

EUROPEAN CIVIL PROCEDURE: CURRENT STATUS WITHIN THE LEGAL SYSTEM OF THE EUROPEAN UNION AND ITS MEMBER STATES

Victor V. Terekhov

Vilnius University, Vilnius, Lithuania

The purpose of the article; is to provide a critical analysis of different approaches towards the notion of "European Civil Procedure", to substantiate by means of legal and judicial practice, research papers a true essence and legal nature of the European Civil Procedure

The methodological basis for the study: general scientific methods (analysis, synthesis, comparison); private and academic (interpretation, comparison, formal-legal).

Problems and basic scientific results: the notion of "European Civil Procedure", which describes the process of EU Member States judicial cooperation, bears largely a conventional character. It is not used officially by the organs and institutions of the EU, or its Member States. Moreover, it assumes an unjustified monopolization of the European discourse on the side of EU's initiatives, although Europe is not limited to that association neither in geographical, nor in a legal sense. However, the given notion has become quite colloquial and does not cause any difficulties to the beneficiaries, and thus we may use the terms "European Civil Procedure" (ECP) and "Civil Procedure of the EU" (CP EU) as synonyms.

Different approaches towards the nature of the European Civil Procedure claim that it may be regarded as: (1) a separate (communitary) regime of Private International Law (or, otherwise, International Civil Procedure); (2) means to approximate national rules of Civil Procedure; 3) a particular system of judicial decisions recognition; (4) an independent area of supranational law; 5) an aggregate of all or part of the qualities mentioned above.

The system of EU Civil Procedure constitutes "federal" procedural law of the Union that functions side-by-side national procedural rules. It governs those relations that go beyond the borders of one Member State, but not the EU itself. Relations between Member States and third nations are still generally out of the federal competence.

We need not to forget, however, that a genuine federal center does not only introduce centralized procedures, but also approves mandatory standards for all of the levels of the regulatory system (in other words, pursues *approximation*). A right of any federal state to exercise such competence does not find any questions due to supremacy of its authority. Still in the EU legal order the principle of its supremacy has a limited application and it is not obvious that the introduction of general norms for the Civil Procedure come within it. The existence of different standards of justice (28 national ones and one supranational) has a negative effect on the unity of the "area of justice", making it illusory. In order to guarantee an equal level of judicial protection everywhere in the EU a procedural "bill of rights" is required, and it needs to be adopted at the "highest level" of the system.

Conclusions. The EU Civil Procedure has a dual nature. In its own (narrow) sense it is a body of federal procedural law of the EU that is applied when a cross-border situation of intra-community character comes into being. In a broader sense, it is also a combination of norms, rules and principles of justice that are adopted by the EU as a federal center for both community-wide and national levels of the judicial system in order to guarantee the unity to the area of justice. In the ideal case, the European area of justice has to be a coherent, unified and internally consistent system. Reality is, however, far from that image, since there are multiple problems of both legal and political nature that hinder the implementation of these brave ideas.

Keywords: European Civil Procedure; standards of court proceedings; European area of justice; EU Regulations; EU Directives; harmonization of legislation; Europeanization; cross-border effect; approximation of national rules; recognition and enforcement of judgments

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Introduction

The concept of the "European civil procedure"

Speaking about the European space of justice and about the cooperation of the participating countries in the sphere of civil proceedings, it should be noted that the term "European civil process" is increasingly used by researchers. Mention of it can be found in the Western scientific literature since the adoption and entry into force of the Brussels Convention of 1968 [1; 2, p.202-230; 3, p.25; 4, p.12]. Initially, it designated the system of jurisdiction and recognition of decisions, formed by this act, and later all initiatives of the European Economic Community / European Union and the member countries having a procedural and legal content [5, c.932; 6, p.65-66]. The term itself is not completely correct and to a certain extent which is conditional for two reasons. First, it allows an unjustifiable monopolization of the "European discourse" behind the initiatives of the European Union, although the "Europe" association is not limited in geographical, political, social, cultural, or even more legal sense [7, c.10]. Secondly, this term is not used by the bodies and institutions of the EU itself, as well as its member countries. Officially, the sphere in which procedural instruments are adopted is referred to as "judicial cooperation in civil matters" or "European space of justice" [4, c.12-13]. The phrase "European civil procedure" is widespread, mainly in the academic environment. We will use the word combinations "European civil procedure" (ECP) and "EU civil procedure" as synonyms.

