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Res Judicata in Civil, Economic and Criminal Proceedings in Ukraine

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Abstract:

The need to improve the efficiency of the implementation of the tasks of the judiciary, which is associated with the improvement of evidentiary activities, the saving of procedural time, as well as the use of res judicata (also known as claim preclusion) in the process of proving, determines the relevance of the analysis of the use of res judicata in civil, economic and criminal proceedings in Ukraine. The purpose of the article is to study the legal category of 'res judicata' (claim preclusion), problems of the theory and practice of the application of claim preclusion and its use in the exercise of evidentiary activity in civil, economic and criminal process, as well as the study of the limits of the application of claim preclusion. The methodological base is comprised of such methods as the dialectical, the systematic analysis of legal norms, the comparative legal, and the logical-normative method. The study of the res judicata requires the implementation of mechanisms that ensure the impartiality of justice and the unity of the case law, providing analysis of the case law and common standards for the implementation of legal proceedings, the purpose of which is to protect the violated rights and freedoms of natural and legal persons, to improve the legislation in the direction of harmonization of normative-legal acts of national legislation with international standards.

Keywords: res judicata; claim preclusion; facts that do not need to be proved; civil procedural law; commercial procedural law; criminal procedural law.

JEL Classification: K40; K41; K10; K42; K49.

Introduction

The term 'res judicata' is Latin in origin and means that the question is resolved beforehand; a decision made in advance; circumstances that allow concluding the consequences. In the legal literature, 'res judicata' or 'claim

preclusion' means that all courts hearing the case must admit without verification and evidence the facts established by the decision or verdict of the court that became valid.

In modern conditions of development of social relations, studying the institute of res judicata, which is designed to ensure the stability and authority of acts of justice, is of great importance. But, unfortunately, nowadays, the results of the study of pre-judgments do not make enough sense of the content and significance of this institution in law in general, and economic, civil and criminal processes in particular. Therefore, the legal category of res judicata (claim preclusion) needs further scientific study. Regarding the importance of a court decision of a different jurisdiction as a res judicata, it should be noted that it is such only if it has entered into force and establishes the violation of human rights and fundamental freedoms guaranteed by the Constitution of Ukraine and international agreements, the consent for which is given by the Verkhovna Rada of Ukraine.

The essence of the claim preclusion is inextricably linked to the interpretation of this legal category. There is still no common understanding among scholars. Therefore, there is an urgent need to generalize existing points of view in order to develop and consolidate a single definition in the Ukrainian law of this legal category. In general, the essence of a claim preclusion lies in the inadmissibility of reconsideration by a court of the same issue between the same parties, and the rules of claim preclusion are aimed not only at the prohibition of review of the facts and legal relations established in a judicial act that has entered into force. As all of these actions have already been carried out in the previous process, their repetition is not only impractical but also inadmissible in terms of procedural economy.

Considering the legislative consolidation and the legal nature of the phenomenon under study, only those circumstances that have been directly investigated and established by the court, which are reflected in the motivating part of the judicial act, form the res judicata. Only mentioned circumstances that have not received the court's assessment cannot be regarded as established by the court and do not acquire the res judicata character.

In order to determine the place of res judicata in the Ukrainian legislation, there is a need to analyze the legal norms containing the definitions of the study category.

1. Literature Review

The problem of the application of res judicata (claim preclusion) have repeatedly been the subject of research by domestic scientists, such as Bezrukov 2007; Berezhnyi 2003; 2016; Izarova, Vebrite and Fleischer 2018; Garnik 2017; Groshovyi 2006; Ishchenko 2013; Kovalenko, Masyuk 2009; Mamontova 2018; Motovilovker 1986; Levchenko 1994; Osipova, Stakhivsky 2006; Skoblikov 2009; Khotynskaya 2005; Shilina 2013; Schenk 2018.

Thus, the subject of the study by Garnik (2017) is to analyze the use of claim preclusion when considering claims of creditors in a bankruptcy case.

Moreover, in the theory of criminal process, the problems of claim preclusion in the criminal process have been studied by such domestic and foreign scientists as Bezrukov 2007; Berezhnyi 2003; 2016; Groshovyi 2006; Levchenko 1994; Stakhivsky 2006; Shilin 2013.

