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# Criminological Effectiveness of the Astrent as a Legal Incentive for Judgment Enforcement

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**Abstract**

The enforcement of judicial decisions is a pivotal aspect of the criminal justice system. The institution of an astrent is recognized as a legal mechanism designed to motivate a debtor to comply with a judicial decision, thereby serving as a deterrent to non-compliance and as a reinforcement of the rule of law. This coercive tool, by imposing negative material consequences, is intended to ensure adherence to a verdict, which is essential for maintaining public trust in the justice system – a core criminological concern. Given the varying legal nature of the astrent across different jurisdictions, this study examines its potential introduction into Ukrainian law from a criminological perspective, analyzing its deterrent capacity within the framework of criminal justice enforcement. The research outlines the similarities and distinctions between the astrent and other punitive measures, delving into its effectiveness as a defense method and its role in bolstering the execution of judgments. It highlights specific dispute categories within the criminal justice system where the astrent could significantly enhance compliance. Critical to the adaptation of this European legal construct to Ukrainian legislation, the paper scrutinizes several foundational issues that necessitate resolution. Notably, the paper discusses the termination of the right to an astrent post-imposition, suggesting that the objective impossibility of fulfilling a judicial act – owing to circumstances emerging after the court's decision and leading to the obligation's termination as per Article 607 of the Civil Code – should be the sole ground for relieving a debtor from the astrent payment. The study's alignment with criminological interests lies in its potential to shape debtor behavior, augment the effectiveness of legal sanctions, and provide empirical evidence for policy-making in the realm of crime management and enforcement legislation. The implications for both national and international criminological scholarship are considered, with the article contributing to the ongoing discourse

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on the optimization of punitive measures within the justice system and their theoretical underpinnings.

**Keywords:** Astrent, debtor's incentive to execute judgment, effectiveness of the method of defense, judgment enforcement, criminology, forfeit, legal deterrence, compliance, criminal justice system

**Introduction**

It is well known that significant changes to both the procedural codes and Article 16 of the Civil Code of Ukraine (2003) (hereinafter the CC) on judicial protection methods (paragraph 13, part 2) came into force at the end of 2017. As a result, in judicial practice, the protection methods claimed by the plaintiffs have begun to be actively tested against the criterion of effectiveness. However, the analysis of the relevant legal provisions has not only not lost its relevance, but is also attracting increasing attention, in particular, because cases where the legislative innovations have been applied have actively started to come before the Supreme Court (hereinafter referred to as the SC). Moreover, the amendments made to the Civil Code in this regard are of a purely technical and fragmented nature and require further improvement. In particular, this concerns the criteria to guide the plaintiff in the choice of a judicial protection method, as they constitute a substantive defence and should therefore be provided for at the level of the CC. This includes the criterion of effectiveness. The effectiveness of the protection method is an important imperative, which lies within the civil law principle of protection of subjective civil rights (Haliantych et al., 2021). This principle is continued in the basic principles of civil law, among which Article 3 of the Civil Code of Ukraine enshrines in particular the judicial protection of civil rights and interests. The principle of protecting civil rights is implemented in all types of civil legal relations, both property and non-property, including information relations and intellectual property relations (Shevchenko et al., 2022; Amelin et al., 2023).

An effective method of protection should be considered one the application of which leads to actual restoration of the infringed right (ensures that it is no longer unrecognised or disputed) or stops the inability to satisfy the interest and, if this is not possible, ensures that appropriate redress is obtained (Borysova et al., 2019). Moreover, the current practice of the SC makes the effectiveness partly dependent on the existence of an enforcement mechanism for the court's decision (Resolution No. 922/3065/17…, 2018). On the one hand, such an approach seems to be correct, as courts making decisions that cannot be enforced creates a situation of legal uncertainty and does not provide real protection of the rights and

interests of the persons applying to the courts. However, on the other hand, – the position does not take into account the fact that in some categories of cases (compensation of moral damage) fair compensation for the plaintiff may be just a court decision recognising the unlawful behaviour of the defendant (Resolution No. 761/8035/16-ts…, 2018) and the establishment of criminal responsibility for wilful non-execution of a court decision (Article 382 of the Criminal Code of Ukraine (2001)). However, today, the criminal punishability of the act in question rarely encourages the offender to enforce the judgement, due to the difficulty of proving the debtor's intent to evade such enforcement (Cherniavskyi et al., 2019).

