

Artículo de investigación

The institute of counter-security as a novelty of the reform of civil procedure law of Ukraine**ІНСТИТУТ ЗУСТРІЧНОГО ЗАБЕЗПЕЧЕННЯ ЯК НОВЕЛА РЕФОРМИ ЦИВІЛЬНОГО ПРОЦЕСУАЛЬНОГО ЗАКОНОДАВСТВА УКРАЇНИ**

Recibido: 25 de septiembre del 2019

Aceptado: 3 de noviembre del 2019

Written by:

Khanyk-Pospolítak Roksolana⁷<https://orcid.org/0000-0001-6185-7479>**Kovalchuk Inna**⁸<https://orcid.org/0000-0002-4286-8110>**Bylytsia Igor**⁹<https://orcid.org/0000-0001-6971-777X>**Abstract**

The article is dedicated to investigation of counter-security as a novelty of the reform of Ukrainian civil procedure legislation. The analysis of rules of the current procedural legislation on counter-security as a novelty of the civil process in Ukraine was made in the article. The determination of features of the institute of counter-security in the mechanism of civil proceedings was given. The role of counter-security in the civil process was identified. The conclusion was drawn that through the institute of counter-security, the principle of equality of parties is ensured, which is manifested in the equal assignment of the defendant to such procedural rights which are effectively identical to the rights of the plaintiff. Therefore, the defendant was granted effective protection against the claim by virtue of the new institute. It is stated that the counter-security should be seen as a way of preventing the plaintiff's abuse of procedural rights and offsetting the potential consequences. The introduction of counter-security is a clear step forward to European standards of quality and efficiency in the administration of justice, however, by examining civil procedural law and jurisprudence, the conclusion was made that the institution is not regulated at this stage of its establishment and application.

Анотація

Статтю присвячено дослідженню зустрічного забезпечення як новели реформи цивільного процесуального законодавства України. У статті здійснено аналіз норм чинного процесуального законодавства щодо зустрічного забезпечення як новели цивільного процесу в Україні. Було визначено особливості та порядок здійснення інституту зустрічного забезпечення в механізмі цивільного процесуального судочинства. Було виявлено шляхи вдосконалення та роль зустрічного забезпечення в цивільному процесі. Зроблено висновок, що через інститут зустрічного позову забезпечується виконання принципу рівності сторін, який проявляється у рівнозначному наділенні відповідача такими процесуальними правами, які за ефективністю є тотожними правам позивача. Отже, відповідач завдяки новелі отримав дієвий захист від забезпечення позову. Зустрічне забезпечення слід розглядати як спосіб перешкодження зловживанню процесуальним правом з боку позивача та компенсацію можливих наслідків. Запровадження зустрічного забезпечення є безумовним кроком вперед до європейських стандартів якості та ефективності здійснення правосуддя, однак, здійснивши дослідження

⁷ PhD, Head of Private Law Department of National University "Kiev-Mohyla Academy"⁸ PhD, Professor Assistant of Department of Organization of Judicial, Law Enforcement Agencies and the Bar of National University «Odesa Law Academy»⁹ PhD, Professor Assistant of Department of Organization of Judicial, Law Enforcement Agencies and the Bar of National University «Odesa Law Academy»

Keywords: Counter-security, injunction relief, abuse of law, justice, civil process.

цивільного процесуально законодавства та судової практики, можна зробити висновок про недосконалість урегулювання зазначеного інститут на даному етапі його становлення та застосування.

Ключові слова: зустрічне забезпечення, забезпечення позову, зловживання правом, правосуддя, цивільний процес.

Introduction

The challenges of modern society lead to the modernization of existing procedures, enshrined in current legislation, including within the framework of civil justice, giving increasing importance to the principle of dispositive civil process. With this principle such novelty of the Civil Procedure Code of Ukraine (hereinafter - the Civil Procedure Code of Ukraine) as counter-security institution, is connected.