Berezhnyi (2003) wrote a dissertation to obtain a Ph.D. on this issue in Ukraine namely 'Claim Preclusion of Judgments in Criminal Cases'. Thus, in the work of Berezhnyi much attention is devoted only to the study of the claim preclusion of judicial decisions in criminal cases. However, his work confirms that there are difficulties in law enforcement.

Furthermore, Groshovyi and Stakhovsky (2006) paid considerable attention to the study of claim preclusion and its evaluation in criminal proceedings during the proving.

In addition, Ishchenko (2013) deals with the question of the claim preclusion of judicial acts in the economic process. Masyuk (2009) paid attention to the place of claim preclusion and its evaluation by the court.

Kovalenko (2018) explored claim preclusion as the basis for exemption from proof in the civil process of Ukraine.

Izarov, Vebrite, Fleischer (2018) examined the case management system in civil legislation and place of the claim preclusion in it, and carried out a comparative study of the legislation of Lithuania, Poland and Ukraine.

Osipova (2016) researched the grounds for exemption from proof by the law of foreign countries and identified the most common ones among them.

The object of study Mamontova (2018) is the nature and substance of the circumstances recognized by the court as well-known as grounds for exemption from evidence in administrative proceedings.

Besides, Shilin (2013) investigates in his work the claim preclusion of criminal procedural acts and the principle of free evaluation of evidence, draws attention to legal conflicts and emphasizes the inconsistency of the legislator's position in interpreting the notion res judicata. In her research, Schenk (2018) analyzed the preliminary ruling power of court decisions.

In this way, scholars are exploring the legal category of res judicata (claim preclusion) from various aspects, which should allow us to summarize its main features. Nevertheless, unfortunately, because of the differences in approaches, it is difficult to formulate a single definition of res judicata (claim preclusion).

2. Methodology

At the time of writing this article, all phenomena were investigated using philosophical, general scientific and special methods of scientific knowledge.

Firstly, the dialectical method was used to find out the nature and peculiarities of the claim preclusion of civil, economic and criminal processes. The method of system-structural analysis has made it possible to investigate the relation of claim preclusion with related categories.

Moreover, the method of systematic analysis of legal norms was used in the study of civil procedural, economic procedural, criminal procedural rules. The comparative legal method was used in the process of comparing the rules governing the application of claim preclusion in different fields of law.

Additionally, the logical-normative method was used to formulate proposals for changes to the existing civil-procedural, economic-procedural and criminal-procedural legislation.

It should be noted, that all research methods were used in conjunction, which provided convincing and reliable scientific results.

Besides, it is necessary to distinguish the legal acts and decisions of the courts, which establish the guidelines on the res judicata. Among them are the following:

(1) The Constitution of Ukraine (1996);
(2) The judgment of the European Court of Human Rights in the case of Sovtransavto-Holding v. Ukraine case (application no. 48553/99) (2013);
(3) The judgment of the European Court of Human Rights in Tregubenko v. Ukraine case (application no. 61333/00) (2004);
(4) The Economic Procedure Code of Ukraine (1991);
(5) The Criminal Procedure Code of Ukraine (2012);
(6) The Code of Civil Procedure of Ukraine (2004);
(7) Law of Ukraine 'On Judiciary and Status of Judges' (2016);
(8) Resolution of the Supreme Economic Court of Ukraine of December 20, 2016, in Case No. 904/8028/14 (2016);
(9) Resolution of the Supreme Economic Court of Ukraine of April 26, 2016, in Case No. 27 / 25b-908/4661/14 (2016);
(10) Resolution of the Supreme Economic Court of Ukraine of 26 October 2016 in Case No. 904/10083/15 (2016);
(11) Resolution of the Supreme Economic Court of Ukraine of 07 September 2016 in Case No. 15/132-b (2016);
(12) Resolution of the Supreme Economic Court of Ukraine of February 22, 2017, in Case No. 927/788/16 (2017).

3. Case Studies

Article 129 of the Constitution of Ukraine (1996) stipulates that the court decision is binding and the state ensures the execution of the court decision in the manner prescribed by law. This provision is re-interpreted in the Law of Ukraine 'On Judicial System and Status of Judges' (2016).

Thus, according to Part 2 of Art. 13 of the aforementioned Law (2016), judicial decisions that have entered into force are binding on all state bodies, local self-government bodies, their officials and officials, individuals and legal entities and their associations throughout Ukraine. The obligation to take into account (res judicata) of judgments for other courts is determined by law. Thus, at the legislative level, the term 'res judicata' is defined as a binding decision.

