian court practice forms a unified doctrine of international legal assistance. Court decisions based on the provisions of The Hague Conventions or bilateral agreements demonstrate the aspiration of the national justice system to align with European approaches. On the basis of the normative legal framework considered, it is possible to identify the basic principles of international legal assistance to business that ensure the coherence of states' actions, the predictability of judicial procedures and trust between participants in cross-border legal relations (Table 1).

Table 1. Key principles of international legal assistance in the field of protection of business rights

Principle	Content and legal enshrinement	Example of implementation in law-enforcement practice
Reciprocity	Based on the mutual provision by states of legal assistance within the framework of international treaties or on the customary principle of mutual recognition	Ukrainian courts recognise decisions of foreign courts, provided that the relevant state ensures an analogous regime for decisions of Ukrainian courts
Sovereign equality of states	Ensures the equality of the parties in the process of international judicial cooperation and non-interference in internal jurisdictional powers	Each state independently determines the central authority for executing requests for service of documents or obtaining evidence
Respect for national law	Provides that the execution of requests for legal assistance is carried out in accordance with the internal procedural rules of the requested state, unless otherwise provided by an international treaty	Allows the state to refuse to execute a request if it conflicts with its sovereignty or security
Procedural fairness	Ensures equality of the parties, the right to notification, access to evidence and a fair hearing	European courts are obliged to verify proper service of documents as a condition for recognition of a foreign judgment
Non-discrimination of parties to disputes	Guarantees that foreign legal entities have the same procedural rights as national entities in cases related to international legal assistance	Provides for equality of procedural rights of foreigners and Ukrainian citizens in Ukrainian courts

Source: compiled by the author based on the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958), Convention No. 9432 (1965), Convention No. 12140 (1970), Code of Commercial Procedure of Ukraine (1991), Civil Procedure Code of Ukraine (2004), Law of Ukraine No. 2709-IV (2005), Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (2019), Regulation (EU) No. 2020/1784 (2020)

The totality of the above principles forms the conceptual basis of international legal assistance, which has a pronounced functional orientation. These principles ensure access of business to justice, allowing companies to apply to courts or arbitral tribunals outside the own jurisdiction, to obtain documents, evidence, and guarantees of enforcement of decisions. The unification of procedures and mutual recognition of procedural acts contribute to a reduction in transaction costs in international disputes: the time required for the execution of judicial requests, costs of translations, notarisation and diplomatic channels is reduced. The implementation of these principles strengthens the trust of investors and counterparties, since a transparent and predictable system of legal assistance is an important component of the investment climate and legal security of transnational business. Thus, the basic principles of international legal assistance are not purely declarative – the principles constitute a practical infrastructure for the harmonisation of legal systems, creating conditions for stability, efficiency, and fairness in the sphere of international commercial cooperation.

Practice of foreign jurisdictions in ensuring access of Ukrainian companies to justice

The establishment of effective mechanisms of access to justice in foreign jurisdictions is a condition for the integration of Ukrainian business into the global economic space. Ensuring this access is based on coordinated interaction between national and international

institutions that create the procedural infrastructure for the examination of cross-border commercial disputes. Central justice authorities act as intermediaries in providing international legal assistance – the authorities transmit requests for service of documents, obtaining evidence or enforcement of court decisions in accordance with the provisions of Convention No. 9432 (1965) and Convention No. 12140 (1970). Diplomatic missions, in turn, perform communicative and legal intermediary functions between state bodies, aiding the implementation of requests for legal assistance, the legalisation of documents, confirmation of the status of participants in proceedings and the protection of the rights of Ukrainian legal entities in foreign courts.

