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Specialized Financial Court: experience of the United Kingdom and prospects for Ukraine

Abstract. The increase of loan defaults is one of the major factors which adversely influence the activity of the banking institutions and banking system in general. Moreover, it results in the financial destabilization and the deterioration of the Ukrainian investment climate. The issues of arrears in the sphere of Banking and Finance together with the inconsistency in judicial approach applied in the course of litigation related to the loan defaults have a negative impact on the Banking ability and willingness to support the development of the national economy. All the mentioned factors lead to the decline of the pace and scale of social production, the welfare of the society. Therefore, the amount of credit debt owed by banking institutions in Ukraine amounts to almost half of their total loan portfolio. This proves the necessity to find new approaches to resolve the challenging situation that exists on the financial market. The international experience of high working standard is deemed to be of a particular importance. Our study is devoted to the analysis of the relevance of establishing the separate specialized financial or credit court in Ukraine. The experience of the United Kingdom in this regard has been analysed and proposals have been made to improve the national judicial system. It has been proved that the creation of a specialized financial court may complicate the work of the judicial system and affect their efficiency. It is argued that the appropriate specialization of individual judges within the commercial jurisdiction and implementation of particular criteria and thresholds for the financial cases to be allocated to and heard by the commercial courts of Ukraine are much more efficient and effective steps.

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Анотація. Збільшення безнадійної кредитної заборгованості на фінансовому ринку є одним із основних чинників погіршення фінансового стану його суб'єктів (зокрема, центрального банку, банків та небанківських фінансових установ) і, як наслідок, фінансової дестабілізації економіки країни в цілому. Це, одночасно з недосконалим підходом судової влади, призводить до істотного зменшення підтримки розвитку реального сектору шляхом кредитування, негативно позначається на темпах і масштабах суспільного виробництва, інвестиційному кліматі, добробуті суспільства. Так, обсяг кредитної заборгованості банківських установ в Україні становить майже половину від їх загального кредитного портфеля. Водночас зменшення такого обсягу відбувається досить повільними темпами. Зазначене актуалізує необхідність розробки нових підходів вирішення ситуації, яка склалася на фінансовому ринку, зокрема, з урахуванням міжнародного досвіду.
Стаття присвячена аналізу доцільності створення окремого спеціалізованого фінансового або кредитного суду в Україні. Проаналізовано досвід Великобританії в відповідному напрямі та сформульовано на цій підставі пропозиції щодо удосконалення національної судової системи. Доведено, що створення спеціалізованого фінансового суду може ускладнити її роботу та негативно позначитися на ефективності. Аргументовано, що більш позитивним заходом у цьому напрямі буде фокусування на поглибленні спеціалізації окремих суддів у межах уже функціонуючої системи судової влади, зокрема, у межах господарської юрисдикції. Запропоновано запровадити критерії віднесення спорів до категорії фінансових справ і віднести такі спори до господарської юрисдикції.
Ключові слова: кредитна заборгованість; фінансова дестабілізація; спеціалізований фінансовий суд; судова система; банк; фінансова система; Великобританія; Україна.

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Аннотация. Увеличение безнадежной кредитной задолженности на финансовом рынке является одним из основных факторов ухудшения финансового состояния его субъектов (в частности центрального банка, банков и небанковских финансовых учреждений) и, как следствие, финансовой дестабилизации экономики страны в целом. Это, одновременно с несовершенным подходом к рассмотрению профильных споров, приводит к существенному уменьшению поддержки развития реального сектора путем кредитования, негативно сказывается на темпах и масштабах общественного производства, инвестиционном климате, благосостоянии общества. Так, объем кредитной задолженности банковских учреждений в Украине составляет почти половину от их общего кредитного портфеля. В то же время уменьшение такого объема происходит довольно медленными темпами. Указанное актуализирует необходимость разработки новых подходов к выходу из соответствующей ситуации, в частности с учетом международного опыта.
Статья содержит анализ целесообразности создания отдельного специализированного финансового либо кредитного суда в Украине. Проанализирован опыт Великобритании в соответствующем направлении и сформулированы на этом основании предложения по совершенствованию национальной судебной системы. Доказано, что создание специализированного финансового суда может усложнить работу судебной системы, негативно сказаться на ее эффективности. Аргументировано, что более позитивным мероприятием в этом направлении будет фокусироваться на углублении специализации отдельных судей в пределах уже функционирующей системы судебной власти, в частности, в границах хозяйственной юрисдикции. Сформулировано предложение ввести критерии, по которым споры будут относиться к категории финансовых и будут подлежать рассмотрению в хозяйственной юрисдикции.
Ключевые слова: кредитная задолженность; финансовая дестабилизация; специализированный финансовый суд; судебная система; банк; финансовая система.