However, if such a set of norms can be separated for methodological purposes and for the convenience of teaching, its existence as an independent and integral legal complex will encounter a number of difficulties. What is the "European civil procedure", what is its purpose, status and structure? We will try to answer these and other questions below.

As a rule, the sources of this normative concept do not cause disputes: they are related to the relevant provisions of the constituent treaties and the Charter of Fundamental Rights of the EU, the Convention on Human Rights and the secondary law of the EU. Moreover, the precedent decisions of the Court of Justice of the European Union and the European Court of Human Rights could be considered as one of the sources. The selection of sources other than purely communitarian sources, in our view, is completely justified, since even with the adoption of the Amsterdam and Lisbon treaties, supranational lawmaking has not become the only form of rapprochement (although it has acquired decisive importance). The Brussels and Lugansk (reformed) Conventions remained in force; in addition, the EU actively participates in the work of the Hague Conference on Private International Law. We can clearly see that the supranational law of the EU has not become the only mechanism for convergence of procedural law in the region.

As for the essence of the EU civil procedure, things are not so simple. In fact, all the diversity of views on the European civil procedure can be reduced to considering it as: (1) a special

(communitarian) regime of private international law (or international civil process); (2) means for convergence of the national standards of civil procedure; (3) a special system for the recognition of decisions; (4) an independent branch of supranational law (as opposed to existing national); (5) the totality of all or part of the above qualities.

(1) The Private International Law (PIL) as an international private law and / or international civil procedure. A number of authors consider PIL as a special regime of general (communitarian) international private law [8, p.68; 9, p.188; 10, p.34]. At the same time, international private law in is understood the doctrine as a set of rules that comes into effect when the legal relationship (in our case, procedural) is complicated by a foreign element. The IPL determines the conditions under which a court of a state can take into consideration a dispute from such a legal relationship (jurisdiction), which domestic law system is applicable to the legal relationship (applicable law) and under what conditions, and in what order can the foreign court's decision be recognized and enforced [11, c.1121-1122; 12, p.76]. This approach to the content of IPP is common in Western jurisprudence [13, c.131; 14, c.20-21; 11, c.1121-1122; 12, p.76], where the term has a meaning similar to the English "conflict of laws" (15, c.3-5). In this case, the first and third of the above issues (jurisdiction and recognition of decisions) are sometimes treated separately as an "international civil process" (ICP) [16, c.11]. In the East European (Eurasian) legal tradition, the subject of IPL is understood broader and includes Remedies, which means they were addressed directly to the parties to the dispute, not to the states. Previously in force, the Regulations (Brussels I, Brussels II bis etc.) were primary instructions for states: how to determine the jurisdiction of their courts, obtain evidence at the request of another court, etc. The new acts established the rights and obligations of the parties to the proceedings, both for the plaintiff and the defendant, and in this connection created a lot of procedural rules from scratch. However, if we adhere to a broad interpretation of the subject of the IPL (any relationship with a foreign Element), it may turn out that the "autonomous" Regulations still remain within the scope of its subject matter (since they operate only in "cross-border disputes"). However, it should be noted here that the limitation of their sphere of functioning essentially depended solely on the will of the European legislator.