The introduction of counter-security institution is intended to fill the gap in the legal mechanism of justice to protect a defendant from a possible violation of his rights by securing a claim. Such a legal construction justifies itself taking into account the lengthy dispute resolution process, whereby the defendant may suffer certain adverse effects not directly related to the resolution of the dispute in favor of the plaintiff. Given the recent emergence of this institute, discussions are unfolding around it, as many questions arise about the practical application of the counter-security and, in general, the appropriateness and procedural nature of its existence.

In particular, the interaction between the claim and the counter-security is not clear enough, the correlation of the counter-security and the defendant's right to demand damages caused by the claim, the effectiveness of the mechanism for securing the defendant's right to protection against the claim.

Taking that into account, the purpose of this article is to investigate counter-security as a novelty of the reform of Ukrainian civil procedure legislation.

To achieve this goal, were set out such tasks as the analysis of rules of the current procedural legislation on counter-security as a novelty of the civil process in Ukraine; determination of the features of this institute in the mechanism of civil

proceedings; identifying the role of counter-security in the civil process.

Theoretical framework

Despite the legislative enactment, the institute of counter-security of the claim still raises some doubts, first and foremost due to the uncertainty of its legal nature. The counter-security of the claim is a completely new institution with no analogues in the civil process. It is worth noting that overseas judicial experience has long been built taking into account counter-security in states such as France (*saisie*), United Kingdom (*mareva injunction*), Germany (*arrest*), Italy (*sequestro*) so on.

The use of security mechanisms in the civil process in one way or another causes the emergence of a civil obligation structure "creditor - debtor", according to which the latter must take certain actions or refrain from them in favor of the lender. Thus, by implementation of the counter-security institution, the legislator made the mentioned structure double and reverse, giving the parties an opportunity to balance their claims.

Some issues of the counter-security were investigated by N. Alekseeva (2017), I. Booth (2018), D. Luspenyk (2017), A. Shurin (2018) and others.

Methodology

The research is conducted using general and special scientific methods. Using the methods of analysis and synthesis the general principles of counter-security in the civil process of Ukraine were revealed. The dialectical method revealed the properties, relationships and patterns that arise when protecting a defendant from securing a claim by applying counter-security. Using the comparative legal method, a distinction between securing a claim, recovering damages caused to

the defendant by securing a claim, and counter-security was made. The current situation and needs in the field of counter-security regulation were revealed using dogmatic and legal methods.

Results and discusión

The Ukrainian legislative approach to the substance of counter-security is accompanied by a misapplied categorical apparatus, since injunction relief and counter-security are not identical concepts, therefore these institutions should not be named similarly (although they do sound similar in Ukrainian language) in order to avoid confusion in their application.

According to Part 2 of Art. 149 of the CPC of Ukraine, injunction relief is allowed both before suing and at any stage of the case, if avoiding such measures could significantly complicate or prevent the execution of the court decision or effective protection, or restoration of the violated or disputed rights or interests of the plaintiff. Thus, the basis for the injunction relief is a real prospect of complication or impossibility of enforcement of the court decision, restoration of the violated rights or interests of the plaintiff. At the same time, the emphasis is on the restoration of only those violated rights and interests for the protection of which the person appealed to court. As the practice shows, the subject of the injunction relief is basically a material thing, which is the cause of dispute between the parties. Counter-security, in accordance with Part 1 of Art. 154 of the CPC of Ukraine is a guarantee of compensation for the losses of the defendant, which may be caused by securing a claim. In such case, more important are damages of the defendant, while the initial provision of the claim relates to a possible violation of the rights of the plaintiff, regardless of the form of manifestation of the consequences of such violation.

Art. 22 of the Civil Code of Ukraine defines losses as something that a person has lost in connection with the destruction or damage of a thing, and also the costs that a person has made or has to make to restore his violated rights (real losses). Losses also include the income that could be special to obtain from ordinary circumstances, if its right was not violated (lost profit).

