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Place of Commercial Cases in the Agreement Between Ukraine and the Republic of Poland on Legal Assistance and Legal Relations in Civil and Criminal Cases of 24 May, 1993

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Abstract
The relevance of the article is determined by dedicating the study to the place of commercial cases among the categories of cases defined in Art. 1 of the Agreement between Ukraine and the Republic of Poland on legal assistance and legal relations in civil and criminal cases of May 24, 1993. The purpose of the work is to consider the possibility of applying contractual provisions to commercial cases, given the fact that the latter are not defined as a type of "civil cases" as well as, for example, family or work cases. Certain aspects of Polish and Ukrainian legislation in the context of understanding and correlation of civil and economic cases are highlighted. The obtained results became possible thanks to the use of methods of scientific knowledge taking into account the peculiarities of their use in legal science. The preparation of the article became possible, and the conclusions were substantiated by using general scientific and legal methods: analysis and synthesis, deduction and induction; empirical and other methods. At the same time, it is difficult to find out exactly what goals the representatives of the authorities of Poland and Ukraine pursued in the context of not including economic cases in the 1993 Agreement. However, according to the preamble, the main purpose of concluding this agreement was to maintain friendly relations between the two states and deepen cooperation in the legal field, including in civil cases. Among Polish and Ukrainian representatives of the scientific community, there is no unanimous opinion regarding the place of economic affairs in the Agreement of 1993. In the Polish doctrine, one can find the opinion that the evaluation of statements in international treaties additionally requires taking into account their effectiveness, that is, interpreting the text so that it has a certain meaning and was useful In our opinion, taking into account the preamble and Art. 1.4 of the Agreement of 1993, which extends the provisions of the treaty to legal entities formed in accordance with the legislation of each participating state, the exclusion of economic affairs from the field of international regulation would be ineffective and too unfavorable for business entities from both countries. The obtained results, in addition to the above, also consist not only in the analysis of international treaties of Poland and Ukraine

with other states, which have a similar subject of regulation to the Agreement of 1993 and the place of economic affairs in them, but also in the analysis of judicial practice of the application of this type of treaties.

Keywords: *international agreement; civil case; commercial case; civil proceedings; commercial proceedings; Polish law; Ukrainian law; agreement of 1993.*

Місце господарських справ у Договорі між Україною та Республікою Польща про правову допомогу та правові відносини у цивільних і кримінальних справах від 24 травня 1993 року

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Анотація
Актуальність статті визначається присвяченням дослідження місцю господарських справ серед категорій справ, визначених ст. 1 Договору між Україною і Республікою Польща про правову допомогу та правові відносини у цивільних і кримінальних справах від 24 травня 1993 р. Метою роботи є розгляд можливості застосування договірних положень до господарських справ з огляду на той факт, що останні не визначені як різновид «цивільних справ» так само, як, наприклад, сімейні чи трудові справи. Висвітлено окремі аспекти польського та українського законодавства в контексті розуміння і співвідношення цивільних та господарських справ. Отримані результати стали можливими завдяки використанню методів наукового пізнання з урахуванням особливостей їх використання в юридичній науці. Підготовка статті стала можливою, а висновки – обґрунтованими при використанні загальнонаукових та правових методів: аналізу та синтезу, дедукції та індукції; емпіричного та інших методів. Водночас складно з'ясувати, які саме цілі ставили собі представники влади Польщі та України в контексті невключення господарських справ у Договір від 1993 р. Однак згідно з преамбулою, основною метою укладення цього договору було підтримання дружніх відносин між двома державами та поглиблення співпраці в правовій сфері, в тому числі в цивільних справах. Серед польських та українських представників наукового середовища немає одностайної думки щодо місця господарських справ у Договорі від 1993 р. У польській доктрині можна зустріти думку, що оцінка висловлювань у міжнародних договорах додатково вимагає врахування їхньої ефективності, тобто тлумачення тексту так, щоб він мав певне значення і був корисним. На

нашу думку, зважаючи на преамбулу та статтю 1 пункт 4 Договору від 1993 р., який поширює положення договору на юридичних осіб, що утворені відповідно до законодавства кожної держави-учасниці, виключення господарських справ зі сфери міжнародного регулювання було б неефективним та надто несприятливим для суб'єктів господарювання з обох країн. Отримані результати, крім вищевказаного, також полягають не лише в аналізі міжнародних договорів Польщі та України з іншими державами, які мають схожий предмет регулювання з Договором від 1993 р. і місцем у них господарських справ, також в аналізі судової практики застосування такого виду договорів.