1. Introduction

The phenomenon of loan defaults is one of the core factors which weaken the banking institutions and banking system in general. Furthermore, it leads to the financial destabilization and to the deterioration of the investment climate of the country. The issues of arrears in the sphere of Banking and Finance along with sometimes inconsistent judicial approach applied in the course of litigation related to the loan defaults have an adverse impact on the Banking ability and willingness to support the development of the national economy, which results in declining the pace and scale of social production, the welfare of society and so forth.

The mentioned pattern of correlation between the defaulted loans and economic implications is also applicable to Ukrainian banking system. According to the National Bank of Ukraine, more than 130,000 domestic court disputes are related to the financial sector. This is a quarter of all trials in the country. In turn, the amount of debt that is the subject of litigation with borrowers currently amounts to UAH 144 billion. The total sum of security in such claims is UAH 14 billion. Attorneys who work on the relevant cases note that the courts usually hear loan defaults` cases for years, until banks lose the need in judicial approach and write off debts due to uneconomical and lengthy litigation (NBU, 2021).

Under the said circumstances, the rate of lending by banking institutions in Ukraine is close to zero. The procedures to take out the loan are complicated and far from being economically attractive. The NBU measures to encourage issuing loans by decreasing the interest rates do not work. The Banks have no other choice but to maintain their own financial stability by increasing the requirements and criteria for borrowers' eligibility and keeping lending rates quite high.

According to experts the establishment of a new specialized financial court as a tool to resolve the disputes on loan defaults expeditiously and efficiently might be the appropriate solution of the above-mentioned issue. In their view, this approach is in line with international practice and the experience of United Kingdom, in particular. It is argued that the mentioned measure can also significantly enhance the level of guarantees for the due functioning of the banking system and it can reduce or even prevent the abuses on the relevant markets by their members (Vinokurov, 2021). The efficiency of the creation of the above court is the core subject of this research. The focus of the article is also made on the alternative possible approaches that can be applied in order to resolve the problem of the lengthy and uneconomical litigation.

2. Brief Literature Review

The analysis of the issue of arrears in the market economy and its recovery has been the focus of both domestic and foreign scholars. In particular, substantive contributions to the study of the relevant topics have been made by: V. Heyets, O. Dzyublyuk, A. Moroz, L. Prymostka, E. Keyd, D. Sinki, P. Rouz and others.

Despite the fact that the topic of the defaulted loans is not new and it has been heavily discussed and researched, the unified solution for the Ukrainian market has not been created yet. Furthermore, the proponents of two opposite approaches - to create the special court that would hear the cases on the defaulted loans and not to create it - do not sound persuasive enough to plead their position in a firm and watertight way.

There are many case studies on the role and rationale of establishing specialized international not financial but commercial courts. In particular, the work: Julien Chaisse & Xu Qian «Conservative innovation: the ambiguities of the China international commercial court» (Julien Chaisse and Xu Qian, 2021), Zhengxin Huo «Comparing the international commercial courts of China with the Singapore international commercial court» (Huo et al., 2019), Gary F. Bell «The New International Commercial Courts - Competing with Arbitration - The Example of the Singapore International Commercial Court» (Bell, 2018), Marishka Neekilappillai «Netherlands Commercial Court Regelgevingsconcurrentie op de markt voor geschilbeslechting» (Neekilappillai, 2017), Stephan Wilske «International Commercial Courts and Arbitration - Alternatives, Substitutes or Trojan Horse» (Wilske, 2019), Eddy Bauw «Commercial Litigation in Europe in Transformation: The Case of the Netherlands Commercial Court» (Bauw, 2019), Alexandre Biard «International Commercial Courts in France: Innovation Without Revolution?» (Biard, 2019), Giesela Rühl «The resolution of international commercial disputes - what role (if any) for continental Europe?» (Rühl, 2020) and others. The work of Christoph Antons «Doing Business in Indonesia: Enforcement of Contracts in the General Courts and the Creation of a Specialized Commercial Court for Intellectual Property and Bankruptcy Cases» (Antons, 2015) particularly attracted our attention. In the mentioned

research the author outlines the creation of an Indonesia's Commercial Court, which specializes in bankruptcy and intellectual property cases only. The article of David Louis Finnegan «Judicial reform and commercial justice: the experience of Tanzania's commercial court» (Finnegan, 2004) is also very profound. In the said article the author examines the background behind the creation of the Tanzania's Commercial Court, summarizes the Court's structure and operation, and offers a brief assessment of its performance and impact. Despite the fact that there are some number of articles available, current tendencies as for the creation of the specialized national courts remain insufficiently researched. Moreover, the above-mentioned existing studies focus on other countries' experience whose judicial system is different from the Ukrainian one.