International arbitration centres occupy a structural position in the architecture of international justice, providing a universal platform for resolving commercial disputes involving companies from different legal systems. In particular, the International Chamber of Commerce (ICC) (n.d.) performs the function of a neutral forum whose decisions are recognised in 160 states in accordance with the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958). The London Court of International Arbitration (LCIA) (n.d.) is one of the leading venues for dispute resolution, including those involving Ukrainian companies. The Vienna International Arbitral Centre (VIAC) (n.d.) is traditionally used in disputes between companies from Central and Eastern European countries, including Ukraine, ensuring a balance between continental and common-law approaches. The Stockholm Chamber of Commerce Arbitration Institute (n.d.) plays a role in resolving investment disputes arising under-investment protection treaties, including those involving Ukrainian business entities. Thus, interaction between national justice authorities, diplomatic missions and international arbitration institutions forms a multi-level system of guarantees for the realisation of the rights of Ukrainian companies in foreign jurisdictions. The study of the practice of individual legal orders – the EU, the UK, and the USA – makes it possible to identify different models of ensuring procedural access, as well as the effectiveness of legal assistance mechanisms, which is the subject of further analysis in this subsection.

The legal environment of the EU is based on three elements that determine the conditions for access of foreign business to justice: mutual recognition and enforcement of court decisions in civil and commercial matters, enshrined in Regulation (EU) No. 1215/2012 (2012); unified and digitalised procedures for cross-border service of documents and gathering of evidence provided for in Regulation (EU) No. 2020/1784 (2020) and Regulation (EU) No. 2020/1783 (2020); and the favourable attitude of the courts of the Member States to arbitration, which ensures effective recognition, enforcement, and limited control of arbitral awards. Together, this reduces procedural barriers to entry for foreign companies and provides predictable channels of legal assistance – from the service of claims to exequatur – which directly affects the ability of Ukrainian applicants to protect the rights in EU jurisdictions. In cross-border commercial disputes, Ukrainian companies interact with the courts of the Member States in three modes: judicial control over arbitration (setting aside/enforcement of SCC/ICC/LCIA awards with a Ukrainian party), recognition and enforcement of foreign court acts, and application of EU procedural regulations for the prompt service of documents and obtaining of evidence within national proceedings.

The case law of Sweden is one of the most indicative examples of the effective implementation of the principles of arbitral autonomy and minimal court intervention, which establish the European standard of a favourable attitude towards arbitration. This was manifested in cases related to the long-running disputes between LLC "Gas Supply Company "Naftogaz of Ukraine"" (n.d.) and Public Joint Stock Company Gazprom (n.d.), examined by the SCC. The subject of the arbitral proceedings were contracts for the supply and transit of natural gas, within which the parties advanced reciprocal claims for compensation. After decisions were rendered in favour of the Ukrainian company, the Russian side initiated proceedings to set aside the arbitral awards before the courts at the seat of arbitration, in particular before the Svea Court of Appeal (Sveriges Domstolar, n.d.), invoking violations of public policy and excess of mandate by the arbitral tribunal (Case No. T 10191-17, 2019). In the course of the review, the Swedish courts confirmed a consistent interpretation of the provisions of the Swedish Arbitration Act (1999) and the standards laid down in the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958), stating that court intervention in the substance of an arbitral award is possible only in exceptional cases where a gross violation of procedural guarantees or fundamental principles of public order has been proved. The court rejected the arguments of Public Joint Stock Company Gazprom regarding violation of the right to defence, emphasising that mere disagreement with the content of the award cannot be a ground for its annulment. This created a precedent recognising the SCC arbitral award as compliant with the requirements of legality, proportionality and procedural fairness. For Ukrainian business, this practice is of systemic importance, as it confirms the high level of trust in institutional arbitration within the EU and demonstrates that Swedish courts adhere to the principle of limited judicial control. This provides the parties with a stable arbitral environment, minimises the risks of delaying enforcement of awards and strengthens the reputation of the SCC as a reliable arbitral forum for resolving disputes involving parties from outside the EU, including Ukraine.