Ключові слова: *міжнародний договір; цивільна справа; господарська справа; цивільне судочинство; господарське судочинство; польське право; українське право; Договір від 1993 р.*

Introduction

European integration processes in Ukraine are currently complicated by the realities of today connected with military aggression against it. Various aspects of its consequences have been discussed in the legal literature [1]. The forced migration of the population and the expansion of Ukrainian business to European countries, including the Republic of Poland, determine the intensity of cooperation in various fields and have a significant impact on legal relations. Any cooperation, conclusion of contracts, fulfillment or non-fulfillment of the provisions of the latter must be subject to the regulation of the relevant legislation, both national and international. In this regard, we can talk about updating the provisions of the Agreement between Ukraine and the Republic of Poland on Legal Assistance and Legal Relations in Civil and Criminal Cases of May 24, 1993 (hereinafter referred to as the *Agreement of 1993*) [2] and the relations regulated by it.

The Agreenent of 1993, as its full title indicates, is dedicated to legal assistance and legal relations in civil and criminal cases. Poland and Ukraine, guided by the desire to develop friendly relations between the two states, as well as to deepen and improve mutual cooperation in the field of legal relations, agreed on certain specifics of legal regulation in civil and criminal cases. It is worth noting that Art. 1 does not contain a legal definition of such concepts as "civil cases" or "criminal cases". However, Art. 1, paragraph 3 states that the term "civil cases" in this agreement should also include family and labor affairs. Additionally, the reference to the Agreenent of 1993 states that its main purpose is to deepen and improve mutual cooperation in the field of legal relations and legal assistance in civil and criminal cases. The agreement regulates the legal relations between the two states in the fields of private law, family law (marriage,

alimony relations, adoption, etc.), regulates property relations, inheritance, the procedure for resolving labor disputes, recognition and enforcement of court decisions, as well as a wide range of issues in the field criminal law (extradition of criminals, transfer of physical evidence, enforcement of decisions in criminal cases). The emergence of legal relations on the basis of the mentioned Agreement occurs, in particular, in the presence of a final court decision on a particular case, the problems of the normative definition of which in Ukrainian national law have received attention in the legal literature [3].

The above provisions do not define the place of economic cases and whether they are covered by the concept of "civil cases" under Art. 1(3) of the Agreement. It is worth noting that in the Ukrainian scientific community there is an opinion that international agreements in the field of legal assistance, concluded before 1996, do not apply to economic cases, but only to civil, family and sometimes labor relations [4, p. 44]. However, such an interpretation does not take into account the aspects related to the interpretation of the provisions of international treaties from the perspective of their usefulness and effectiveness, which, for example, are emphasized by Polish scientists [5] and judicial practice. Separately, special attention should also be paid to scientific studies of domestic legislation regarding the classification of economic cases as a type of civil cases in Poland [6] and Ukraine [7].

The main *purpose of our article* is to provide a comprehensive analysis of the issues related to the application of the 1993 Agreement to economic cases, taking into account the existing research of scholars, provisions of domestic Polish and Ukrainian legislation, and court practice.

In view of this, it is advisable to ask ourselves a few questions: *"Are economic cases a type of civil cases within the meaning of domestic Ukrainian and Polish law?", "Do they fall under the regulation of the 1993 Agreement as civil cases in the broad sense of the term?", "Do Polish and Ukrainian courts apply the provisions of the 1993 Agreement to economic cases?".* The author will try to answer these key questions in the next part of this study.

Literature review

The issue of certain questions of international legal cooperation in civil proceedings has received due attention in the legal literature.

The issue of applying the provisions of the 1993 Agreement to economic affairs has gained new importance in Polish-Ukrainian relations in recent years, and before that it was not the subject of comprehensive research in the Polish and Ukrainian scientific community. However, it should be emphasized that the analysis of various aspects of bilateral international

treaties has been given sufficient attention by Polish and Ukrainian scientists, jurists and experts in the field of law.