B. V. Derevyanko argued the necessity of creating a specialized not financial but Investment Court of Ukraine - The High Investment Court of Ukraine (Derevyanko, 2020) to provide a more efficient protection of the investments, financial markets and economy of Ukraine in general. Some proposals of the researcher may be applicable in resolving the question of the establishment of a domestic specialized financial court.

The tendency to create the specialized courts in Ukraine started few years ago with the formation of two new courts - The High Intellectual Property Court of Ukraine and the High Anti-Corruption Court of Ukraine. Despite the fact that the said courts were created and they are functioning, the mentioned approach shows that the existing structure of the judicial system is far from being flawless and not efficient enough to face the challenges of the society. It proves that the classification of the cases on the ground of whether the claimant is a natural person, legal entity or governmental body is not always relevant and capable to meet the requirements and resolve the struggles that exist in a society.

3. Purpose

The aim of the article is to analyze the existing structure of the judicial system in the United Kingdom, in particular the principles of allocating the financial disputes and the cases, the rules and approaches applied while hearing the mentioned cases by different courts (court's divisions), the reasons behind the existing structure and rules; the prospects of the implementation of the said system, its efficiency and viability for the Ukrainian judicial system.

4. Methodology and Data

The analysis of the judicial system of two countries - Ukraine and the United Kingdom of Great Britain - is carried out through a comparative method. The choice of the Great Britain as a target and example country for a comparative research is made due to its substantial place on the world financial market. London is one among the biggest financial centers, thus the jurisdiction of England and Wales deals successfully with a numerous different cases in the sphere of Banking and Finance arising out of different disputes between the companies and financial institutions, banks and between the latter and individuals. Furthermore, the jurisdiction of English courts is recognized globally as highly reputable, reliable and efficient for dispute resolution.

5. Results

According to article 17, paragraph 2, of the Law of Ukraine «On the Judicial System and the Status of Judges in Ukraine» the judicial system of Ukraine consists of:

1) local courts;
2) appellate courts;
3) the Supreme Court.

The courts specialize in civil, criminal, economic, administrative cases and cases in administrative wrongs. At the same time subsection 2 of the article 18 of the said Law provides that in the cases defined by law, as well as by a decision of a meeting of judges of the relevant court, the specialization of judges can be introduced for the purpose of hearing the particular types of cases.

In order to deal with certain categories of cases under the above-mentioned Law, the highest specialized courts in the judicial system were implemented: The High Intellectual Property Court and the High Anti-Corruption Court (article 31).

Taking into account that in Ukraine courts of different jurisdiction (administrative, economic and civil) can hear the financial cases depending on whether the party to a case is a company, individual or a state institution, the approach to a resolution of the cases usually varies. Hence there are disputes with rather «random» outcomes, inconsistent with the approach of the majority

and with the core tenet of the created «precedents». This phenomenon has an adverse effect on the Banking system and as financial disputes generally involve significant money it leads to the other implications on the financial domestic market. Due to the above mentioned inconsistencies the NBU, the banking community and experts vouch for a creation of the specialized financial court. But the establishment of such court is a time and money consuming process, it will lead to the changes in the laws governing the judicial system and the administration of Justice in Ukraine (delimitation of jurisdiction and transfer of cases from the existing courts to a financial court, etc.) (Kislyak, 2021). To be more persuasive and precise, according to the Law «On the State Budget for 2019», UAH 318 million was spent on the establishment of a specialized Supreme Anti-Corruption Court (241 million UAH was spent directly by the Supreme Anti-Corruption Court, and 76,9 million UAH on the work of the Anti-Corruption Court Appeal Chamber). (About the State Budget of Ukraine for 2019 Law of Ukraine). Thus, 291 million UAH are allocated for the functioning of the said court in 2020 (About the State Budget of Ukraine for 2020 Law of Ukraine); and 374,9 million UAH of public funds in 2021 (About the State Budget of Ukraine for 2021 Law of Ukraine).

Concurrently the other experts are contemplating an alternative option, in particular, to create the separate chambers specialized on financial disputes within the structure of existing courts. According to this view, such approach will facilitate the redistribution of the workload in the existing courts, and lead to the selection of judges with a particular specialization and more profound training in the relevant sphere of expertise.

However, since the case on defaulted loan can be heard by a court of administrative, economic and civil jurisdiction depending on the parties to a dispute, the creation of a separate chamber in the structure of an existing court will lead to the need to establish such chamber in the structure of each existing court in Ukraine. The said is deemed to be inefficient, in particular in terms of costs (number of judges, upgrading and ensuring adequate qualifications of judges, training, etc.). It is therefore considered more effective among professionals to have an independent financial court system consisting of the first instance, appellate and cassation courts (Kislyak, 2021). But there are also opposite views. Thus, the representatives of the National Bar Association, the National Association of Arbitrators of Ukraine and the Independent Association of Banks of Ukraine are reluctant to the idea to create the separate specialized court for the hearing the disputes over defaulted loans and the protection of investors in Ukraine (Ukrainian National Bar Association (UNBA), 2021). They question the efficiency of the afore-mentioned proposal.