The legal environment of the United Kingdom is characterised by a combination of the traditions of

Anglo-Saxon common law and high standards of procedural fairness, which makes it one of the leading jurisdictions in international commercial disputes. For foreign companies, including Ukrainian ones, the British legal system ensures equal access to justice in accordance with the principle of equal treatment before the court, regardless of the jurisdiction of origin of the parties. The openness of British courts to foreign applicants is combined with a strong orientation towards the rule of law and international cooperation in the field of recognition and enforcement of foreign court and arbitral decisions. The United Kingdom, as a state party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958), applies its provisions through the Arbitration Act 1996 (1996), in particular sections 100-104, which regulate the procedure for recognition and enforcement of awards rendered by arbitral tribunals outside the jurisdiction. In practical terms, this means that Ukrainian companies can initiate the enforcement of international arbitral awards or protect the interests in English courts without the need for additional confirmation of the status or the existence of a special treaty between the states. Legal assistance to foreign applicants also covers mechanisms for obtaining evidence under the Evidence (Proceedings in Other Jurisdictions) Act 1975 (1975) and the rules of the Ministry of Justice (2024), which provide for direct channels of judicial cooperation, including the possibility of sending letters of request through the central authority – the King's Bench Division of the High Court (n.d.) – within the framework of Convention No. 12140 (1970).

A telling example of the implementation of these mechanisms is the case JKX Oil & Gas plc, Poltava Gas B.V. and Poltava Petroleum Company JV v. Ukraine (n.d.), examined by the Commercial Court (n.d.). In this case, the British company JKX Oil & Gas plc, which owned assets in Ukraine, sought recognition and enforcement of an arbitral award rendered by the LCIA against the state of Ukraine. The arbitral award was made on the basis of the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ukraine for the Promotion and Reciprocal Protection of Investments (1993), which provides for arbitral settlement of disputes between an investor and the state. The legal issue in the case concerned the relationship between state sovereign immunity and the obligation to enforce an arbitral award under an international investment agreement. The Commercial Court confirmed its jurisdiction pursuant to the State Immunity Act 1978 (1978), holding that by concluding an investment treaty with an arbitration clause, the state had effectively waived its immunity in respect of such a dispute. The court's decision confirmed the effectiveness of the LCIA arbitral award, rejected Ukraine's objections regarding excess of mandate by the arbitrators and violation of public policy, and granted permission for its enforcement in the UK. This case has a significant precedential impact on the practice of participation of Ukrainian companies and state bodies in cross-border disputes, showing that the British jurisdiction guarantees the independence of judicial control over arbitration, ensures a transparent process of recognition of awards and predictability in the interpretation of international treaty provisions.

The legal environment of the USA is distinguished by one of the most developed systems of judicial control and arbitral dispute resolution, within which effective access of foreign companies to justice is ensured. The system operates on the combination of federal and state levels of legal regulation, which allows foreign business entities to exercise the procedural rights in a wide range of forms – from filing claims in US courts to applying for recognition and enforcement of foreign arbitral awards. Recognition and enforcement of such awards are carried out on the basis of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958), implemented into US domestic law through the Federal Arbitration Act (1925). American courts, in particular the federal courts of appeal, regard arbitration as an effective alternative to court proceedings and recognise arbitral awards as enforceable, provided that none of the exceptional grounds set out in Article V of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958) is present.

A representative case in this context is the arbitral dispute Case No. 2008-8 (2008), in which US courts considered the recognition and enforcement of an arbitral award rendered in favour of an investor against the state of Ukraine. In 2021, the U.S. District Court for the District of Columbia (n.d.) confirmed the possibility of enforcing the arbitral award within the jurisdiction of the USA, rejecting arguments concerning violations of public policy and procedural standards of arbitration. This case is indicative in that the US judicial system provided a foreign participant – in this instance a company acting in a dispute with Ukraine – with a real procedural mechanism for protecting its property interests through recognition of the arbitral award in accordance with the principles of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958). A comparison of the law-enforcement practice of the jurisdictions of the EU, the United Kingdom and the United States of America makes it possible to trace structural patterns in ensuring access of foreign business entities to justice in cross-border disputes (Table 2). The analysis showed that the legal regimes of the EU, United Kingdom and USA demonstrate a high degree of convergence regarding the basic principles of international procedure – mutual recognition of decisions, ensuring equal access to justice and supporting arbitration as an effective means of dispute resolution. For Ukrainian companies, this creates a predictable environment for applying to foreign courts or arbitral