In Ukraine, various issues of application of international agreements, including those on legal aid, have been studied by H.A. Tsirat [4], K.V. Husarov [8], S.Y. Fursa [9], E.Y. Fursa [10], V.A. Bigun [11]. Among Polish representatives of the scientific community, the issue of international agreements was the subject of research by M. Płachta and A. Wyrozumska [5], M. Czepelak [12], J. Ciszewski [13]. Recently, I.M. Mikhailova [14], M. Pilich and J. Turlukowski [15] have focused on some aspects of the application of the provisions of the 1993 Agreement in civil cases.

Each of the scholars dealt with different issues related to international treaties and domestic legislation, depending on what was the main subject of their analysis, the author of this article will continue to focus on the research that will be relevant from the perspective of disclosing the issues of application of the 1993 Agreement to economic affairs.

It is worth emphasizing that at the moment the application of the Polish-Ukrainian agreement does not provide for such a mechanism, and representatives of the scientific community, including those mentioned above, have not comprehensively analyzed this possibility.

Materials and Methods

The preparation of this scientific article became possible thanks to the use of the scientific works of Polish and Ukrainian representatives of the doctrine, among which we should first of all note the works of G.A. Tsirat [4] and M. Pilich [15]. In addition, we have analyzed not only the scientific works of specialists in the field of this research subject [16-21], but also the provisions of the 1993 Agreement and other international treaties that have a similar subject of regulation to the 1993 Agreement. In particular, we pay special attention to the provisions of the domestic legislation of Poland and Ukraine regarding the understanding of such concepts as "civil cases" and "economic cases", as well as to judicial practice, which is crucial in practice.

The methodology of scientific research included both general scientific and special research methods, which allowed the author to prepare a comprehensive analysis of the issues of application of the 1993 Agreement to economic cases, taking into account the existing research of scholars, the norms of domestic Polish and Ukrainian legislation, and judicial practice.

Thanks to the dialectical method, the current state of research in the field, which is the subject of scientific research, as well as the prospects of applying the Treaty of 1993 to economic affairs between economic entities of Poland and Ukraine, was analyzed. Using the *dialectical method,* the

author analyzes the current state of research in the area of scientific study, as well as the prospects for applying the 1993 Agreement to economic affairs between business entities of Poland and Ukraine. The *comparative legal method* was used to analyze the provisions of Polish and Ukrainian legislation and to classify "economic cases" as a type of "civil cases". The *methods of analysis and synthesis* made it possible to analyze and systematize the possibilities of applying the provisions of the 1993 Agreement to economic cases without changing the provisions of the aforementioned Agreement.

The *formal-logical method* was used to formulate conclusions regarding the place of economic affairs in the 1993 Agreement. The *descriptive* research *method* allowed to present the place of economic cases in the Agreement of 1993 in a comprehensive manner, not only from a theoretical perspective, but also from a practical one. The article also uses *sociological methods, methods of categorical and terminological generalization, deduction, induction, analogy, and the deductive method,* which allowed not only to systematize problematic issues, but also to present relevant conclusions.

Results and Discussion

The discussion regarding the place of economic cases in the 1993 Agreement actually boils down to two opposing views – whether the provisions of the Polish-Ukrainian Agreement can be applied to economic cases or not.

As already noted, in the Ukrainian doctrine there is an opinion that international agreements in the field of legal assistance, concluded before 1996, do not apply to economic cases, but only apply to civil, family and sometimes labor relations [4]. This argument can be supported by the fact that in the provisions of agreements with a similar subject of regulation, both Poland and Ukraine clearly defined economic (commercial) cases in the catalog of "civil cases" within the meaning of these agreements.

The place of economic cases in the international agreements of Ukraine and Poland

For example, the Agreement between Poland and the Hellenic Republic on Legal Assistance in Civil and Criminal cases of October 24, 1979, according to which the expression "in civil cases" also includes issues arising from commercial (Polish – *handlowego*) and family law (Art. 5 contract) [22]. The Agreement between Poland and the Republic of Iraq on Legal and Judicial Assistance in Civil and Criminal cases of October 29, 1988 specifies that the parties undertake to provide each other with legal assistance in civil, commercial (Polish – *handlowych*), personal, family and criminal cases (Art. 6 of the Agreement) [23]. Poland and Romania, in their bilateral Agreement on Legal Assistance and Legal Relations in

Civil Cases of May 15, 1999, defined that "civil cases" are understood as cases of civil, family, commercial (pol. *handlowego*) and labor law (Art. 1 of the Agreement) [24].