Some other experts, in particular, proponents of the creation of the new specialized court, think that the Court that hears the loan defaulted cases in the UK falls under the category of the Financial Court. Few countries have already implemented relevant experience (they established the separate courts or tribunals that function in compliance with the rules of Anglo-Saxon law). These are such countries as the UAE, Singapore and, recently, Kazakhstan (Vinokurov, 2021).

Therefore, in the next part of the research the focus will be on whether the experience of the mentioned countries is relevant to Ukraine; what are the peculiarities and reasons for the establishing the financial court in the said countries and whether it will contribute to the solution of the existing domestic problems.

From the outset, it seems requisite to point out that, on international level, the courts in question are called commercial courts. In the countries such as UAE and Kazakhstan, they are established as international arbitration (commercial) courts, and the adjudication of cases in such courts is not limited to financial matters. In general, international commercial arbitration is the dominant instrument for resolving disputes between companies of different countries (unlike the State courts). Such tendency can be reasonably comprehended and explained. It is much easier to enforce arbitral awards than foreign judgments (KIACA, 2021) almost in any country all over the world. In contrast, in the United Kingdom, the commercial court does not focus exclusively on international commercial disputes (although their share is still higher than that of local commercial disputes). In order to understand the particular features of the functioning of the Court in the mentioned country, it is deemed to be appropriate to examine and analyze its judicial system (Figure 1).

One of the main factors distinguishing it from the Ukrainian judicial system is the different approach to case classification and courts classification which is an understandable fact due to the difference of legal systems. Thus, the main distinction is that the cases in the UK overall are divided into criminal and non-criminal (civil) cases. The concept «Civil case» includes all cases that