tribunals, where compliance with procedural standards is guaranteed regardless of the applicant's origin. At the same time, differences between the continental, Anglo-British and federal models appear in procedural aspects: the level of legal costs and time expenditure, the degree of digitalisation of processes and the formalisation of evidentiary mechanisms. EU jurisdictions are distinguished by a high level of digitalisation (e-CODEX, electronic service of documents), the Anglo-British model by transparent disclosure standards and stable arbitral practice, whereas the federal model by wide possibilities for procedural collection of evidence and strict adherence to the principle of due process. Taken together, these characteristics form a multi-level system of legal interaction within which Ukrainian business can select the optimal jurisdiction depending on the nature of the dispute, the expected procedural dynamics and economic costs.

Table 2. Comparative characteristics of the jurisdictions of the EU, United Kingdom and USA in the field of international legal assistance to business

Comparison criterion	EU	UK	USA
Access of foreign companies to justice	Ensured by the principle of mutual trust and unified procedural standards. Foreign companies have equal procedural rights with national entities	Guaranteed through Construction Product Regulation (CPR) and case-law. Ukrainian companies may apply without restrictions to the Commercial Courts and the LCIA	Enshrined in the FAA. Foreign companies may apply to federal and state courts on a general basis
Access to evidence	Implemented through digital procedures that allow direct electronic transmission of requests between courts	The disclosure mechanism in court proceedings provides wide opportunities for obtaining evidence; courts oblige parties to disclose relevant documents	Allows foreign parties to petition federal courts for the obtaining of evidence for use in foreign proceedings
Recognition and enforcement of foreign court and arbitral decisions	Mutual recognition is regulated without an *exequatur* procedure	A high level of pro-arbitration case-law	Implemented under the FAA. Courts adhere to narrow grounds for refusal of enforcement
Procedural costs and time costs	Comparatively lower thanks to the unification of procedures and the use of electronic means of communication; however, costs depend on the jurisdiction of the Member State	High costs of litigation and representation; LCIA arbitration is considered less costly, but lengthy in terms of time	High cost of proceedings (especially discovery), significant court fees and lawyers' costs; however, there are greater opportunities for cost recovery by the successful party
Legal model	Continental system (unified by EU supranational acts), oriented towards the harmonisation of procedures	Anglo-British common-law system, with precedent-based regulation and strong judicial autonomy	Federal system with a dualism of federal and state levels; common law with flexible procedural practic

Source: compiled by the author based on Arbitration Act 1996 (1996), Regulation (EU) No. 1215/2012 (2012), Regulation (EU) No. 2020/1783 (2020), Regulation (EU) No. 2020/1784 (2020), Regulation (EU) No. 2023/2844 (2023)

Among the tasks for Ukraine is the need for further harmonisation of national procedures with international standards, in particular as regards electronic exchange of procedural documents, improvement of mechanisms for compulsory enforcement of foreign decisions and ensuring transparency of the procedural status of foreign companies in the courts. The British experience of standardising disclosure of evidence and the American approach to active judicial case management, which make it possible to avoid abuses of procedural rights, are also useful. At the same time, systemic barriers remain that limit the full integration of Ukrainian entities into global justice: high representation costs in leading foreign jurisdictions, the complexity of linguistic and procedural adaptation, cultural differences in approaches to evidence, as well as the problematic recognition of foreign court and arbitral decisions in the territory of Ukraine. A separate challenge is the fragmented implementation of international instruments into national procedural legislation, which complicates the interaction of Ukrainian courts with European and American justice bodies. Overcoming these barriers requires both normative alignment of Ukrainian codes with modern supranational standards and institutional strengthening of the central justice authorities capable of providing prompt international legal assistance to Ukrainian business in a globalised economy.