A similar trend is observed in international bilateral agreements of Ukraine, for example, with the People's Republic of China dated October 31, 1992, where the term "civil cases" also includes commercial, economic, marital, family and labor cases (Art. 1 of the Agreement) [25]. The Agreement on Legal Assistance with Mongolia states that the term "civil matter" as used in this Agreement also includes commercial, economic, family and labor cases (Art. 1 of the Agreement) [26]. This leads to the conclusion that if the parties had wished to regulate economic cases in the 1993 Agreement, they would have been included in the catalog of cases specified in Art. 1, paragraph 3 of the Agreement, but Poland and Ukraine stipulated that only civil cases, including labor and family cases, but not economic cases, would be subject to bilateral regulation. Such a conclusion can be drawn if only the grammatical interpretation of Art. 1, Clause 3 of the 1993 Agreement is applied. In practice, this would mean that in the case of, for example, the recognition and enforcement of a decision of a court of Ukraine or Poland issued in an economic case, regardless of the provisions of Chapter VII "Recognition and enforcement of decisions", which regulates this issue, the norms of internal Polish or Ukrainian legislation should be applied respectively, depending on where the legalization of the foreign judgment should take place.

H.A. Tsirat notes that it would be expedient to consider the possibility of starting the procedure for making changes to the relevant agreements in order to extend their effect to economic relations and cases arising from these relations [4]. It is difficult not to agree with this opinion, because if economic affairs were directly indicated in the catalog of "civil cases", this scientific article would not be relevant. In the current circumstances, I consider it expedient to consider the possibility of applying the provisions of the 1993 Agreement to economic affairs, taking into account the following.

Vienna Convention on the Law of Treaties

In the Polish academic environment, there is an opinion that every treaty on private international law is a kind of small international codification and, unless the provisions of the international treaty indicate otherwise, it cannot be interpreted relying on the concepts and institutions provided for by national law [12]. However, among scientists there is also an opinion that if an international agreement contains legal formulations that are familiar to all parties to the agreement, then the meaning given to this term separately in each country is taken into account [27].

In cases of interpretation of international treaties, it is advisable to pay attention to Art. 31 of the Vienna Convention on the Law of Treaties of May 23, 1969 [28][1] (hereinafter referred to as the Vienna Convention), which regulates the issues of interpretation of international treaties. Pursuant to Art. 31(1) of the Vienna Convention, a treaty must be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of the object and purpose of the treaty. Art. 31, paragraph 3 states that, along with the context, the following are taken into account:
1) any subsequent agreement between the parties regarding the interpretation of the agreement or application of its provisions;
2) the subsequent practice of applying the agreement, which establishes the agreement of the parties on its interpretation;
3) any relevant rules of international law applicable to the relations between the parties.

A special meaning is given to a term when it is established that the parties had such an intention, as stated in Art. 31(4). In addition, pursuant to Art. 32 of the Vienna Convention, additional means of interpretation, including preparatory materials and the circumstances of the conclusion of the treaty, may be used to confirm the meaning to be given by application of Art. 31 or to determine the meaning when interpreted in accordance with Art. 31:
1) leaves the meaning ambiguous or unclear; or
2) leads to results that are clearly absurd or unreasonable.

It should be noted that the possibility of applying Articles 31-32 of the Vienna Convention to international treaties in the field of private international law is confirmed in the doctrine. It is noted that the provisions of the Vienna Convention provide interpretation guidelines of such a general nature that they can also be applied to international treaties in the field of private international law [28-31]. The provisions of the Vienna Convention clearly indicate that in cases of interpretation of international treaties, in addition to grammatical interpretation, attention should also be paid to logical and historical interpretation, as well as the later practice of applying international treaties.

In today's realities, it is difficult to establish the intentions of the Polish and Ukrainian authorities regarding the place of economic affairs in the 1993 Agreement, however, according to the preamble, the main motive for concluding the treaty was the desire to develop friendly relations between the two states, as well as deepening and improving mutual cooperation in

[1] Ukraine joined this Convention in accordance with the Decree of the Presidium of the Verkhovna Rada of the Ukrainian SSR dated April 14, 1986. Poland joined the Convention on April 27, 1990, the Convention entered into force for Poland on August 1, 1990.

the field of legal relations. The Polish doctrine states that the evaluation of expressions used in an international treaty requires taking into account their effectiveness, that is, interpreting the text in such a way that the text means something and its meaning is useful [5]. Taking into account the preamble and Art. 1 (4) of the 1993 Agreement, according to which the provisions of this Agreement concerning nationals of the contracting parties also apply to legal entities organized in accordance with the laws of the contracting party in whose territory they are located, the exclusion of business cases from the subject of international regulation would be inefficient and extremely unhelpful for business entities in Poland and Ukraine.