It should also be pointed out that when the matter concerns money claims, the issue of efficiency of the stated method of protection does not arise, because the Ukrainian legislation on the enforcement proceedings clearly determines the mechanism of the enforcement of such court decisions, starting with the attachment of the debtor's property (Part 7, Article 26, Article 56 of the Law of Ukraine "On Enforcement Proceedings" (2016)). More problems arise in the execution of judgments of non-property nature (Section VIII of the Law of Ukraine "On Enforcement Proceedings"), when the debtor must personally commit certain acts or refrain from committing them). In such cases, the debtor is obliged to perform actions of a property nature, but not of a pecuniary nature (e.g. to perform the debt constituting the content of a non-monetary obligation in kind), or actions of a non-property nature (e.g. to refute untrue information, provide information, stop using an item of intellectual property right, etc.). It is precisely for the above situations that the institute of astrent is designed in the first place.

**History of the emergence of the concept of "astrent"**

In legal doctrine, an astrent (from Latin Adstringere – compulsion, French L'astreinte – fine) is an amount of money that a court imposes for non-execution (untimely execution) of a judicial act. Given the relevance of taking into account in judicial practice the criterion of the effectiveness of a protection method, it is important today to study the institution of astrent as a material incentive to enforce a court decision, which, in turn, will strengthen the real protection of the rights and interests of the plaintiff. Moreover, the Concept of Updating the Civil Code of Ukraine (2020) suggests enshrining the institute of astrent at the level of the Civil Code of Ukraine (general provisions on obligations).

Historically, astrent appeared in France in the 19th century. It was based on the idea of incentivizing the debtor to execute the judgment on time because of the risk of aggravated penalties levied in favor of the creditor (Polukarov et al., 2021; Cherunova et al., 2021). It should be noted that from the outset astrent emerged and developed exclusively in jurisprudence, while its legal consolidation

in French law took place much later, only in the first half of the 20th century. However, this system is not a new one: examples of the application of astrent can be found in judicial practice since 1811. But the term is relatively new: it appeared for the first time in a decision of the Court of Cassation of March 20, 1889. The term was probably used for the first time in the Finance Act of April 17, 1906. (Article 5).

Later on, due to its simplicity and utility, the astrent design was enshrined in the legislation of several other European countries and continues to be successfully used today in Italy, Portugal, Belgium, Finland, Luxembourg and other countries (Zweigert & Ketz, 1984; Komilova et al., 2019). Furthermore, astrent is provided for in some acts of unification of private law. Thus, today, the provision on astrent is also found in the UNIDROIT Principles in Article 7.2.4 (2016), according to which, if a court orders a party to comply, it may also order it to pay a fine if it fails to comply with its decision. It follows from Article 7.2.4 that the UNIDROIT Principles allow for the application of the institution of astrent to all obligations, both monetary and those to be performed in kind; astrent may be applied at the initiative of both the court and the plaintiff; astrent may be paid either to the state or the plaintiff and each state, depending on its legal system, independently determines in whose favor an astrent shall be imposed.

Furthermore, Article 111, Paragraph 3 of the Code of European Contract Law 2015 stipulates the rule that to induce the debtor to behave under a judicial decision requiring the performance of an obligation in kind, the court may impose a fine on the debtor who does not perform the decision or performs it with a delay, in an amount not exceeding three times the amount of the cost of the proper performance. Because of the above, the issue arises as to the legal nature of the institution of astrent and in which categories of disputes it is appropriate to apply.

There are two models of astrent: French (private law) and German (public law). The French model provides for recovery in favor of the plaintiff, and the German model – in favor of the state. At the same time, in France the rules on astrent are contained in the procedural legislation, which should indicate its public-law nature, nevertheless, the recovery occurs in favour of the plaintiff, and not the state, which still gives more reasons to speak about the astrent as a private-law institution (Bulhakova, 2022). A third option is also possible – in Portugal, for example, where the astrent amount is split equally between the claimant and the state (Sinaj and Robert Dumi, 2015). A similar approach is also enshrined in the Code of European Contract Law, according to Article 111, Paragraph 3 of which the astrent amount is to be shared between the creditor and the state in the ratio of 70 percent and 30 percent respectively.