Counter-security is only possible in respect of probable damages caused by the defendant to take actions to secure a claim, and therefore counterclaims cannot be used as means of securing damages caused by the filing of a claim. This is confirmed by the Ukrainian jurisprudence. Thus, the Court of Appeal of

Kharkiv Oblast in Case No. 640/19335/16-c adopted a resolution refusing to grant a statement of counter-security. The illustrated civil case concerns the appeal of the public auction protocol on the SETAM platform and the relevant mortgage purchase and sale agreement. The defendant in the present case petitioned the court for a counter-security in the form of a ban on the department of the state executive service, on whose account the proceeds from the sale of the mortgaged property were, to take any action with these funds. The defendant considered that if the transaction was declared invalid, restitution would be applied, and since the funds in the account of the said service may no longer be available, i.e. they will be transferred in favor of the mortgagor, he would bear the damages without receiving any back compensation. The Court of Appeal, while refusing to satisfy the application for counter-security, stated that such a requirement did not concern compensation for damages that could be caused by securing a claim in the form of prohibition of alienation of the apartment, and therefore the corresponding statement of counter-security was not satisfied (But I.O., 2018).

Before the adoption of the new version of the CPC of Ukraine, rights of the defendant could be made equal with the rights of the plaintiff only in case he or she filed a counterclaim, that is, the defendant acquires a parallel status of the plaintiff. Taking that into account, the case became much more complicated. Some conditions for abuse of the law were created, since the claim could not be filed not for the purpose of protecting their rights in the subject matter of the dispute, but for the application of security measures to avoid the possible consequences of the existing security measures by the original claimant.

However, in the jurisprudence, there were cases of formal application of a counter-security before the entry into force of a new version of the CPC of Ukraine, since the previous version of the CPC of Ukraine in Part 4 of Art. 153 contained a rule according to which a court, while allowing a claim, could require the plaintiff to provide his claim with a security sufficient to prevent abuse of the claim (Shurin A.O., 2018). Thus, the Tsurypinsky District Court in the decision in case No. 664/1059/17 granted the plaintiff's application for securing a claim by seizing real estate. At the same time, the court required the plaintiff to pay a security deposit, given the defendant's inability to adduce evidence in the context of the consideration of the application for

securing the claim, since such consideration had taken place in his absence.

The fact worth mentioning is that nowadays as a security deposit can be used objects which are results of developing of information technologies. For instance, such as a domain name which value is already recognized by European Court on Human Rights or web sites (Nekit K., Ulianova H., Kolodin D., 2019).

Thus, with the introduction of the counter-security institution, the legislature became closer to the equal distribution of the parties rights in the civil proceedings, consolidating their competing rights aimed at reducing the legal possibility of abuse of law.

In the application of counter-security, the rights of both the plaintiff (who is already a victim of misconduct, inactivity of the defendant) and the defendant will be restricted in fact, since the counter-security is applied on the basis of securing the claim (Ostrovskaya L.A., 2018).

These security measures, in carrying out their procedural purpose, interact with each other, creating a system of checks and balances, which can allow to solve cases objectively and reasonably (Odosiy O.Yu., 2018).

It should be noted that taking measures to secure a claim is a matter for the court, while the application of a counter-security in the cases provided for by the procedural legislation is a duty. Principle 7 of the Report of the Association of International Law "On Security and Precautionary Measures in the International Civil Procedure" states that the court should have the power to require the plaintiff to guarantee damages to the defendant or a third party that may arise as a result of the application of security measures (Lupspenik D.D., 2017). Thus, Part 3 of Art. 154 of the CPC of Ukraine establishes that the court is obliged to apply counter-security in case:

- 1) The plaintiff does not have a registered place of residence or location in the territory of Ukraine and property located in the territory of Ukraine in the amount sufficient to compensate for the possible losses of the defendant, which may be caused by securing the claim, in case of refusal in lawsuits; or
- 2) The court has been provided with evidence that the plaintiff's property or his actions regarding the alienation of property or other actions may

complicate or make impossible the execution of the court's decision on compensation of the defendant's damages, which may be caused by securing the claim.

The counter-security as a duty of the court is confirmed by the position of the Supreme Court of Ukraine, stated, in particular, in the resolution of April 4, 2019 in case №753 / 2380/18-c, according to which the application of the counter-security in terms of Part 3 of Art. 154 of the CPC of Ukraine is not a soft law for the court, but its direct duty.