At the stage of drafting bills on autonomous procedures, the Commission received proposals to extend the procedure to national affairs (by broadly interpreting the requirement of "transborderness" in Article 65/81 of the Treaty). These ideas were rejected by the Council and Parliament, as a result of which the rules became applicable only in cases with "direct" transboundary consequences, when the relevant situation exists at the time of application to the court. At the same time, if the case subsequently loses such a character, it can still (and should) be considered in a "pan-European" procedure. Hence we can clearly see that the existing requirement of "trans-borderness" and its form reflect the balance of political interests in the EU. They can be used to resolve any relationship, including purely national on. At the same time, it should be noted that the task of the acts under consideration was to ensure the recognition and enforcement of decisions in the relations between participating countries. In fact, they are called to perform this function, rather than form a completely autonomous system for resolving disputes in the EU [28, c.791]. All procedures and minimum standards, which they set in this regard, are only applied in relation to the main goal. However, the regulations of the second generation solve this purely "international" problem using an original method that has nothing in common with classical conflict techniques [22, p.31].

However, ECP also includes such acts that do not at all require "transboundary element" for its application. These are the Directives adopted on the basis of Art. 114 of the Treaty on the Functioning of the EU (former Article 95), which deal with the overall harmonization of national law [29, c.12-19]. One of these Directives includes the enforcement of rights in the field of intellectual property. Since its adoption, Art. 95/114 was used for the adoption of other acts, such as Directive 2009/22 / EC of 23.04.2009 on injunctions in order to protect the interests of consumers,

2013/11 / EU of 21.05.2013 on alternative dispute resolution involving consumers, and 2014/104 / EU of 26.11.2014 on certain rules governing the examination in accordance with national law of disputes on compensation for harm for violation of the laws of the Member States and the EU on competition. Nothing hinders the appearance in the future of other "procedural Directives" with an equally wide territorial effect [30, c.1547]. Of course, the approach of such acts has nothing to do with IPL, since the latter applies only to cases with a foreign element, whereas the Directives are in effect everywhere. Thus, the European civil process cannot be understood as an integral part or as a special agreement within the framework of IPL.

On the contrary, it includes a set of norms of the international civil procedure (on jurisdiction, recognition of decisions, delivery of documents and obtaining evidence), regulating other aspects of the civil procedure. Such an approach rejects the independent significance of the supranational norms of the EU in the sphere of the civil procedure and considers it exclusively as a tool for fulfilling the applied task - to harmonize and unify the norms of the national law of the participating countries [6; C.67]. At each stage of integration, the task of harmonizing different in scope and nature of the norms of national law was set before the ECP.

Ideas of European integration ideologists, as well as tools (sources) that contained norms changed, but their focus on convergence of national law remained unchanged. Currently, the EU faces the particularly difficult task of creating an integrated and consistent system of justice at the supranational level that would provide citizens and legal entities living in the EU with similar standards of judicial protection. In this connection, there were some doubts in the science that EU activities in the sphere of civil procedure are in principle a rapprochement [30, c.1540]. A special occasion for them is provided by alternative and autonomous European procedures. Indeed, the "communitarianization" of law in the EU begins to be contrasted with the harmonization of national norms, i.e. the development of standards for their implementation in the national law of the participating States [31, c.2].

Instead of consistently introducing changes in the internal law of each of the EU member states, an autonomous and increasingly independent normative array of supranational law is being formed. In this connection, it can even be stated that the tactics of supranational lawmaking used by the EU do not in practice lead to any rapprochement, since the national law does not remain affected: the accepted norms remain at the pan-European level and act like laws. The above is more true for the Regulations, since the Directives are nevertheless implemented into national law and require States parties to issue their own acts that enforce European regulations and, if necessary, specify them.

However, in the field of civil procedure absolute superiority in the number of adopted acts is on the side of Regulations (acts of direct action). This problem is especially urgent for optional instruments, since they exist in parallel with national acts and do not require any changes in the past [6, p. 14]. It is also important that some of the newly adopted pan-European procedures had no analogues in national law and became known to him only with the entry into force of the relevant Regulations - thus, at the time of their adoption there was no object for rapprochement. In our view, the above arguments cannot be used for conclusions about the lack of convergence of procedural law in the EU. Regulations that establish are optional for the plaintiff (the applicant). He is free to use one of the supranational procedures available in his case, or refer to those that exist in the law of the state of the court (*lex fori*).