**Analysis of the astrent's role in Ukrainian legislation**

Given the legal realities in Ukraine, it is appropriate to levy an astrent in favor of the plaintiff. This position is explained by the state of the legislation on enforcement proceedings, which provides for the payment of a court fee of 10% of the amount recovered from the debtor or the value of the property transferred to the claimant (in the enforcement of non-property decisions: 2 minimum wages for a natural person debtor and 4 minimum wages for a legal person debtor). The problem is that it is a matter of the past when a bailiff used to issue an order for the opening of proceedings in which he or she informed the court that the judgment could be executed voluntarily within a set time (not exceeding 7 days).

According to the current version of the Law of Ukraine "On Enforcement Proceedings" (Law of Ukraine No. 1404-VIII…, 2016), the enforcement of a court decision begins with the issuance of a ruling. In such a case, the debtor is automatically liable to an execution fee, which immediately increases its severity. At the same time, a debtor in good faith often simply does not have time to comply with the court order before the opening of proceedings, not even planning to evade it. So, based on the provisions of the current legislation, the recovery of the enforcement fee from the debtor, which goes to the state budget, does not depend on the enforcement actions performed after the opening of enforcement proceedings and is often not related to the bad faith of the debtor, and therefore is not an effective means of incentivizing the debtor to perform the judicial act. It turns out that the enforcement fee is now nothing more than a hidden form of fine paid to the state and imposed as an additional burden on the debtor, who is often in good faith (Barabash and Berchenko, 2019; Spytska, 2023).

Meanwhile, despite the variety of legislative approaches to the direction of an astrent, it is in any case imposed for the defendant's failure to fulfil his or her private-law debt to the plaintiff, which has been confirmed by (or arising out of) a judicial decision, rather than for the failure to fulfil a public debt. Thus, an astrent always protects the private interest of the plaintiff rather than the public interest of the state. Given the above, it is at the latter's initiative that astrent is imposed. At the same time, however, it should not be overlooked that astrent also fulfils a parallel public law function, which is to shift the burden of monitoring the execution of the judgment to the plaintiff and to provide him or her with a corresponding financial incentive to relieve the state system of the enforcement authorities of judicial acts (Burkovska et al., 2022). It follows from the above that the astrent has a substantive procedural nature: on the one hand, it protects a private interest and is levied in favor of the plaintiff if there are grounds to do so, and on the other hand, it is paid for failure to comply with a court order. It is the latter feature that essentially distinguishes astrent from penalties, which, unlike

astrent, are a way of protecting civil rights and interests and are at the same time a measure of civil liability (Lutsenko, 2017; Kerimkhulle et al., 2022).

This dual nature of the astrent distinguishes it, among other things, from the purely procedural category of a court-ordered fine, which is always imposed at the initiative of the court. In this case, the amount of the court fine (at least the upper and lower limit) is clearly defined in legislation. The amount of astrent is usually not established at the legislative level in the states in which it has been implemented but is determined by the court, taking into account the principle of fairness, proportionality, and avoiding the benefit of illegal or unconscionable conduct. Thus, an intermediate conclusion can be drawn that astrent is not identical to any of the above institutions, and one should agree with the scholars who consider it a separate legal institution (Yaroshenko et al., 2021). In the categories of cases in which astrent is applied, the most contentious issue in theory remains whether it can be established with monetary obligations.

The debate on this issue reaches as far back as French jurisprudence. Illustrative in this context is the judgment rendered by the French Court of Cassation on 17 April 1956. Thus, under a final court decision, the city of Marseille was ordered to pay compensation to the owners of the expropriated property. Since the demands of the judicial act were not properly complied with, the court used the construction of a provisional astrent in case of the next delay in the payment of the relevant instalments. The Court of Cassation supported the decision and noted the lawfulness of imposing an astrent for failure to fulfil a monetary obligation if the creditor does not have an effective remedy for restoring the breached right. Examining the raised issue through the prism of Ukrainian legal realities, it is necessary to analyze in more detail the mechanisms which, taking into account the current legislation (both civil and legislation on enforcement proceedings), can be applied when a court decision that has entered into legal force is not fulfilled by the defendant.