In the legislation of Ukraine, the res judicata meaning of judicial decisions is enshrined in a number of rules of current procedural law, however, in their content they state only on the issue of claim preclusion facts (and not on decisions as such), identifying them with the generally accepted facts, which are the circumstances of exemption from the process of proof.

4. Research Results

According to Art. 90 of the Criminal Procedure Code of Ukraine (2012) (hereinafter referred to as the CPC of Ukraine), a decision of a national court or an international judicial authority that has entered into force and establishes violations of human rights and fundamental freedoms guaranteed by the Constitution of Ukraine and international treaties, the consent of which is given by the Verkhovna Rada Of Ukraine, is of preliminary importance for the court which decides the admissibility of the evidence. Thus, in the provisions of Art. 90 of the CPC of Ukraine (2012) the terminological turnover 'is of claim preclusion importance for the court that decides the admissibility of evidence', but only in the context of 'the importance of the decisions of other courts in the admissibility of evidence'.

Civil and commercial procedural law do not mention the terms res judicata (claim preclusion), but use the term 'circumstances established by court order ...'For example, according to Part 4 of Art. 82 of the Code of Civil Procedure of Ukraine (2004) (hereinafter referred to as the Civil PC of Ukraine), the circumstances established by a court decision in an economic, civil or administrative law that has come into force shall not be proved in the consideration of another case involving the same persons or persons in respect of whom these are established. circumstances, unless otherwise provided by law. According to Part 4 of Art. 75 of the Economic Procedure Code of Ukraine (1991) (hereinafter referred to as the EPC of Ukraine), the circumstances established by a court decision in an economic, civil or administrative law that has come into force shall not be proved in the consideration of another case, involving the same person or person to whom these circumstances are established unless otherwise provided by law. At the same time, according to Part 8 of Art. 75 of the Civil PC of Ukraine (2004), the circumstances established by the decision of the arbitral tribunal or international commercial arbitration, the acquittal of the court in the criminal proceedings, the decision to close the criminal proceedings and the release of the person from criminal liability, shall be subject to proving in general procedure in the case before the economic court.

From the above provisions of the Civil PC (2004) and the CPC of Ukraine (2012), it can be concluded that the mentioned obligation to take court decisions is rather limited and in each case, its necessity is explained directly in the law (for example, circumstances are not proved if 'the same persons are involved in the case or the person to whom the circumstances were established', the judgment is binding 'only on the question whether these actions (inaction) took place and whether they were committed by that person'; 'the circumstances recognized by the parties to the case are not subject to proof unless the court has reasonable doubt as to the accuracy of these circumstances or the voluntariness of their recognition'), and also differs from the claim preclusion stipulated in Art.90 of the CPC of Ukraine (2012).

Considering the interpretation of the claim preclusion and its consolidation in the Ukrainian legislation, it is important to analyze the views of scholars regarding the definition and role of the investigated category in the implementation of enforcement by the courts. There is still no common understanding among domestic scholars. They remain under-researched and do not lose their relevance to the problem of claim preclusion, the determination of the essence of claim preclusion in the process of proving and its relation to the principle of free evaluation of evidence, as well as the limits of application of a previously decided judgment in a new trial.

Scholars interpret the notion res judicata (claim preclusion) differently, so the existence of several doctrinal views on legal foreclosure allows one to characterize it through such features as legality, obligation, credibility, and objectivity.

A group of scientists believes that the facts established by claim preclusion are circumstances that have been established based on evidence in another case previously considered. All of this evidence has already passed the procedural order of proving: collection, verification, evaluation, and the conclusions drawn based on this evidence are the basis of the judicial decision that has come into force. That is, in their view, the facts established by the courts are of preliminary importance because they do not require re-proving. Thus, by claiming preclusion, the legislator seeks to prevent the appearance of conflicting judgments and to ensure the consistency of case law. Investigating claim preclusion, Masyuk (2009) noted that the facts of claim preclusion should not be questioned since otherwise the authority of the acts of the judiciary will be nullified.

The above position is reflected in the case-law of the European Court of Human Rights, where the principle of legal certainty is defined as one of the main elements of the rule of law. This principle implies, among other things, that the decision of a court in any case that has come into force cannot be called into question. This legal position is reflected in the cases: Sovtransavto-Holding v. Ukraine No. 48553/99 p. 77 dated 25.07.2002; Tregubenko v. Ukraine; No. 61333/00 p. 37 dated 2 November 2004.