The use of counter-security even in cases where it is compulsory is closely linked to the judge's internal conviction. In the first place, this statement applies to the second paragraph of the cited above article, since the difficulty or inability to execute a court decision on damages is a subjective basis which must be proved to the court by way of supporting evidence. Thus, only after evaluating the evidence the court is authorized to take countermeasures.

However, since the court has a duty to apply counter-security in these cases, it would be logical to assume that a legislative mechanism should provide for a response mechanism for the defendant's non-enforcement of counter-security. This contention is based on the fact that the civil procedural law provides for the right and procedure of appealing only court decisions. Thus, the whole system is built on the fact that any action of the court is necessarily drawn up by a relevant procedural document, which can be questioned. Ukrainian case law does not know the cases of appealing the inaction of the court, unlike the possibility of appealing the inaction of officials of the executive authorities. In this case, it is possible to file a complaint about the judge's inaction in the event of a disciplinary violation. However, the court's nullification of the rights and obligations imposed by the legislator is not a disciplinary offense, so a complaint about the court's inaction cannot be considered as a satisfactory form of defense of the defendant's violated right. In such situation, the only way to serve as a defendant is a request for the use of counter-security. Thus, in case of rejection of the defendant's petition, the court will issue a ruling, which in the future can be appealed to the higher court.

The right to compensation for damages is based on the defense of the defendant, who was adversely affected by the court's decision to enforce the claim. In this case, the grounds and

validity of the decision securing the claim is irrelevant, since damages can be inflicted by lawful actions of both the plaintiff and the court. Therefore, counter-security cannot in any way be regarded as a measure of liability for the unjustified taking of initial claim.

The civil procedural law also provides for the protection of the defendant's rights by means of compensation for the damage caused by the security of the claim established by Art. 159 of the CPC of Ukraine. Both the counter-security and compensation of damages within the art. 159 of the CPC of Ukraine are about the same result, but the reasons and the way to achieve it are quite different. Thus, Art. 159 of the CPC of Ukraine provides for the right of a person whose rights and interests have been violated by a security obligation, to sue the court for damages caused by such security. Instead, counter-security means automatic compensation of the defendant's damages in cases provided for by law.

In addition, a claim is only possible if the proceedings are closed or the claim is dismissed without consideration from other than those specified in the first paragraph of Article 155 of the CPC of Ukraine, if there are grounds or in the case of a court decision (arbitration, international commercial arbitration) on full or partial rejection of the claim. The counter-security applies regardless of the factors listed above, as a court order is sufficient for its application.

The question remains as to whether the defendant, who gets compensation in terms of the counter-security, can claim damages in court. Concerning this, Part 2 of Art. 159 of the CPC of Ukraine states that in case of filing an appropriate claim, compensation for losses caused by taking measures to enforce the claim, is foremost at the expense of the counter-security. Thus, it is possible to conclude on the admissible nature of this provision, that means it provides for the possibility of simultaneous compensation by counter-security, and filing a claim for compensation damages in court. Such a situation should apply in case the compensation for the counter-security does not cover the actual amounts of damages and loss of profit suffered by the defendant in securing the claim. According to the part 5 of Art. 154 of the CPC of Ukraine, the amount of the counter-security is determined by the court taking into account the circumstances of the case, whereby the measures of the counter-claim must be commensurate with the measures of the claim applied by the court and the amount of damages that the defendant may suffer in connection with the securing of the

claim. In this case, proportionality is a subjective criterion, so it is necessary to take into account the correlation between the rights and interests of the parties, the monetary value of the property involved in the initial security, and the consequences of the court's restriction on the defendant's right to deal with the object of the security.

However, regardless of the judge's level of professionalism, it is almost impossible to predict the actual situation with the actual amount of damages. Therefore, the deprivation of the defendant's right to damages in cases provided for in Art. 159 of the CPC of Ukraine, cannot be justified by the use of counter-security.