Current Ukrainian civil law enables the application of the provisions of Article 625, Paragraph 2 of the Civil Code for the recovery of interest, three percent per annum, and inflationary costs after the court decision to award money has entered into legal force. Moreover, based on judicial practice, this provision applies to any monetary claims arising out of a civil legal relationship. Since an obligation is not terminated by a court ruling (for the recovery of a debt, etc.), the mere existence of a court ruling on the satisfaction of the creditor's claims does not exempt the debtor from liability for non-performance of the monetary obligation and does not deprive the creditor of the right to receive the amounts specified in Article 625, Paragraph 2 of the Civil Code.

The provisions of the legislation on enforcement proceedings, are also the easiest to incentivize the debtor to enforce the judgment to recover the money. Monetary claims are secured by the enforcement mechanism of Article 26, Paragraph 7, and Article 56 of the Law of Ukraine "On Enforcement Proceedings" (2016): the state enforcement officer has the right to seize the property of the debtor in order to enforce the execution of the judicial act. Thus, a key point in addressing the issue of the application of an astrent to monetary obligations is whether the measure is excessive, given the legislative provisions mentioned above.

As can be seen, the legislation provides a toolkit to avoid a debtor acting in bad faith to alienate property that could potentially be foreclosed on for monetary obligations. That is, the satisfaction of the creditor's claims does not depend entirely on the will of the debtor. It is the attachment that ensures the debtor's incentives and protects the creditor's interests. Also, in the case of non-performance of a monetary obligation confirmed by a judgment, the debtor runs the risk of suffering additional monetary losses. So, it seems that the timely execution of judicial acts on pecuniary obligations should be achieved through the use of the above mechanism inherent in Article 625 of the Civil Code, and in Part 7, Article 26, Article 56 of the Law of Ukraine "On Enforcement Proceedings" (2016). Accordingly, the exclusion of pecuniary obligations from the scope of the astrent does not appear to be critical in terms of ensuring effective protection of the plaintiff's interests due to the possibility for the public enforcer to actively participate in the enforcement of the judgment on pecuniary claims and additional charges under Article 625 of the Civil Code.

In cases where non-monetary obligations are involved, however, the plaintiff's interest in obtaining the result expressed in kind remains unprotected because of the substantive law and the law on enforcement proceedings. It follows from the provisions of the aforementioned Concept that a court should have the right to apply an astrent if an action to enforce an obligation in kind has been filed (Paragraph 5.3). Thus, it is proposed that the scope of astrent should be limited solely to such a method of protection as the enforcement of an obligation in kind, which constitutes the very content of the obligations' legal relationship. However, such a limitation seems unreasonable. Since the proprietary claims, by their legal nature, are aimed at obtaining performance in non-monetary form and are connected either to an obligation to transfer the item (vindication claim) or to a specific conduct expected from the defendant (negatory action, action to establish a limited right in rem), there are no grounds that prevent the application of compensation for the expectation of performance of the judgment if performance cannot be carried out through the actions of a public executor

(Drozdov and Basysta, 2023; Shahini et al., 2022). In particular, such an approach is justified in cases where a movable object is claimed and the defendant resists handing it over in every possible way. Exceptions are claims for the recognition of a right (both confirming a right and establishing a right) and claims for the recognition of the absence of a right. Although the claims in question are also non-monetary in nature, the nature of the claims does not require the defendant to take active personal action or, on the contrary, to refrain from doing so. In other cases where it is necessary to break the will of the debtor, which prevents the proper enforcement of a court order, the application of an astrent to the proprietary claims seems justified (Kot, 2017; Shebanina et al., 2022).

Apart from proprietary legal relations, it is advisable to use the institution of astrent in other civil legal relations as well, namely: claims arising from corporate legal relations (e.g., failure to provide documents and information to participants on the activities of a business company); claims within the framework of intellectual property rights protection (e.g., claims to prohibit the use of others' intellectual property objects); claims related to bankruptcy of a person (a common category of disputes is reclamation of documents, seals by a new insolvency officer from a former manager or insolvency officer); claims to protect personal non-property rights (refutation of false information, discrediting business reputation, etc.); claims to protect civil rights in information relations (provision of information, non-disclosure of information, etc.) (Abudaqa et al., 2021; Zhakupov et al., 2023).