Several scholars have argued that claim preclusion in the civil and business process is different from understanding claim preclusion in the criminal process. For example, some scholars have pointed out that criminal proceedings are divided into claim preclusion in criminal proceedings and res judicata (res judicata of criminal

procedural decisions). In criminal proceedings, the use of res judicata can be asserted in cases where the facts and legal findings set out in the earlier decision regarding other accomplices have been used in the case of the accomplice; in the case of giving deliberately false testimony, the legal conclusions established in the previously rendered decision in the case within which the witness's testimony or expert's opinion was given; in a criminal case in the enforcement of the newly established circumstances of those decisions which established these circumstances, etc.

The discussion takes place during the investigation of the criminal case lawsuit around a conflict that, according to scholars, can arise between two important procedural provisions: the general basis of criminal proceedings – the binding nature of judicial decisions and the method (principle) of evaluating evidence – internal conviction. There are different opinions on this issue in the literature. Some scholars are convinced that claim preclusion should not limit the free assessment of evidence and their procedural sources, so if the court has doubts about the validity of claim preclusion of facts, it has the right to re-examine and make a verdict according to his conviction. There is also a widespread belief that claim preclusion is inaccurate and that claim preclusion cannot be raised, because otherwise the authority of the judiciary will be offset. But, in our view, it is most expedient to apply res judicata to judgments, taking into account the principle of the freedom of assessment of evidence by a court, which follows from the constitutional principles of the independence of judges and the independence of the judiciary. After all, the sentence of the first court for the second is not an act having the force of law, but an official document certifying certain facts, which are accepted by the court as true without further evidence only when they appear to be indisputable and undeniable. If in doubt, the court is obliged to examine the merits. In such a case, a balance will be struck between such constitutionally enshrined values as the obligation and consistency of court decisions, on the one hand, the independence of the court and the competitiveness of criminal proceedings, on the other.

Thus, both in national legislation and in theory, the claim preclusion facts is determined by the circumstances of the court's decision having become lawful, which, as a result, shall not be subject to proof in the consideration of another proceeding in which only those persons or persons, to which these circumstances have been settled, or by a decision of another body to which the law is empowered to establish legal facts. However, the concept of res judicata remains unclear. Thus, procedural law requires regulatory harmonization and additional official interpretation of the concepts of res judicata, claim preclusion of facts, 'facts which are, according to the law, considered to be settled'.

As regards the claim preclusion facts in civil, commercial and criminal proceedings, the case-law on these issues should be analyzed.

For example, the Resolution of the Supreme Economic Court of Ukraine of February 22, 2017, in case No. 927/788/16 states that the circumstances mentioned above, but not obtained by the court, cannot be considered as established by the court and can not be claim preclusion. According to Part 2 of Art. 35 of the Code of Economic Procedure of Ukraine (previous edition) (1991), the circumstances established by a court decision in an economic, civil or administrative case, which came into force, other than those established by the decision of the arbitral tribunal, are not proved in the consideration of other cases involving the same persons or the person to whom these circumstances were established. Consequently, the claim preclusion facts are already established in the judgment and there is no need to establish them again, that is, to cast doubt on the legality and stability of the judicial act which has entered into force. This suggests that the claim preclusion should be distinguished from the assessment by other courts of certain circumstances. Thus, in the present case, the company appealed to the economic court with a claim for invalidation of the results of public electronic auctions conducted on December 10, 2015, in connection with the presence of technical barriers to their participation in the enterprise, namely the lack of technical capacity due to the temporary lack of access to the Internet, which led to the completion of bidding earlier than foreseen in the order of sale of seized property through electronic auctioning. These requirements were satisfied by the court of the first instance. However, the Court of Appeal overturned the decision and dismissed the claim because at the time of initiation of proceedings under the said suit there was already a decision of another court, by which electronic auction on the disputed lot, which was conducted on December 15, 2015, was carried out under the current legislation of Ukraine. In its turn, the Supreme Economic Court of Ukraine, annulling the decision of the Court of Appeal, upholding the decision of the court of first instance, stated that for the decisions of economic courts an important condition of the claim's preclusion contained in the decision of the economic court is the subject matter of the dispute. Res judicata is a decision in a case involving the same person or person to whom the circumstances were established. Res judicata form only those circumstances, which were directly investigated and established by the court, which was reflected in the motivating part of the judicial act. Only mentioned but not obtained by the court, the circumstances cannot be considered as established by the court and do not acquire the peculiarities of

the case. Instead, the court, having regard to the court's decision recognizing the tenders held on December 15, 2015, was not legally aware that the plaintiff had challenged the tendering procedure, which took place on December 10, 2015, and erroneously considered that decision was res judicata.