It is difficult for the court to determine, in terms of the parties' claims proportionality, a case of a non-pecuniary nature, that is, where it is impossible to compare the value of the subject-matter of the dispute (concerning non-pecuniary rights and obligations) and the financial basis of the counter-security. In such case it is important to take into account the views of the parties to the proceedings, who, by submitting certain evidence, can offer a monetary equivalent to the non-pecuniary property infringed.

Despite the many positives, counter-security can also have negative consequences. Thus, any case under the rules of lawsuit has at its core a dispute between the parties. The application of counter-measures can further deepen the contentious nature of the parties' relationship with themselves and the court by not recognizing the lawfulness of such measures. Against this background, a court order may be challenged, which will create obstacles to a speedy and effective hearing of a civil case.

A characteristic sign of counter-obligation is that damages can only be recovered if they are caused as a result of securing a claim and only during the period when the court secured the claim.

Thus, counterclaim must be understood as an integral part of a claim institution, which is a mechanism consisting of temporary procedural actions by a court and parties that are restrictive in nature for the applicant and aimed at ensuring the defendant's potential damages lawsuit in the cases provided by law, in which the right of the defendant to recover damages caused to him as a result of securing the claim remains (Kurey M., 2019).

The legislator determines the ways of implementation of the counter-security (Part 4 of

Article 154 of the CPC of Ukraine). As a rule, the counter-security is provided by depositing into a court deposit account the amount of money determined by the court. However, the minimum and maximum amount of compensation is not determined, since the counter-security is related to the initial security claim, and therefore must be commensurate with the latter. The ways of performing counter-security can also be the following:

- 1) Providing financial security, including bail or bank guarantee;
- 2) Committing other actions determined by the court.

Taking that into account, the conclusion can be made that there is a tendency to keep open the list of ways of securing the claim, since these issues must be resolved taking into account the circumstances of each individual case.

The procedure for the counter-security is regulated by Part 6 of Art. 154 of the CPC of Ukraine. Thus, it can be claimed by:

- Mentioning this directly in the ruling on injunction relief;
- Making a separate decision on counter-security.

According to the provisions of Art. 154 of the CPC of Ukraine, the court is allowed or is obliged to take counter-measures. At the same time, there is no possibility for the participants in the trial to apply to the court for its application. Based on the common rights of the parties to the case, it should be concluded that the parties (the plaintiff and the defendant) have the right, according to paragraph 3 of Part 1 of Art. 43 of the CPC of Ukraine, to file applications and petitions, and since no direct prohibition has been established, such appeals may also apply to counter-security. Thus, the plaintiff may simultaneously with the filing of a claim, also apply for a counter-security to confirm the validity of his or her actions. There is also no indication of the possibility of filing a claim for counter-security by third parties, both those who make independent claims for the subject of the dispute and those who have no claims. Considering the peculiarities of the procedural status of third parties claiming separate claims for the subject matter of the dispute and third parties who have no claims, it can be concluded that:

- 1) Since third parties who do not make independent claims have no material interest in the results of the case, taking

- 2) Although third parties claiming independent claims regarding the subject matter of the dispute and having a material interest in the outcome of the case, in the respective proceedings, they acquire the status of claimant, and therefore cannot be the initiator of taking security measures (But I.O., 2018).

At the same time, by claiming the injunction relief one's own claim filed with the plaintiff and/or defendant in the case, a third party with independent claims may be charged with the obligation of counter collateral damage that may be caused to the plaintiff and/or defendant in the case against whom such third party is sued (Grosskopf O. & Medina B., 2009).

Civil procedural law provides for the possibility of canceling the ruling on counter-security for the following reasons:

- 1) Closure of the proceeding on the grounds of:
 - Failure of the object of dispute;
 - Conclusion of the settlement agreement by the parties and its approval by the court;
 - Death of an individual or the declaration of his or her death, or the termination of a legal entity that was a party to the case, if the disputed legal relationship does not permit succession;
 - Conclusion by the parties of the effective and enforceable agreement on the transfer of a civil dispute to an arbitral tribunal for consideration;
- 2) Abandoning the claim without consideration on the grounds of concluding by the parties of the valid and enforceable agreement on transferring the dispute to the arbitral tribunal;
- 3) Entry into force of a court decision on the satisfaction of the claim in full, as separately indicated in the resolution of the relevant court decision;
- 4) Closing the proceeding or leaving the claim without consideration for reasons other than those specified or in the case of a court decision on the total or partial refusal to satisfy the claim, provided

that it is not filed within 20 days from the date of the respective decision or decision no legal action for damages shall be filed by the defendant or other person whose rights or the interests protected by law have been violated by taking measures to secure the claim. This ground relies on the fact that, in the case of a claim for damages, the counter-security may play the role of a preliminary provision in the claim for damages and partially or fully enforce the court's decision in favor of the claimant;

- 5) Satisfaction of the request for cancellation of the counter-security of the defendant or other person whose rights or protected by law interests are violated in connection with the taking of measures for securing the claim, about the cancellation of such security. Literally interpreting this provision, we can come to an opinion that the legislator allows to petition for cancellation of the counter-security to the person whose rights and interests are violated by securing the claim. In this case, the counter-security and the claim are different institutions and the violation of the rights by the claim should affect the cancellation of the claim, not the counter-security. This statement is a clear example of the unsuccessful election of the legislature's conceptual apparatus, which has caused confusion within the law itself.
- 6) Failure to comply with the court's requirements for counter-security by the person who claimed the injunction relief. Thus, if a person does not provide in due time the relevant evidence of the execution of the decision on the implementation of counter-security, both the injunction relief and the counter-security shall be canceled.

Part 2 of Art. 154 of the CPC of Ukraine provides for the use of counter-security only in securing a claim. At the same time, taking into account the other provisions of the CPC of Ukraine, it is possible to conclude that the cancellation of the injunction relief does not in most cases lead to the automatic cancellation of the counter-security. Thus, according to Part 7 of Art. 155 of the CPC of Ukraine counter-security is canceled in case of cancellation of the injunction relief on the grounds of the applicant's failure to file the claim, its return by court, refusal to open civil proceedings or refusal to consider a case by an

international commercial arbitration or arbitration tribunal to which the case was referred, making a decision refusing to satisfy the claim, terminating the participation or non-submission of the person-petition actions for participation in arbitration, or for other reasons, which make it possible to conclude that it is inappropriate to secure a claim, if no person whose rights are violated by taking measures to secure a claim.

Therefore, the cancellation of the injunction relief does not always have the effect of canceling the counter-security (Thomas R. Lee., 2001). Obviously, such an approach was formed due to the fact that the cancellation of the injunction relief does not guarantee the absence of damage to the defendant during the existence of such security measure or any time after it, which is directly related to the initial security measure. In this case, the right to file a claim for damages also remains with the defendant regardless of the cancellation of the injunction relief, and since the expediency of the counter-security in this situation has already been formed, it is obvious that the counter-security can fully exist, in the cases provided by law, without any connection to the injunction relief.

Conclusions

Modern society is growing at a rapid pace and is constantly on the move, changing its needs and demands. Civil litigation is designed to ensure that the rights and legitimate interests of the persons who have gone to the court for protection are respected.

The CPC of Ukraine, in its version dated October 3, 2017, enshrined the so-called "civil process pledge" institute, which aims to guarantee the defendant the opportunity to oppose the institute of injunction relief. It should be noted that the counter-security is intended to perform primarily a protective function, since the defendant's rights by the mere application of the security measures against him are not a violation of his rights.

The counter-security function extends to both the defendant's procedural and substantive rights. Thus, due to the counter-security, there is a tendency to reduce the manifestations of the abuse of the right by the plaintiff by initiating measures to secure the claim, and in material terms - the property rights of the defendant are protected, since the counter-security is closely intertwined with the existence of damages.

Taking that into account, it should be concluded that, through the institution of the counter-security, the principle of equality of parties is ensured, which is manifested in the equal assignment of the defendant to such procedural rights which are effectively identical to the rights of the plaintiff. Therefore, the defendant was granted effective protection against the claim by virtue of the new institution. However, such protection should not be regarded as a predetermined unlawfulness of the procedural actions of the court and the plaintiff, since they are aimed at ensuring the possible further enforcement of the court decision in the event of satisfaction of the claims. As noted above, counter-security should be seen as a way of preventing the plaintiff's abuse of procedural rights and offsetting the potential consequences (Alekseeva N.S., 2017).