Discussion

The results of the study are consistent with scholarly positions presented in the works of leading researchers in the field of private international law and cross-border judicial cooperation. Thus, in the work of L. Silberman (2021) the key importance of the Convention on

the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (2019) as a basis for the formation of a global system of mutual recognition of judgments was emphasised. The author stressed the need to create a comprehensive national implementation mechanism that would ensure uniform application of the Convention's provisions at the federal level of the USA. These findings correlate with the conclusions of the present study, which likewise underlined that the unification of procedural procedures is a key condition for the stability of international commercial relations. At the same time, in L. Silberman (2021) research the focus was mainly on the legislative dimension, whereas in the analysis presented here the practical dimension was expanded – in particular, it was shown how the Convention's mechanisms are applied to protect the rights of business entities in different jurisdictions.

The study by M.D. Barišin (2023) contributed to understanding the impact of digitalisation on cross-border judicial cooperation within the EU. Analysing the consequences of the COVID-19 pandemic, the author found that national e-justice systems played a key role in ensuring the continuity of processes of service of documents and taking of evidence. The results obtained are consistent with the conclusions of this article, in particular with the statement that the introduction of IT-systems, Regulation (EU) No. 2020/1784 (2020) and Regulation (EU) No. 2020/1783 (2020) reduced transaction costs for business and accelerated communication between courts. At the same time, in contrast to M.D. Barišin's research, the present article focused not only on technological aspects but also on the legal principles of procedural fairness that ensure the effectiveness of digital exchange.

In the study by G. McCormack (2025), it has been established that accession of states to the Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (2019) provides not only predictability of cross-border judicial cooperation but also creates a unified regime of recognition of judgments for business entities. The author noted that for countries with developed trade links, in particular for the United Kingdom after leaving the EU, ratification of this Convention could compensate for the absence of participation in the Convention on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters (2007), ensuring the continuity of the movement of court decisions. The results obtained in this study confirm a similar pattern: the unified standards of The Hague Conventions create legal certainty for business and reduce transaction costs in international disputes. However, unlike G. McCormack's approach, where emphasis was placed on the politico-legal aspects of accession, the present research concentrated on the functional mechanisms of legal assistance and the significance for Ukrainian business entities.

The findings of the research are consistent with modern scholarly approaches to ensuring access of foreign business entities to justice in a globalised legal space. In the work of A. Storgaard (2023) it was emphasised that the study of access to justice goes beyond the traditional understanding of the judicial order and encompasses a complex system of interaction between national courts, arbitral institutions and supranational bodies. The author noted that the contemporary model of justice is formed within a networked interdependence in which international legal assistance is not an auxiliary but a structuring element of the process. This conclusion is consistent with the results of the present study, which demonstrated that multi-level interaction between central justice authorities, diplomatic missions and arbitration centres provides Ukrainian companies with real access to foreign jurisdictions and reduces the risks of procedural discrimination.

In the work of X.E. Kramer (2022), it is shown that digitalisation of judicial cooperation in the EU is a factor in simplifying cross-border procedures. The author proved that the unification of digital communication channels between the courts of the Member States helps to shorten the duration of proceedings and increase business confidence in the European legal environment. The research results confirm this thesis: it has been established that precisely the EU's digital mechanisms provide Ukrainian companies with the highest level of procedural predictability among the jurisdictions analysed. At the same time, unlike X.E. Kramer's position, the present study stressed that the effectiveness of digital instruments depends on the harmonisation of Ukraine's national procedures with European standards.