The question of how to apply res judicata arises when considering bankruptcy claims by creditors. Case law analysis shows that when considering claims of creditors in a bankruptcy case, as a rule, commercial courts take the position that there is no reason to further investigate the facts established by another court decision and apply res judicata. Thus, in the ruling of December 20, 2016, in case No. 904/8028/14, the Supreme Economic Court of Ukraine found the Court of Appeal's erroneous conclusion that the judgments given to substantiate the claims of creditors are contradictory in nature. In this resolution, the court of cassation noted that the court's decisions entered into force and were not annulled in the prescribed manner, and therefore the circumstances set out in these court decisions are preliminary in the consideration of monetary claims and the determination of their size. In the rulings of April 26, 2016, in case No. 27 / 25b-908/4661/14, of October 26, 2016, in case No. 904/10083/15, the High Commercial Court of Ukraine also attached a preliminary ruling to the bankruptcy cases for the establishment the fact of presence (absence) of the debtor's debt to the creditor. However, there are cases where the commercial court rejects the claims of competing or secured creditors, which are confirmed by the court decision. Thus, in the decision of September 7, 2016, in case No. 15/132-b the Supreme Economic Court of Ukraine stated that, based on the systematic analysis of the provisions of the current legislation, monetary claims declared in the bankruptcy case can be confirmed by primary documents (agreements, invoices, invoices, power of attorney, works performed acts, etc.), attesting to the civil legal relations of the parties and reliably confirming the debt of the debtor to the creditor, or the decision of the competent authority, to the comp of which the dispute was resolved. In reversing the decision of the courts of the previous instance regarding the recognition of the claims of one of the creditors, the court of cassation noted that the applicant, as evidence of the existence of the debt declared to the debtor, referred only to the court decision, which did not contain any references to the factual evidence of the occurrence of the debt, that would confirm the fact that the terms of the contract concluded with the debtor and the period of their occurrence. In this regard, the opinion is expressed that the court has a legal opportunity to reject the creditor's claims, confirmed by the court decision, due to the presence of other creditors the right to object to the monetary claims of the creditor, confirmed by the court decision. It is noted that, based on the provisions of Article 124 of the Constitution of Ukraine (1996), according to which court decisions are made by courts in the name of Ukraine and are binding in the whole territory of Ukraine, the term 'are binding in court' means that the court decision is binding on the defendant, for whom the judgment was rendered. The other party to the case – the plaintiff – is under no obligation to enforce the judgment rendered in her favor. It follows from the foregoing that judgments rendered by the courts in favor of certain creditors against the debtor are not binding on either the other creditors or the court hearing the bankruptcy case. Thus, when considering the claims of creditors in a bankruptcy case, courts need to establish a unified approach to the concept of foreclosure and to develop uniform rules for its application.

Also, we should pay attention to the Legal position expressed by the Supreme Court of Ukraine in the decision of August 16, 2017, in Case No. 6-490ts17. The said legal position states that res judicata may be a judgment, even for the parties to the proceedings, where the subjective composition of the parties is not completely identical, but concerns the particular party or establishes a particular circumstance.

From the case-law examined above, it can be concluded that the courts are using res judicata for the procedural economy and avoiding duplication in the examination of circumstances already established. In doing so, the courts pay attention to the scope of the judgment, the subject composition of the case and other circumstances that are relevant to the proper resolution of the case.

For the sake of the complexity of the study, consideration should be given to the place of assessment in civil, economic and criminal processes of foreign countries.

For example, in the United States of America, preliminary facts are unquestionable, pre-trial circumstances, circumstances recognized by the court as well-known circumstances. Instead, in Russian Federation, there are only two cases that do not require litigation and can be justified by a court decision: facts recognized by the court as well-known facts and preliminary facts, established by a decision or verdict of a court that has come into force.