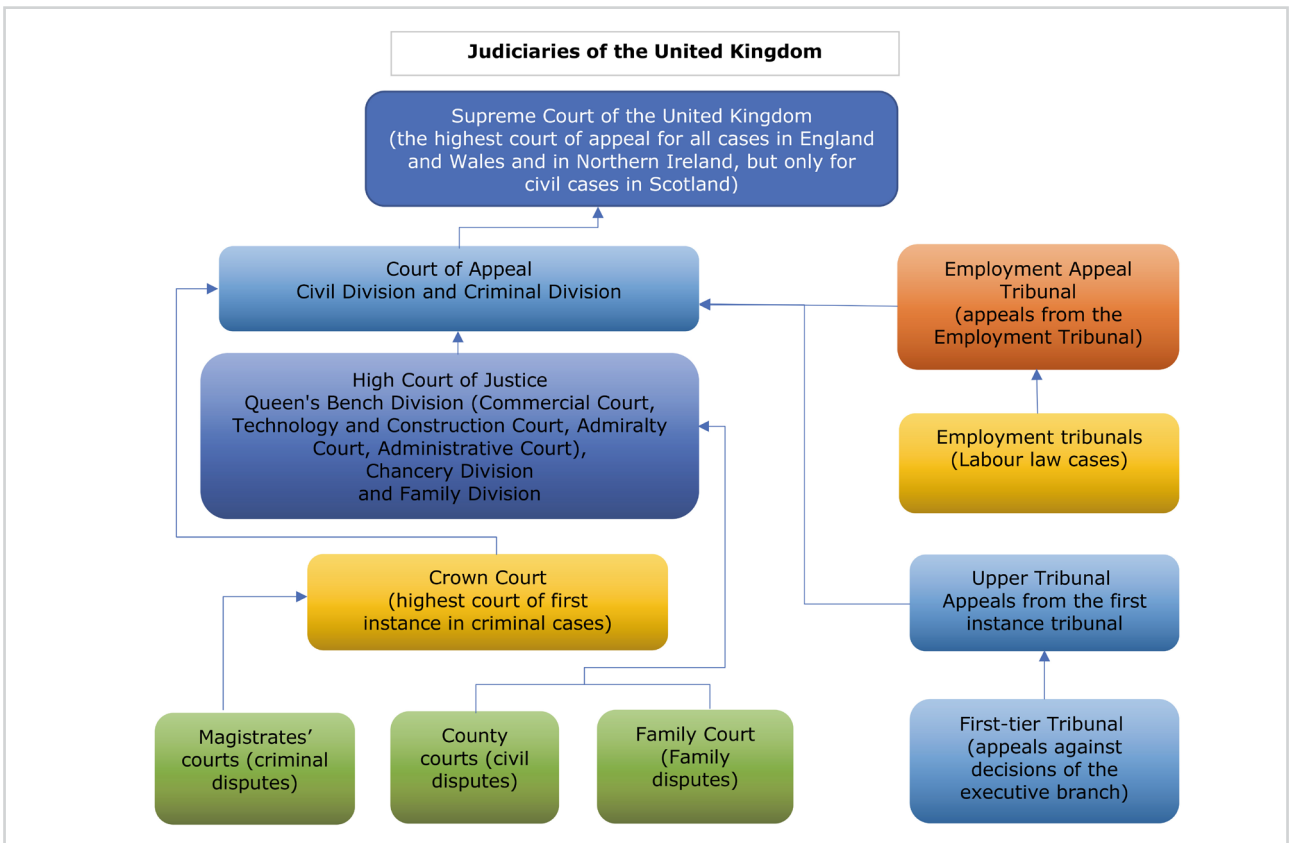

Figure 1:
Judiciary of the United Kingdom
Source: Compiled based on the website of the Supreme Court:
https://www.supremecourt.uk/about/uk-judicial-system.html

do not fall under the category of criminal one (Thomas & McGourlay, 2020). Therefore, in the UK the rules that regulate the proceedings are provided mainly by Civil Procedure Rules and Criminal Procedure Rules (Procedure rules).

The cases are also classified on the ground of the level of seriousness and complexity. Thus, there are two types of courts of first instance that may try the criminal cases (the Magistrates Court and the Crown Court), the choice of court depends on the extent of harm caused by the offense and by the seriousness of the offense. The same logic is applied to the non-criminal cases. The small claims are usually heard by the County courts but when the sum of damages is high (50 000 GBP and more) or a lot of evidence and or witness evidence is involved, the case shall be heard by the High Court of England and Wales as the Court of the first instance. It means that the status of the claimant (whether the claimant is a natural person or a company) does not have much relevance to the choice of the non-criminal court as the other criteria are applicable and prevail.

The Commercial Court in Great Britain is part of the High Court of England and Wales. It was founded in 1895, when the judges of the Bench Royal of the High Court of England and Wales introduced a special «Commercial List». There were several reasons for the creation of the court:

1) commercial litigation was slow and expensive;
2) judges were often not competent at commercial law or business practice;
3) increasing number of commercial arbitration courts constituted a threat to the traditional courts hearing commercial cases.

The key to the reform was to insure the hearing of the commercial cases by the professional judge with the relevant specialization. The introduction of the Commercial Court was a success. The first commercial judge, Sir James Matthew, showed that an experienced judge who applied flexible procedures could hear complex commercial cases quickly and in a cheap way (Lord Hamblen, 2020).

Since its establishment the vast majority of cases heard by the Commercial court was related to the international trade (in particular, transnational trade; cases related to the bills of exchange, letters of credit and other instruments of payment; shipping, insurance, etc.). Particular attention was

paid to shipping, as well as to disputes over freight, demurrage, cargo claims and other issues related to bills of lading and charter parties. In addition to international trade, the court dealt with banking and financial services, commercial intermediation, rail transport and even commercial fraud.

In general, the law did not define the clear list of cases that could be heard by the Commercial Court, and judges therefore decided at their discretion. This practice partly continues today. In particular, pursuant to Part 58.1 of the Rules of Civil Procedure, a «commercial action shall include any claims relating to:

a) a business document or contract;
b) the export or import of goods;
c) the carriage of goods by land, sea, air or pipeline;
d) the exploitation of oil and gas reserves or other natural resources;
e) insurance and re-insurance;
f) banking and financial services;
g) the operation of markets and exchanges;
h) the purchase and sale of commodities;
i) the construction of ships;
j) business agency; and
k) arbitration» (Part 58 - CC). The list is not exhaustive.

However, the profile of the court's work has changed over the years. The category of commercial dispute has also changed. Today, almost 75% of cases heard refer to the international trade and insurance disputes which proves that The Commercial Court has its highly recognizable reputation for resolving commercial disputes (The Commercial court of England and Wales). The Court now handles many more banking and financial disputes than previous years, as well as disputes (based in contract or tort) between high net worth individuals from around the world (CCR, 2019).

Taking into account the above, it is requisite to point out that it is inaccurate to refer to the experience of the UK while arguing and fighting for the importance and necessity of creation of the separate special court in Ukraine which would hear the cases arising out from the relations in financial and banking spheres.

It is important to remember that the Judicial system and the core classification of cases in the UK differ from the Ukrainian ones. Moreover, the Commercial Court hears other types of cases, the cases in the sphere of finance and banking Law are not the only cases heard by the said Court. Commercial Court is the Division within the High Court of England and Wales and it hears a wide range of cases, the financial and banking cases including. Thus, the structure of the High Court of England and Wales together with its divisions is outlined in Figure 2 as a citation from the web-site of Courts & Tribunals Judiciary.