A similar view was expressed in the study by I. Nicolae & G.B. Spirchez (2024), who analysed the modernisation of European judicial cooperation through digital platforms of interaction. The authors showed that digitalisation not only increases the efficiency of the exchange of procedural documents but also creates conditions for transparency and public control over judicial procedures. The results obtained coincide with these conclusions: it has been established that the EU's electronic instruments reduce administrative barriers for Ukrainian applicants and make the evidentiary process more open. At the same time, comparative analysis revealed that in Great Britain and USA digitalisation has a less unified character, which leads to greater dependence of effectiveness on the case-law of a particular jurisdiction. In the study by R. Gulati (2023), the phenomenon of privately driven transnational hybrid adjudication is considered – a model in which access to justice is largely mediated by private arbitral institutions. The author argued that business-initiated hybrid mechanisms (arbitration, mediation, contractual forms) compensate for shortcomings of interstate judicial cooperation. The results obtained partially confirm

this thesis: it has been established that institutional arbitration is an effective means of resolving disputes of Ukrainian companies outside state jurisdiction. However, unlike R. Gulati's conclusions, the data obtained showed that the participation of state courts in controlling arbitral awards (in particular in Sweden and the UK) remains a necessary condition for maintaining the balance between private autonomy of the parties and the public interests of the legal order.

The results obtained in the study by J. Huang & T. Gu (2025) also find confirmation within this research. The authors demonstrated that ensuring business compliance in cross-border commercial relations depends on the stability of procedures for recognition and enforcement of court and arbitral decisions. A similar pattern has been identified in the analysis of the practice of Great Britain and the United States of America, where strict adherence to the principles of due process and limited judicial intervention ensure a high level of confidence of foreign companies in the justice system. At the same time, in contrast to the Asia-Pacific region analysed by the aforementioned authors, Western jurisdictions exhibit greater unification of legal standards and procedural control over enforcement of decisions. A certain parallel can be drawn with the conclusions of M. Chen (2024), who examined the evolution of China's approaches to regulating cross-border data flows in the context of global legal integration. The author proved that the effective functioning of the international legal space is possible only where domestic regulatory mechanisms are harmonised with international obligations. The results obtained confirm this position: it has been revealed that for Ukraine a critical condition for integration into the system of international justice is the alignment of national procedural codes with EU supranational acts and international conventions. Thus, the effectiveness of international legal assistance depends on the ability of states to adapt the procedural regimes to global standards of judicial cooperation. The conducted research confirmed this pattern by showing that harmonisation of national legislation with European and international norms is a key condition for increasing predictability, transparency, and accessibility of justice for Ukrainian companies in cross-border disputes.

Conclusions

The carried-out study has made it possible to generalise and systematise the scholarly and theoretical foundations, normative legal sources and conceptual principles that determine the contemporary model of international legal assistance to business in conditions of intensified global commercial relations. The analysis has established that the institution of international legal assistance is an organic component of private international law aimed at ensuring the realisation and protection of the rights of business entities in cross-border legal relations. It performs the function of legal mediation between national jurisdictions, ensuring procedural compatibility of legal systems and creating preconditions for effective access of business to justice at the supranational level.

Generalisation of the provisions of international and national instruments has made it possible to identify the key principles of international legal assistance to business: reciprocity, sovereign equality of states, respect for national law, procedural fairness and non-discrimination of parties to disputes. Implementation of these principles determines not only the legal but also the economic effectiveness of the system of legal cooperation, since this system performs a number of practical functions: it promotes the expansion of access of business entities to justice in foreign jurisdictions, including in arbitral and specialised courts; it reduces transaction costs associated with the execution of judicial requests and procedural actions in international disputes through the unification of documents and digitalisation of data exchange; and it ensures increased confidence of foreign investors, strengthening the reputation of Ukraine as a jurisdiction that adheres to the principles of predictability, equality and due process of law. It has been established that the effectiveness of the implementation of international legal assistance for Ukrainian companies depends on the level of legal and institutional development of the jurisdictions within which access to justice is exercised. The study of the practice of the European Union, the United Kingdom and the USA has shown that, despite different legal traditions – continental, Anglo-British and federal – all three jurisdictions are based on common principles of procedural fairness, mutual recognition of decisions, independence of judicial control and support for international arbitration as a key mechanism for resolving cross-border commercial disputes.