In post-Soviet states, the parties are exempted from presenting evidence to support the facts on which their claims or objections are based, but need not be proved. These include:

(1) circumstances recognized by the parties and other parties involved in the case (Estonian Civil Procedure Code);
(2) circumstances recognized by the court as well-known (the Code of Civil Procedure of the Republic of Azerbaijan, the Code of Civil Procedure of the Republic of Moldova, the Code of Civil Procedure of Turkmenistan);
(3) circumstances established by a judgment which has entered into force (Civil Procedure Code of the Republic of Armenia, Civil Procedure Code of Latvia, Civil Procedure Code of Russian Federation);
(4) judgment of the court in the case of an administrative offense (Civil Procedure Code of Kazakhstan, Civil Procedure Code of the Republic of Uzbekistan);
(5) facts deemed by the law to be established (Civil Procedure Code of the Republic of Uzbekistan);
(6) circumstances, which are also considered to be established without evidence, unless otherwise proved in the framework of due process (Civil Procedure Code of Kazakhstan).

In France, the legislator merely states that the preconditions must be important, accurate and consistent. In the UK, foreclosure is being used as evidence.

Thus, the solution of problems related to procedural use in different countries of the world is solved differently, and differently interpreted what should be considered as a preliminary ruling and what not.

5. Discussions

Thus, the study analyzes Ukrainian and foreign legislation and found the place of res judicata in civil, economic and criminal proceedings. Thus, in a criminal proceeding, a judgment that has the value of res judicata is not in itself evidence for the court. It matters only when deciding whether the evidence is admissible. The value of res judicata is a court decision only under the following conditions: the court decision entered into force and this court decision violated human rights and fundamental freedoms guaranteed by the Constitution of Ukraine and international treaties, the consent of which was given by the Verkhovna Rada of Ukraine. If the judgment establishes other facts that do not relate to violations of human rights and fundamental freedoms, there is no judicial decision. Besides, res judicata is absent even if the court decision violates human rights and freedoms not guaranteed by the Constitution of Ukraine (for example, another legal act) or international treaties whose consent has not been given by the Verkhovna Rada of Ukraine. A judgment that has a res judicata value is not, in itself, evidence for the court, but only relevant when deciding the admissibility of the evidence. There is no definition of the res judicata (claim preclusion) in the Civil PC of Ukraine and the CEP of Ukraine.

Nevertheless, it is clear that: the limits of res judicata are objectively determined by the fact that the facts established in one case by a court may have a completely different legal meaning in another case; there are significant peculiarities of the procedure for proving and its consequences in different types of litigation; a court decision, even one that has entered into force, may be overturned or modified by a court of cassation or other procedure prescribed by law (through the institution of a constitutional complaint or an appeal to the ECtHR, etc.). Concerning the definition of res judicata, there is no common approach to the definition and role of this legal category among scholars.

Conclusions and Further Research

It can be concluded that the use of a pre-trial institute requires establishing and maintaining a balance between such constitutionally protected values, such as the bindingness and consistency of judicial decisions, on the one hand, and competition – on the other hand. Such a balance can be ensured by determining the limits of the res judicata (claim preclusion).

Moreover, the study of the res judicata requires the implementation of mechanisms that ensure the impartiality of justice and the unity of the case law, providing analysis of the case law and common standards for the implementation of legal proceedings, the purpose of which is to protect the violated rights and freedoms of natural and legal persons, to improve the legislation in the direction of harmonization of normative-legal acts of national legislation with international standards.

Thus,, in national legislation, res judicata (claim preclusion) is determined by the circumstances of a court decision that have acquired the force of law, which, as a result, is not subject to proof in any other proceedings either those persons or persons themselves, as soon as these circumstances have been established, or by the decision of another authority to which the law gives the right to establish legal facts. However, the concept of res judicata (claim preclusion) remains unclear. This indicates that procedural legislation requires normative harmonization, refinement and additional official interpretation of the concepts of res judicata (claim preclusion) or 'facts which, according to the law, are considered to be statutory'.

The topic under study needs further scientific research and refinement, namely the analysis of existing bills providing details of the use of res judicata (claim preclusion) and developing a unified approach on the subject, exploring new changes in foreign law regarding the place of res judicata (claim preclusion) in civil, economic and criminal proceedings, as well as formulating of res judicata (claim preclusion) for its further consolidation in the Ukrainian legislation.

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