In addition, it is necessary to pay attention to the currently only Polish commentary to the provisions of the 1993 Agreement, which states that the term "civil case" should be given an autonomous meaning, taking into account the results of comparative legal interpretation – primarily, taking into account the legislation of both contracting states, i.e. Poland and Ukraine [15]. Therefore, it is expedient to analyze whether economic affairs, in the sense of the norms of domestic Ukrainian and Polish legislation, could potentially fall under the definition of "civil cases" referred to in the 1993 Agreement.

The concept of "economic cases" in the understanding of the norms of domestic Polish and Ukrainian legislation

According to Art. 1 of the Civil Procedure Code of Poland [32], the Civil Procedure Code regulates judicial proceedings in civil, family, guardianship and labor cases, as well as in cases related to social security and other cases to which the provisions of this Code apply on the basis of special laws (civil cases). In accordance with Art. 19 (1) of the Code of Criminal Procedure of Ukraine [33], courts consider cases arising from civil, land, labor, family, residential and other legal relations in civil proceedings, except for cases which are considered in the order of other proceedings. It is possible to draw a conclusion It can be concluded that the general provisions of the Polish and Ukrainian Civil Procedure Code on civil proceedings are similar.

In Art. 458^2 Clause 1 of the Civil Procedure Code of Poland [32] there is a definition of the concept of "economic cases", according to which economic affairs are:
1) cases arising from civil legal relations between entrepreneurs within the scope of their economic activity;
2) cases specified in point 1 even if one of the parties has ceased business activity;

3) cases arising from corporate relations and relating to claims specified in Articles 291-300 and 479-490 of the Code of Business Companies of Poland [34];
4) cases against entrepreneurs on the termination of environmental violations and the restoration of the previous state before the violations or on compensation for the related damage, as well as on the prohibition or restriction of activities that threaten the environment;
5) cases related to construction contracts and contracts related to the construction process, for construction works;
6) cases related to leasing contracts;
7) cases against persons responsible for the entrepreneur's debts, also alternatively or jointly, by law or by contract;
8) cases between bodies of a state enterprise;
9) cases between the state enterprise or its bodies and the body that founded it or the control body;
10) cases provided for by the legislation on bankruptcy and restructuring;
11) cases of enforcement of an executive document, which is a decision of an economic court that has entered into legal force or is subject to immediate execution, or a settlement agreement concluded before a commercial court;
12) cases on the impossibility of enforcement of an executive document based on a decision of an economic court that has entered into legal force or is subject to immediate enforcement, or a settlement agreement concluded before a commercial court.

At the same time, Art. 458²(2) of the Polish Code of Civil Procedure [32] implies that cases concerning the division of joint property of the partners of a civil partnership (Polish: *wspólników spółki cywilnej*) after its termination or a claim acquired from a person who is not an entrepreneur are not economic cases, unless the claim arose out of legal relations related to the scope of business activities carried out by all the partners. It should be emphasized that civil and economic cases in the Polish legal system are regulated by the Civil Procedure Code of Poland, which differs from Ukrainian legislation.

In Ukraine, in this regard, it is worth paying attention to Art. 1 of the Commercial Procedure Code of Ukraine [35], according to which the Commercial Procedure Code of Ukraine defines the jurisdiction and powers of commercial courts, establishes the procedure for conducting legal proceedings in commercial courts. Art. 20(1) of the Commercial Procedure Code of Ukraine states that commercial courts shall hear cases in disputes arising in connection with the conduct of business activities (except for cases provided for in part two of this article) and other cases in cases specified by law, in particular:

1) cases in disputes arising from the conclusion, amendment, termination and execution of transactions in business activities, except for transactions to which an individual who is not an entrepreneur is a party, as well as disputes regarding transactions concluded to secure the fulfillment of an obligation to which legal entities and/or individual entrepreneurs are parties;
2) cases in disputes regarding the privatization of property, except for disputes about the privatization of the state housing fund;
3) cases in disputes arising from corporate relations, including disputes between participants (founders, shareholders, members) of a legal entity or between a legal entity and its participant (founder, shareholder, member), including a participant who dropped out, related to the creation, activity, management or termination of the activity of such a legal entity, except for labor disputes;
4) cases in disputes arising from transactions with shares, stakes, units, other corporate rights in a legal entity, except for transactions in family and inheritance relations;
5) cases in disputes regarding financial instruments, in particular regarding securities, including related to rights to securities and rights arising from them, emission, placement, circulation and repayment of securities, accounting of rights to securities, liabilities by securities, except for debt securities, held by an individual who is not an entrepreneur, and promissory notes used in tax and customs legal relations;
6) cases in disputes concerning the right of ownership or other real rights to property (movable and immovable, including land), registration or accounting of rights to property that (rights to which) is the subject of the dispute, invalidation of acts violating such rights, except for disputes involving an individual, and disputes concerning the seizure of property for public needs or for reasons of public necessity, as well as cases in disputes concerning property that is the subject of enforcement of an obligation to which legal entities and/or individual entrepreneurs are parties;
7) cases in disputes arising out of relations related to the protection of economic competition, restriction of monopoly in economic activity, protection against unfair competition, including disputes related to appealing against decisions of the Antimonopoly Committee of Ukraine, as well as cases on applications, petitions of the Antimonopoly Committee of Ukraine on issues within their competence, except for disputes within the jurisdiction of the High Court of Intellectual Property;
8) bankruptcy cases and cases involving disputes over property claims against a debtor in respect of which bankruptcy proceedings have been initiated, including cases involving disputes over the invalidation of any transactions (agreements) concluded by the debtor; recovery of wages;

reinstatement of the debtor's officers and employees, except for disputes over the determination and payment (collection) of monetary obligations (tax debt) determined in accordance with the Tax Code of Ukraine, as well as disputes over the invalidation of transactions at the request of a controlling authority in the exercise of its powers under the Tax Code of Ukraine;
9) cases on applications for approval of the debtor's rehabilitation plans prior to the opening of bankruptcy proceedings;
10) disputes concerning appeals against acts (decisions) of business entities and their bodies, officials and employees in the field of organization and conduct of business activities, except for acts (decisions) of public authorities adopted in the exercise of their administrative functions and disputes involving an individual who is not an entrepreneur;
11) cases on appealing against decisions of arbitration courts and on issuing an order for enforcement of decisions of arbitration courts established in accordance with the Law of Ukraine "On Arbitration Courts", if such decisions are made in disputes referred to in this Article;
12) cases in disputes between a legal entity and its official (including an official whose powers have been terminated) on compensation for damages caused to a legal entity by the actions (inaction) of such an official, at the request of the owner (owners), participant (participants), shareholder (shareholders) of such a legal entity filed in its interests;
13) claims for registration of property and property rights, other registration actions, invalidation of acts violating rights to property (property rights), if such claims are derived from a dispute over such property or property rights or a dispute arising out of corporate relations, if such dispute is subject to consideration by a commercial court and is submitted for consideration together with such claims;
14) cases in disputes on protection of business reputation, except for disputes involving an individual who is not an entrepreneur or self-employed person;
15) other cases in disputes between business entities;
16) cases on applications for a court order if the applicant and the debtor are a legal entity or an individual entrepreneur;
17) cases arising out of the conclusion, amendment, termination and execution of agreements concluded within the framework of public-private partnership, including concession agreements, except for disputes that are considered in other legal proceedings;
18) disputes concerning the protection of violated, unrecognized or disputed rights and legitimate interests of bondholders arising between the bondholder administrator and the bond issuer and/or persons providing security for such bonds;
19) cases involving disputes over decisions of bondholders' meetings;

20) cases involving disputes between a water user organization and its member or the owner (user) of an agricultural land plot included in the service territory of the respective water user organization regarding the acquisition or termination of membership in such a water user organization, conclusion, amendment, termination, execution by the water user organization of contracts, additional agreements and other documentation that is an integral part of the contract, terms of service provision by the water user organization, recognition of invalidity of transactions made by a water user organization, as well as determination of the service territory of a water user organization; cases involving disputes between owners of reclamation systems or networks and water users regarding the terms of water intake, delivery and discharge;
21) cases of liquidation of an insurer or credit union at the request of the National Bank of Ukraine in accordance with Art. 110 of the Civil Code of Ukraine.