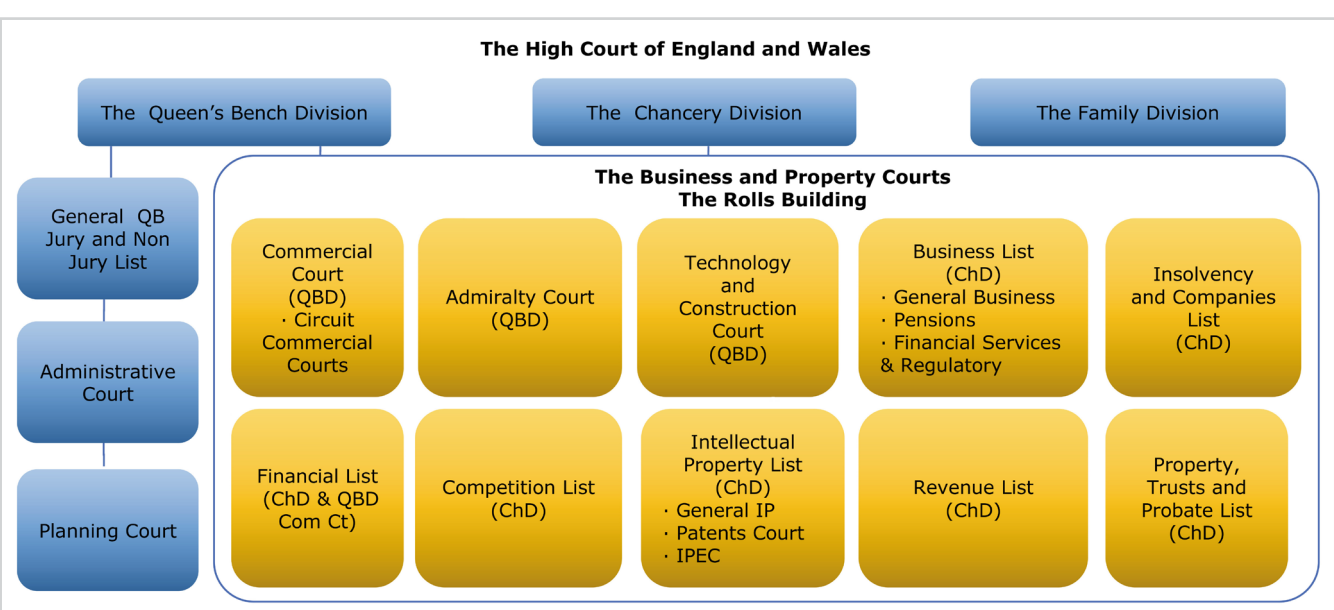

Figure 2:
The structure of the High Court of England and Wales
Source: https://www.judiciary.uk

If we compare the cases heard by the Commercial Court in England with those heard in Ukraine, it becomes rather obvious that in Ukraine the Commercial courts hear very similar range of cases brought by the legal entities and or by the individuals in some particular types of cases (such as corporate cases).

In the UK in response to the changing society and the new needs the so called «Financial List» was introduced on the 1st of October 2015. The said «tool» was introduced to bridge the expertise of the judges from the two divisions of the High Court of England and Wales - The Chancery Division and the Commercial Court in order to ensure highly competent and rapid resolution of the disputes in financial markets and banking sphere. Thus, the judges from both divisions with the relevant expertise and experience were included into the Financial List (2015).

The Claims which are relevant to the Financial List can be issued in both the Commercial Court or the Chancery Division of the High Court of England and Wales. The criteria for the cases that can be heard within the category of the cases from the Financial List are defined by the Rule 63A.1(2)(a) of the Civil Procedure Rules. These are the sum of the claim which shall be for more than 50 million GBP or equivalent; concurrently the case must be relevant to the financial market and require the special expertise otherwise the case may be transferred out of the Financial List despite even the fact that the threshold in terms of the amount of the claim is met. The third criterion according to the rule 63A.1(2)(c) constitutes the importance of the claim and its outcome to the financial markets in general. It is requisite to point out that if the case requires the particular expertise in the sphere of financial market and its outcome potentially may be of general importance to the financial market but it does not meet the criteria of sum threshold, it is still will be heard within the Financial List.

Below is a breakdown of the types of claims issued in the Financial List during 2019-2020. As indicated in Figure 3, 26% of these claims related to «other important issues with financial markets/ expertise required» (9), 14% concerned «banking transactions/ loans project finance» (5), 14% «bonds/debt securities» (5), 14% «derivatives/complex financial products» (5) and 14% pre-action injunctions (5) (Figure 3) (The CC Report, 2021).