Thus, the most significant is the introduction of the institution of astrent in such categories of cases where the execution of the judgment is in any way dependent on the will of the debtor: when the judicial decision obliges the defendant to perform actions of a factual or legal nature not related to the fulfilment of his or her monetary obligation. Such an obligation may exist as part of proprietary, binding, corporate, information, intellectual property, or other legal relationships. Thus, it is not uncommon for individuals to take legal action to compel the conclusion of a contract if the other party avoids concluding it (Tlebayev et al., 2020). The possibility of pre-contractual liability by court order exists as an exception to the principle of freedom of contract, and this exception can only be applied in cases directly provided for by law. Once the relevant court decision has become enforceable, the debtor is required to perform additional actions to achieve the result desired by the plaintiff (Blahuta and Basysta, 2022; Nabieva et al., 2021). So, under the following conditions, there are grounds for imposing an astrent.

For instance, in case 757/45133/15-z, the local and appellate courts upheld the claims and ordered PJSC "Kyivenergo" to conclude an agreement with the

plaintiff on the supply of electricity to the property complex. The Grand Chamber of the Supreme Court (hereinafter "the GC SC") upheld the decision of the courts of previous instances, because it was the obligation of the electricity supplier to conclude an electricity supply contract and that the proposed contract was in line with the model contract. The refusal of the electricity supplier to conclude a contract in such a case contradicts the requirements of Article 6, Paragraph 3, Articles 627 and 630 of the Civil Code and the Rules for the Use of Electricity. If the supplier fails to fulfil the obligation to conclude a corresponding contract under the model contract, such a right shall be protected by a court based on Article 16, Paragraph 1, Part 2 of the Civil Code by obliging the supplier to conclude it (Resolution No. 905/1926/16…, 2018).

It is also quite common for products delivered by a supplier not to be accepted by the purchaser for certain reasons, resulting in a violation of the rights and interests of the supplier, who has made the effort and expenditure to fulfil the obligation. In this context, the position of the GC SC, cited in the Decision on Case No. 905/1926/16 of 11.09.2018, is indicative (Judgment of the European Court of Human Rights, 2011). The GC SC justified its position by the fact that the transfer and acceptance act is only evidence of the parties' fulfilment of their obligations under the contract, and the signing of the act cannot be regarded as a separate obligation of the parties to fulfil their contractual obligations, and therefore a subject of action cannot be the establishment of circumstances, in particular the obligation to execute documents which serve as evidence in the case. Consequently, because of this position, it is appropriate to formulate the claim precisely as "oblige the defendant to accept the products" rather than "oblige the defendant to accept the products by signing the transfer and acceptance acts" (Judgment of the European Court of Human Rights, 2011).

At the same time, the argumentation given seems inappropriate if the defendant has an obligation that can be fulfilled only by performing legal acts, e.g. when the leasing contract states that the object of the lease given into use for the lessee becomes the property of the lessor upon full payment of the lease payments and signing of the transfer and acceptance act of the leasing object by the parties, and the lessor refuses to sign it (Judgment of the European Court of Human Rights, 2011).

In particular, in case No. 910/1607/17 (2017), the Court of Appeal, with the position agreed by the Court of Cassation as part of the SC (Decision of 08.05.2018.) noted that the claimed demand of Kievline LLC to oblige Ukrainian Leasing Fund LLC to sign an act on the transfer of ownership of the leasing object will not lead to the renewal of the violated right of the claimant and such demand cannot be enforced, as there is no mechanism for the enforcement of the

relevant decision. Considering the above, the Court of Cassation SC agreed with the appellate court's conclusion that the claim of Kievline LLC to oblige the defendant to sign the act on the transfer to it of ownership of the leasing object was not satisfied, given the incorrect way the plaintiff had chosen to protect his civil right, which was ineffective and such that would not lead to restoration of the infringed right of the plaintiff (Kulinich, 2016; Sabirova et al., 2018).

It appears that the introduction of the institution of astrent will significantly change the view on the effectiveness of the protection method in the form of in-kind performance of obligation: oblige an act of factual nature or even oblige an act of legal nature (conclude a contract, sign an act, etc.) (Spasibo-Fateeva, 2021; Zhansagimova et al., 2022; Ostanin, 2022). Thus, an objective impossibility should be understood, in particular, as the destruction of an individually defined item that the debtor was obliged to transfer to the creditor; the adoption of an act by a public authority or local government, which would be contrary to such performance of the obligation, etc. (Kharitonov & Kharitonova, 2011; M Abudaqa et al., 2019).