The results obtained during the research have demonstrated: within the EU – a high level of integration of international legal assistance procedures thanks to the operation of digital regulations; in the UK- the stability of the arbitral environment and the effectiveness of judicial control, which guarantees enforcement of awards; in the USA – consistent case-law regarding recognition of foreign arbitral awards. These examples confirmed that foreign legal systems create conditions for effective protection of the property rights of Ukrainian companies and for fair judicial consideration of cross-border cases. At the same time, a number of barriers remain relevant: high financial costs of court and arbitral proceedings abroad, linguistic and cultural differences, difficulties in enforcing foreign court decisions in Ukraine, and partial inconsistency of national procedural legislation with international instruments. Overcoming these barriers requires improvement of internal mechanisms for recognition and enforcement of decisions, expansion of digital tools of international legal assistance and enhancement of the professional

training of specialists in the field of transnational procedure. Prospects for further research lie in developing models for integrating Ukraine's electronic judicial cooperation systems with EU platforms (in particular e-CODEX), as well as in a comparative analysis of the effectiveness of new regulations and bilateral legal assistance agreements for expanding the opportunities of Ukrainian business in the global legal space.

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Міжнародна правова допомога бізнесу: як іноземні юрисдикції сприяють захисту прав українських компаній

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Анотація. Метою статті був аналіз механізмів міжнародної правової допомоги, що забезпечують захист прав українських компаній у транскордонних господарських відносинах. У дослідженні використано міждисциплінарний підхід, що поєднує порівняльно-правовий, системно-структурний, формально-юридичний та кейс-стаді методи, на основі аналізу міжнародних конвенцій, актів, українського законодавства та судової практики Європейського Союзу, Великої Британії та Сполучених Штатів Америки. У результаті дослідження систематизовано теоретико-правові засади функціонування інституту міжнародної правової допомоги бізнесу як структурного елементу міжнародного приватного права, що забезпечує реалізацію прав суб'єктів господарювання у транскордонних спорах. Виявлено, що національне законодавство України імплементує ці стандарти, забезпечуючи їх ефективне застосування у судовій практиці. У процесі аналізу узагальнено п'ять базових принципів міжнародної правової допомоги – взаємності, суверенної рівності, поваги до національного права, процесуальної справедливості та недискримінації, які сприяють зниженню транзакційних витрат бізнесу й підвищенню довіри інвесторів до української юрисдикції. Встановлено, що правове середовище Європейського Союзу базується на уніфікованих і цифровізованих процедурах міжнародної правової допомоги, що забезпечують електронне вручення документів і обмін доказами між судами держав-членів. У ході дослідження встановлено, що іноземні юрисдикції демонструють високий рівень передбачуваності та правової стабільності у питаннях судового контролю за міжнародним арбітражем. З'ясовано, що європейська судова практика дотримується концепції обмеженого втручання у діяльність арбітражних трибуналів, що сприяє збереженню автономності арбітражного процесу. В англо-американській моделі підтверджено тенденцію до послідовного виконання іноземних арбітражних рішень, включно з тими, що ухвалені у спорах за участю іноземних держав, за умови дотримання процесуальних стандартів та вимог публічного порядку. Дослідження показало, що інститути судового контролю, державного імунітету та визнання арбітражних рішень у цих правових системах функціонують у взаємодоповнюючий спосіб, забезпечуючи балансовий підхід між суверенними інтересами держави та потребами міжнародного бізнесу. Отримані результати мають прикладне значення для вдосконалення українських механізмів міжнародної правової допомоги, гармонізації національного законодавства з європейськими та англо-американськими стандартами

Ключові слова: процесуальні бар'єри входу; екзекватура; транскордонний комерційний спір; судовий контроль; виконання рішень