The introduction of counter-security is a clear step forward to European standards of quality and efficiency in the administration of justice, however, by examining civil procedural law and jurisprudence, we can conclude that the institution is not regulated at this stage of its establishment and application. Thus, it is worth highlighting, in particular:

- 1) The conceptual designation of the institute was not successfully selected;
- 2) The lack of a procedure for appealing the court's inaction regarding the compulsory counter measures;
Uncertainty of the authorized persons who have the right to apply for the use of counter-security;
Unsettled issues of counter-security replacement;
The absence of clearly defined criteria that will promote a fair and proportionate ratio of collateral.

Thus, the elimination of loopholes in civil procedural legislation regarding the regulation of counter-security will greatly influence the formation of the parties' perceptions of each other's rights, which in turn will result in their continued observance and approach to the further eradication of the abuse of law.

References

Alekseeva N.S. (2017). Protection of the rights and interests of the defendant in securing a claim in the context of the principles of civil procedural law. *Scientific Bulletin of Uzhgorod National University*, 44 (1), 77 - 80.

But I.O. (2018). Features of the implementation of counter-security under the Civil Procedure Code of Ukraine. Retrieved from <http://dspace.onua.edu.ua/bitstream/handle/11300/9465/But%2017-20.pdf?sequence=1>.

Kurey M. (2019). Concepts and features of counter-security in the business process. *Enterprise, Business and Law*, 4, 76 - 81.

Resolution of the Supreme Court of 10.04.2019. Case No. 753/2380/18-c. The Unified State Register of Judgments. Retrieved from <http://www.reyestr.court.gov.ua/Review/81288258>.

The decision of Tsurypinsky district court of May 31, 2017. Case No. 664/1059/17. The Unified State Register of Judgments. Retrieved from

<http://www.reyestr.court.gov.ua/Review/66841917>

Civil Code of Ukraine: Law of Ukraine from January 16, 2003, No. 435 -IV. Verkhovna Rada of Ukraine, 40-44, 356.

Code of Civil Procedure of Ukraine: Law of Ukraine of 18.03.2004, No. 1618-IV. Verkhovna Rada of Ukraine, 40-41, 492.

Nekit K., Ulianova H., Kolodin D. (2019). Website as an object of legal protection by Ukrainian legislation. *Amazonia investiga*, 21(8), 222-230.

Luspenyk D.D. (2017). Counter-security as a novelty of the civil process. Retrieved from <https://sud.ua/ru/news/publication/107640-zustrichne-zabezpechennya-novela-tsivilnogo-protsesu>

Odosiy O. Yu. (2018). Security measures in the civil process of Ukraine. Abstract of PhD Thesis. National Academy of Sciences of Ukraine, Kyiv. Retrieved from

http://webcache.googleusercontent.com/search?q=cache:6Ldiq2ECGQ4J:idpnan.org.ua/files/2018/odosiy-o.yu.-zabezpechuvanni-zahodi-v-tsivilistichnomu-protsesi-ukrayini-_d_.doc+&cd=2&hl=ru&ct=clnk&gl=ua&client=firefox-b-d

Ostrovska L.A. (2018). Impose injunctive relief as a mandatory element of the institute of security measures in the civil process. Retrieved from

<http://dspace.onua.edu.ua/handle/11300/9494>

Grosskopf O. & Medina B. (2009). Remedies for Wrongfully-Issued Preliminary Injunctions: The Case for Disgorgement of Profits. *Seattle University Law Review*, 32:903, 903-941.

Thomas R. Lee. (2001). Preliminary Injunctions and the Status Quo *Washington & Lee Law Review*, 58, 110-166.

Shurin A.O. (2018). Institute for Securing a Claim: Theoretical and Practical Problems of Implementation. *Precarpathian Legal Bulletin*, 1 (22), 177-180.