

## **JUDICIAL PRECEDENT AS A SOURCE PROCEDURAL LAW UKRAINE**

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Judicial precedent as a source of procedural law of Ukraine. The aim of this study is to analyze the current status of use of precedent in legal proceedings in Ukraine, as well as ways to improve the procedural legislation of Ukraine through the introduction of the institution of judicial precedent in the system of sources of procedural law of Ukraine.

***Judicial precedent, procedural law, judicial proceedings in  
Ukraine, the law.***

The issue of judicial precedent as a source of procedural law in Ukraine has become particularly relevant in the context of judicial reform in Ukraine continues. Need for and priority of freedoms in the proceedings, the establishment of mechanisms for their implementation led to the increasing role of the Court as an independent and impartial public body, which should make the administration of justice, to ensure the rule of law and justice in the proceedings. Of particular relevance became effective search mechanisms for resolving many conflicts and gaps in procedural legislation of Ukraine, which now constitute the real threat to the rights and interests of justice, violating the constitutional principle of equality of everyone before the law and the courts. Hundreds of thousands of lawsuits

"war children", more than two hundred thousand cases "Chernobyl", tens of thousands of civil claims of citizens to the pension fund for years waiting for their consideration in the courts of different instances - a "fee" Ukraine for the shortcomings in procedural proceedings state.

Time proved that the internal structural reorganization of the judiciary is not able to solve the problems of justice, which is mainly caused by the imperfection of the system of sources of procedural law. Outdated rules applicable Procedural Code of Ukraine (criminal, commercial, civil and other), presence of significant gaps and collisions are therefore unequal their application by the courts of different instances, the overburdened court system abuses by judges. At the time of implementation and use in source procedural law of Ukraine other subsidiary sources of law for the law, which, through its attributes, including greater clarity and dynamics for changes of detail regulations will improve the legal regulations for the administration of justice in the country.

Under judicial precedent as a source of procedural law should be regarded as the judgment in the administration of justice in the case of certain procedural issues, which outlines the rules that are mandatory for use by lower or equal level in dealing with similar procedural matters under the consideration of cases.

Analyzing the current state of the use of precedent in legal proceedings Ukraine, it should be noted that the judgment in certain procedural matters usually do not contain all the necessary features and sources of law, as a general rule, cannot be considered a judicial precedent. However, some of the decisions of the Supreme Court of Ukraine because of its authority and credibility may be considered persuasive legal precedent. Acts of the Constitutional Court of Ukraine and clarification of the Supreme Court of Ukraine by its very nature can be considered as a source of procedural law of Ukraine.

With the introduction of judicial precedent system of sources of procedural law of Ukraine should follow certain precautions, including the use objective judicial precedent - only to protect human and civil rights in the proceedings; limits on judicial precedent - should not be illegal and impair or limit the procedural rights and guarantees of justice; on the mechanism and the establishment of judicial precedent - to predict and take measures for the proper functioning and consolidation of judicial precedent in the sources of procedural law.

Exploring the issue of system actions to do for the proper functioning of judicial precedent in the sources of procedural law of Ukraine should: first, to develop and implement in jurisprudence direct legislative provisions for certain judgments the status of judicial precedent or adoption of a special law on judicial precedent, Secondly, the introduction of measures (mechanism) that would allow a court decision in a particular case actually and legally be legal guideline for the court in considering such a case; and the first step towards implementing a precedent principles are all made by publication of judicial decisions in the Internet web-site Unified State Register of Court Decisions Ukraine ([www.reyestr.court.gov.ua](http://www.reyestr.court.gov.ua)). This implementation of all measures will allow for a systematic, consistent and effective implementation of the institution of judicial precedent system of sources of procedural law of Ukraine.

I conducted analysis indicates the possibility of our time improving procedural legislation of Ukraine through the introduction of the system of judicial precedent sources procedural law of Ukraine. This, in turn, lead to the realization of the principle of legal equality of citizens before the law and the courts, which is in the formula "for all under the same circumstances, the law must be applied equally."