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# Supreme court of Ukraine: Recent Developments of the Practice in View of the Extended Powers

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# Three groups of novelties:

Transfer of powers as to admission of a case to the proceedings of the Supreme Court of Ukraine from high specialized courts directly to the Supreme Court

Expansion of the grounds for review of cases by the Supreme Court of Ukraine

Expansion of powers of the Supreme Court of Ukraine in regard to granting an application for review



## Admission of a case to proceedings

1

- The number of applications admitted for review is much higher than 3 - 10% - the level which was in 2012-2014

2

- The Supreme Court will be forming its own approaches and court practice as to the main concepts related to reviewing of the cases

3

- As of today there are no uniform approaches to understanding of the concepts "unequal application of the law" and "similar legal relationships"





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## New grounds for reviewing

**Review of judgments based on the unequal application by courts of cassation not only of substantive law, but also of procedural law. For example:**

- **The court ruling terminating the case** (Supreme Court Resolution of 24 June 2015 №6-608tss15 and №6-609 tss 15)
- **The court ruling on return of appellate or cassation complaints** (Supreme Court Resolution of June 24, 2015 in the case №6-694 tss 15)
- **The court ruling on recognition of the enforcement document as not enforceable** (Supreme Court Resolution of June 17, 2015 in the case №3-256 gs 15)





## Review of judgments based on the inconsistency of court of cassation judgment with the legal opinion of the Supreme Court

At present there exist two formal positions of the Supreme Court of Ukraine on the application of Art. 23 of the Law of Ukraine "On Mortgage" that contradict each other, but both are binding and must be applied.

There is no procedural mechanism to solve conflicts of legal positions of SCU.

**Solution: incorporating a relevant provision to the procedural laws stating that each following legal position cancels the previous one**





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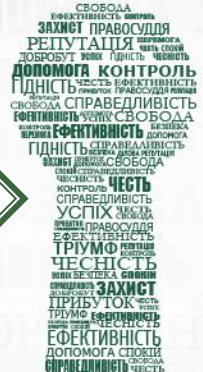
## Extension of powers of the Supreme Court in regard to granting an application for review

**There are only two grounds for the case to be sent for a new trial: (1) in case of reviewing on the basis of unequal application of procedural rules or (2) when international judicial institution establishes the fact of violation of international obligations by Ukraine.**

- In practice the Supreme Court greatly expanded the list of cases when a court case is sent for a new trial (e.g., Resolution of 24 June 2015 No. 6-502tss15 and of 24 June 2015 No. 3-262gs15)

**The decision of the Supreme Court of Ukraine should contain a conclusion on how the rule of law should be applied (legal opinion).**

- The judicial chambers of the Supreme Court in commercial and administrative matters do not form legal opinions on the application of a rule of law.



## **Positive aspects due to the expansion of the powers**

- 1. The number of admissions increased**
- 2. The Supreme Court has more powers to render final decisions**
- 3. The expression of legal opinions regarding the jurisdiction rules in certain categories of disputes, including:**

1) Claims of the Inspection of State Architectural and Construction control for the demolition of unauthorized construction shall be subject to review in administrative proceedings (Supreme Court Resolution of June 24, 2015 in the case №6-381tss15)

2) Cases regarding appeals of AMCU decisions are under the jurisdiction of commercial courts, excluding appeals of AMCU decisions in regard to public procurement. (Supreme Court Resolution of June 17, 2015 in the case №3-256gs15)

3) Clarification of the jurisdiction rules with regard to claims to private persons and legal entities (Supreme Court Resolution of July 1, 2015 in the cases №6-745tss15 and №6-467tss15)



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**THANK YOU FOR ATTENTION!**

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