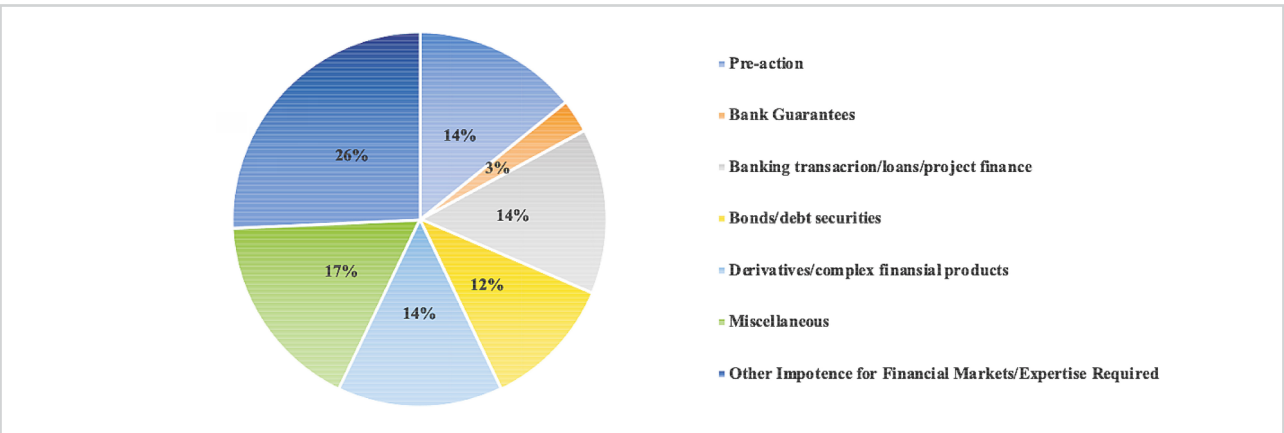

Figure 3:
Financial List - Breakdown by Type
Source: The CC Report (2021): https://www.judiciary.uk

The key objectives and the prospective achievement of the Financial List were analyzed by David Flack and Laura Feldman (Flack, 2015). In their research the authors highlighted that the creation of the Financial List by the English judiciary is not a reaction to other commercial dispute resolution facilities offered in other countries. The Financial List is not a competition to the arbitration and mediation, its creation aims to enrich dispute resolution and to ensure the commercial parties selecting English Law and the U.K. dispute resolution that English court system is able to keep up to date with the business and respond to the challenges of the real world which is highly dynamic.

The above experience of English judiciary proved to be highly efficient and up to date. It is deemed to be appropriate to implement the mentioned English approach in Ukraine bearing in mind the particular system and structure of the Ukrainian judicial system. Thus, it would be requisite to introduce certain criteria for the claims related to the financial market and the definite term

during which the claim shall be heard. As for the forum, it is esteemed appropriate to allocate the mentioned types of claims to the forum of the Commercial Courts in Ukraine. In this case, the decisive factor upon which the forum is chosen shall be the financial market relationship. Thus, the logic applied to the choice of the forum for the financial market claims shall be the same as the one used in the current disputes arising out of corporate relationship. Therefore, even if the Claimant is an individual, according to the article 20 of the Commercial Procedure Code of Ukraine the claim shall be brought to the Commercial Court. The same rule shall be imposed on disputes originating from the financial market relationship. The forum of the Commercial courts in Ukraine is deemed to be the most appropriate for the mentioned disputes due to the fact that the nature of commercial cases is very close to the financial and banking disputes; the quantity and the variety of cases in the Commercial Courts allow the judges to focus more on the peculiarity of the disputes and deep into the relevant issues more which make the case resolution rapid and efficient. In addition, such courts are less burdened than courts of other jurisdictions (Figure 4).

Furthermore, it is important to highlight the efficiency of such tool of the English Judiciary as the Financial List. Thus, the judges with the relevant expertise in the financial market may be distinguished and included into the particular List or Registry. When a claim is brought, it shall contain the specific reference, for example that the Claim is related to the financial market so to ensure the proper allocation to the judge with the relevant experience. Allowing the judges to specialize in a specific area of law and as a result in the particular types of claims will facilitate the performance of judicial duties and will lead to even better efficiency and expeditiousness of the disputes resolution (the relevant statistics of the Commercial Courts of England and Wales is shown in Figure 5 and Figure 6).

