



**ARBITRATION IN  
CIS COUNTRIES:  
CURRENT ISSUES**

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**INTERIM MEASURES AT THE STAGE OF RECOGNITION  
AND ENFORCEMENT OF INTERNATIONAL ARBITRAL  
AWARDS ON THE TERRITORY OF UKRAINE:  
PRACTICAL CONCERNS**

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- Convention on the Recognition and Enforcement of Foreign Arbitral Awards - the “New York Convention” of 1958
- Law of Ukraine “On International Commercial Arbitration” of 1994 (LICA)
- Part VIII Civil Procedure Code of Ukraine of 2004 (“Recognition and Enforcement of Foreign Court Judgments in Ukraine”)

# Interim measures

## Civil Procedure Code of Ukraine (2011)

### 18 October

- Substantive action only

### 19 October

- Substantive action  
+
- Application for recognition and enforcement of foreign arbitral award

## **ICAC & MAC interim relief**

- LICA – Art. 17
- ICAC and MAC Rules – Art. 4
- ICAC and MAC Statutes – Art. 5 and 4 respectively

## **Court-ordered interim relief**

- CPC – Art. 151

## Relief usually granted:

1. Prohibition of taking any steps directed at dissipating funds available on known bank account
2. Prohibition of disposing off assets

***Egis Pharmaceuticals Ltd.Co. v Medpharmservice***

(Commercial Court of Donetsk Oblast, 2008)

&

***Sport Financiera s.a. v Olympic Gold Holdings  
Limited***

(Pecherskyi District Court of Kyiv city, 2008)

## Art. 395 CPC

*upon an application of a person seeking recognition and enforcement of a foreign court judgment the court may grant interim measures of protection envisaged by the present Code. Interim measures of protection may be granted at any stage when the application for recognition and enforcement is pending if it shall be difficult or impossible to enforce the foreign court judgment at a later stage without granting the interim measures*



1. Attachment of property (except perishable commodities) or moneys belonging to the defendant;
2. Prohibitory injunctions;
3. Mandatory injunctions;
4. Injunctions prohibiting third parties to make payments or transfer property to the application respondent or to perform other obligations in relation to the application respondent;
5. Suspension of sale of an attached property in case a claim for recognition of title to such property and attachment lifting has been filed;
6. Suspension of enforcement of a challenged writ of execution; and
7. Placing disputed property into custody of third parties

## **Who may apply?**

- Party who applied for recognition and enforcement of the award (award creditor)

## **When a party may apply?**

- At any stage of recognition and enforcement proceedings (cassation excluded)

## *Polytrade GmbH v Hecro Pat Ltd*

(Dnipropetrovsk district court, 19 October [sic] 2011)

## *F v A*

(Appeals Court of Kyiv city, 22 November 2011)

1. Must correspond to the interest protected by an award
2. Real risk of not easily reparable prejudice
3. Must be proportionate and reasonable
4. Third parties' rights may not be affected
5. Counter-security may be ordered

1. Appeal does not suspend effect
2. Relief ordered may be substituted
3. Valid until execution of the award
4. Unlawfulness of interim relief granted does not reverse positive recognition and enforcement order

Thank you for your kind attention!

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