In conclusion, while the utility of astrent in Ukrainian legislation primarily addresses civil and procedural law, its implications extend into the realm of criminology as well. Criminological theory often emphasizes the importance of not only punishing unlawful behavior but also fostering compliance with the law and legal judgments. In this sense, astrent serves a preventative function. By imposing financial sanctions for non-compliance with court orders, astrent embodies the criminological principles of deterrence. Deterrence, a concept widely studied and acknowledged in criminology, posits that the prospect of punishment can prevent crime (Tomashevski and Yaroshenko, 2020). It operates on the notion that individuals will often weigh the consequences of their actions before engaging in non-compliant behavior. In the context of enforcing court judgments, the threat of an astrent functions similarly by creating a financial disincentive for avoidance or delay in fulfilling court-mandated obligations (Prylipko et al., 2021).

Furthermore, criminology examines the effectiveness of sanctions in terms of proportionality, consistency, and certainty. The flexibility of astrent, where its amount is determined by the court with consideration for fairness and proportionality, reflects these criminological standards. By tailoring the astrent to the specifics of the case, the legal system ensures that the punishment is not only just but also an effective deterrent, which criminology advocates for as a means of maintaining order and discipline within society (Nahornyi, 2023; (Komilova et al., 2021). Additionally, from a criminological viewpoint, the introduction of astrent also intersects with the concept of restorative justice, which focuses on the

needs of the victims. By financially compensating plaintiffs for the defendants' non-compliance, astrent aligns with restorative justice goals by directly addressing the harm to victims and ensuring they are not further disadvantaged by the delays in legal processes (Rexhaj et al., 2023).

Astrent's public law function, which subtly transfers the responsibility of ensuring compliance onto the plaintiff by incentivizing them financially, can also be seen through a criminological lens (Tatsiy and Serohina, 2018). This mechanism relieves the state of some enforcement duties, potentially allowing for a more efficient allocation of enforcement resources, which is critical in the face of systemic limitations and resource constraints that impact legal systems globally. In summary, although the notion of astrent is rooted in civil and enforcement law, its implications resonate with criminological theories on deterrence, sanction effectiveness, and victim restoration. This nexus underscores the multidisciplinary nature of astrent and its relevance in a wider context of legal and criminological discourse. As Ukraine continues to refine its legal mechanisms, the incorporation of criminological principles into the application of astrent could further solidify its role in promoting a more compliant and just society, reflecting a holistic approach to law enforcement and legal adherence within its jurisdiction.

**Conclusions**

In summation, the proposed integration of the astrent institution into Ukrainian civil legislation marks a significant stride toward reinforcing the judicial protection of civil rights, which is fundamental to civil law. This measure also underpins the principle of safeguarding civil rights across various civil domains, including those about information and intellectual property. The study posits that the astrent mechanism can serve as a critical tool not only for civil compliance but also from a criminological standpoint, enhancing the enforcement of non-monetary judicial orders and acting as a deterrent in criminal justice contexts.

Accordingly, the researchers recommend amendments to the Civil Code of Ukraine to incorporate provisions on astrent. These provisions should encapsulate key conceptual ideas: allowing courts to establish an astrent upon a plaintiff's request irrespective of contractual clauses; deeming any contractual rejection of an astrent null and void; imposing the astrent in monetary terms for non-compliance with a court order of a non-monetary nature, with performance contingent solely on the debtor's will; determining the astrent as either a lump sum or as a periodically increasing amount over time; and providing for the

release from the astrent payment only with the claimant's consent via a settlement agreement or due to the objective impossibility of executing the judgment.

For the actualization of the astrent within the Ukrainian legal framework, a thorough examination of procedural implications is essential. This includes amendments to both procedural law and the legislation governing enforcement proceedings, addressing issues such as the processing of astrents through enforcement documents, the concurrent resolution of astrent and judgment, the procedural articulation for astrent demands post-judgment, and the establishment of reasonable deadlines for execution or adherence to existing legislative timelines when imposing astrents.

Incorporating these measures into the Ukrainian legal system is anticipated to fortify the effectiveness of judicial protection methods, offer a robust defence mechanism for plaintiffs, and significantly contribute to the criminological objectives of enhancing compliance and bolstering the enforcement aspect of the criminal justice system. This initiative aligns with the criminological discourse on ensuring that legal sanctions are effective and enforced, which is fundamental to the maintenance of social order and the deterrence of crime.

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