As for the initiative to create the separate special Court which would hear only the cases related to the financial market and banking Law, it is deemed to be less efficient than to implement

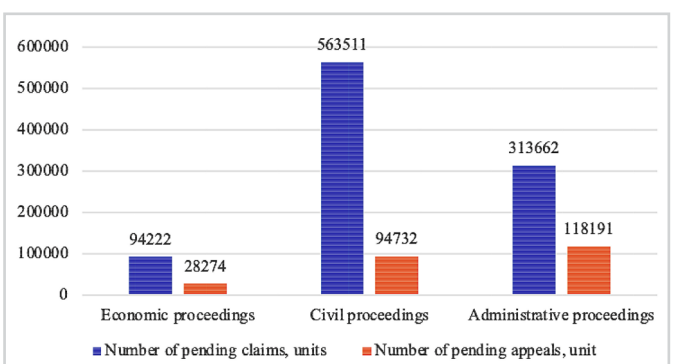

Figure 4:
Workload of Ukrainian courts, 2020
Source: https://court.gov.ua/inshe/sudova_statystyka/rik_2020

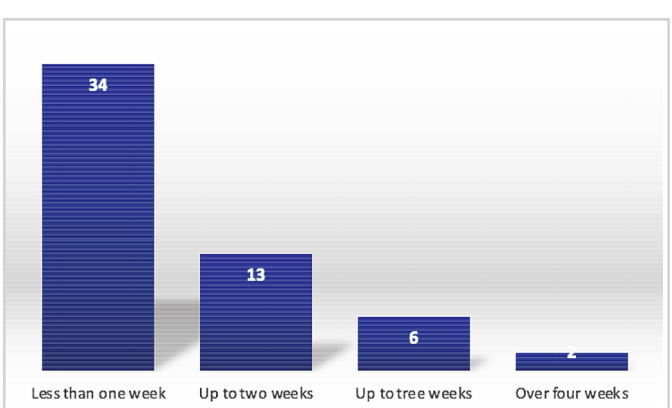

Figure 5:
Lengths of Trials by Commercial court of England and Wales (%)
Source: The CC Report (2021): https://www.judiciary.uk

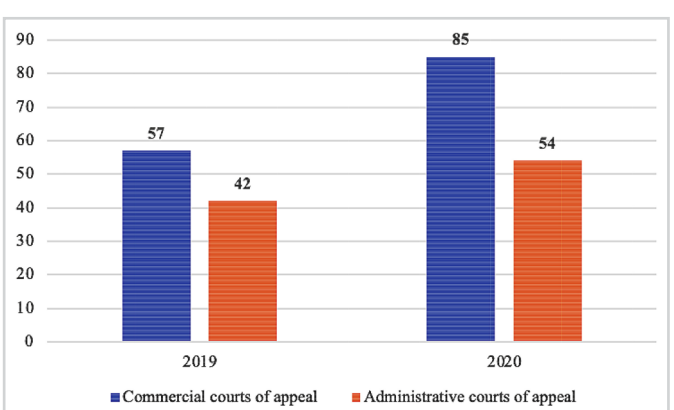

Figure 6:
Lengths of trials by Commercial and Administrative courts of appeal (Ukraine), days (%)
Source: https://court.gov.ua/inshe/sudova_statystyka/ogl_2020

new criteria of claims allocation and to allow the additional specialization of the judges within the existing Commercial courts. For instance, the creation of the High Court for IP cases and the High Anti-Corruption Court of Ukraine proves that the existing system was not perfectly ready to cope with the specific cases but it does not mean that if the new rules had been implemented, the cases in the sphere of IP Law and Corruption would not have been resolved in a more efficient way than they used to be heard.

Moreover, the tendency to create the special separate courts might be quite disruptive and can lead to the deterioration of the existing judicial structure and to the introducing a totally new one. The latter is deemed to be less wanted due to the cost efficiency and some other issues related to the state expenses and to the functionality of the Judicial system which can be blocked due to the compliance with procedural issues of appointing judges, their service terms etc.

Furthermore, the Consultative Council of European Judges highlights the following drawbacks of the specific specialization: it may lead to the prospective separation of specialist judges from the other judges who will tend to develop the practice very distinct from the other cases and which may be not in compliance with the general approaches and tendencies in the domestic judiciary. In addition to this, bearing in mind the necessity to ensure an adequate workload, the special courts may be located in the capital only or in some other territorial divisions covering a lot of other towns and even cities which may have an adverse impact on the access to the justice in terms of geographical distance (CCJE, 2012).

6. Conclusion

Taking into account the above reasoning and facts, it is deemed to conclude that it seems to be inefficient to create the separate Financial Court (Court for Credit (Loans) cases) in Ukraine. Such initiative will make the structure of the Ukrainian judiciary more complicated and diverse which may have an adverse impact on its functionality. Therefore, it is considered to be more appropriate to form the separate list of specialist judges with the relevant expertise in the financial market matters; to introduce new rules on the allocating the cases related to the financial market to the forum of the Commercial courts exclusively; to implement accurate criteria and thresholds in terms of sum of the claims, their relevance to the financial market and their importance for the further functioning and development of the financial markets.

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