It should be concluded that the catalog of commercial cases in the Polish Civil Procedure Code and the Commercial Procedure Code of Ukraine is quite wide. It is worth noting that in both Polish and Ukrainian doctrine and judicial practice, economic cases can be considered as cases of civil legal relations.

The concept of "civil cases" in the understanding of the norms of domestic Polish and Ukrainian legislation

In the Ukrainian scientific community, it is noted that the concept of "civil case" is insufficiently developed and requires more detailed research [7]. It is worth paying attention to the resolution of the Plenum of the Supreme Economic Court of Ukraine dated October 24, 2011 [36], which states that an economic dispute is subordinate to the economic court, in particular, under the following conditions: 1) participation of a business entity in dispute; 2) the existence between the parties, firstly, of economic relations regulated by the Civil Code of Ukraine (435-15), the Economic Code of Ukraine (436-15), other acts of economic and civil legislation, and, secondly, a dispute about the right, arising from the relevant relationship; 3) the presence in the law of a norm that would directly provide for the resolution of the dispute by the economic court; 4) the absence in the law of a rule that would directly provide for the resolution of such a dispute by a court of another jurisdiction. In Poland, on the other hand, it is stated that the assignment of a case to the economic category is determined by three jointly fulfilled criteria, first of all, it must be a case from civil legal relations (in the sense of substantive civil law), a case between entrepreneurs and related to their economic activity [6]. Therefore, it can be concluded that economic cases in the understanding of the provisions of the domestic legislation of Poland and Ukraine fall under the category of "civil cases".

Judicial practice of Poland and Ukraine regarding the application of the Agreement of 1993 to economic cases

We should also pay special attention to the judicial practice of applying the Polish-Ukrainian Agreement of 1993. According to the decision of the Supreme Court dated January 9, 2018 in case No. 910/10109/16 [37] regarding the dispute between Ukrainian and Polish business entities, the court applied the provisions of the Agreement of 1993, namely the rules for determining international jurisdiction – determining the competent court in disputes between business entities of Ukraine and Poland. In the decision of February 7, 2024, the Commercial Court of the Kyiv region in case No. 911/2090/23 [38] between Polish and Ukrainian business entities also referred to the provisions of the 1993 Agreement, namely Art. 33, which states that the obligations arising from contractual relations are determined by the legislation of the contracting party on whose territory the agreement was concluded, unless the participants of contractual relations subordinate these relations to the legislation chosen by them. The application of the provisions of the 1993 Agreement also took place, for example, in the decision of the Western Commercial Court of Appeal dated July 4, 2023 in case No. 914/2548/22 [39] and the decision of the Commercial Court of Lviv Region dated June 20, 2023 in case No. 914/ 2549/22 [40].

Unfortunately, due to limited access to Polish court decisions issued on the basis of the 1993 Agreement in economic cases, the author of this article can only note that in case XXVI GCo 188/17 of October 22, 2019, in the decision of the District Court in Warsaw XXVI Economic division between the Polish and Ukrainian companies, the court does not state the legal grounds for the decision, so it is impossible to determine whether the 1993 Agreement was applied [41]. Instead, in case XX GCo 310/16 of October 27, 2016, the District Court in Warsaw XX Commercial Division in its justification for the issued decision did not apply, erroneously, in the opinion of the author of this article, the provisions of the 1993 Agreement, referring exclusively to the provisions of domestic Polish law [42]. At the same time, it should be emphasized that there are cases in Polish judicial practice when a Polish court referred to an agreement on legal assistance with another state in an economic case, despite the fact that economic cases were also not specified in the international agreement, as in the case of the Afreement from 1993.

Conclusions

Thus, taking into account the subject and purpose of the 1993 Agreement, as well as the practice of its application and other international agreements with a similar scope of regulation by Polish and Ukrainian courts, it can

be concluded that the Polish-Ukrainian Agreement of 1993 can be applied to economic cases regardless of the fact that the latter are not explicitly defined in it as a type of "civil cases". In the author's opinion, the possibility of such application is the most effective and useful way out of the situation when there is no direct amendment of the provisions of the 1993 Agreement.

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