At the same time, the state does not have this discretion. If a person wants his case to be examined in accordance with the procedure for small claims, and the formal requirements are satisfied, the courts of the State party do not have much choice but to consider the case in framework of such a procedure. In this sense, the prescriptions of the "second generation" Regulations are to the same extent binding on States as the provisions of any other supranational act in the sphere of civil procedure.

States (with the exception of Denmark, Great Britain and Ireland), for which a special political and legal regime for participation in the "justice space" is not entitled to, refuse from binding these Regulations or to specify their participation in them by any conditions. Such acts act simultaneously in all countries, forming a similar legal regulation, and therefore it is a matter of rapprochement. This convergence is evident both in the establishment of uniform procedural rules of procedure and in the minimum standards guaranteeing respect for the rights of the parties.

Directives also receive "direct action" as a result of violations by states of the terms for their implementation, as well as with the clarity of the norms established by them, allowing them to rely on them directly. In such conditions, they will in fact act similarly to the Regulations.

The main acts in the field of civil procedure are Regulations on jurisdiction and recognition of decisions, evidence and delivery of documents. They also act directly, and not through the adoption of national measures on their basis (although reference to these acts in the law of the participating States is allowed). At the same time, they are precisely unifying and harmonizing instruments, since they create similar legal regimes and procedures for regulating procedural relations for all participating countries. The same is true for the Regulations on "autonomous procedures". The difference is only in the fact that with their adoption, the national procedures for investigating similar categories of cases (indisputable claims, claims with a small sum, etc.) have not disappeared.

However, we can assume that the procedures developed at the European level were not intended as a substitute for the national one, but were designed to collect all the best of them and create new procedures for considering cross-border claims. At the same time, the preservation at the national level is merely an extension of the number of ways a plaintiff protects his rights, but not a "lack of necessary harmonization" of these legal relations. In the end, a number of countries still receive the same (or similar) regulation. The fact that the sources of this regulation will not be national norms, but norms existing at the supranational level, should not have any significant meaning, since this is only another way of rapprochement that does not affect the very essence of this process, and in most cases is even more effective than traditional mechanisms.

In this connection, we agree with L. Kadie who stated that it becomes possible to talk about "genuine" harmonization and unification of the national procedural law in the EU countries [32, c.19].

(3) A special system for the recognition and enforcement of decisions

Many authors deservedly draw attention to the fact that the EU has an independent but rather limited role in the sphere of GPP [33, c.457]. It cannot implement the universal rapprochement of procedural norms, but is compelled to be guided by the legal basis that is established in the Treaty. The current Treaty on the functioning of the EU establishes that the tasks of the EU are the development of judicial cooperation in cross-border cases on the basis of the principle of mutual recognition. It is the latter that determines the status of the civil process in the EU from the very moment of its inception in Art. 220 of the Treaty of Rome.

The key problem was the recognition of judicial and extrajudicial decisions of one state in the territory of another. Over time, states needed to expand the subject of "recognition": in addition to decisions on the merits of the dispute, preliminary and provisional measures, world and mediation agreements, notarial deeds and other authentic documents were able to become objects of recognition in various instruments. Thus, in the first place there is harmonization or unification, and "mutual recognition" which is a different tactic [34, p.89; 62, c.9-10]. Rapprochement is carried out

where it is impossible to achieve effective recognition without it, i.e. where higher mutual trust of states is required [35, c.121].

Those acts that at first sight are not directly concerned with mutual recognition (access to justice, delivery of documents, obtaining evidence abroad) ultimately also indirectly serve its purposes, since they make such recognition possible. We have already indicated in the previous paragraph that the tandem of the "recognition / trust" principles allowed for a large-scale harmonization of procedural law in the EU [36, c.637]. However, there are limits to it: the European legislator cannot arbitrarily interfere with the national procedural systems, if this in any way does not promote the development of "mutual recognition" [37, p.36].

(4) EPL as "trans-border procedural law"

In contrast to the previous two points of view, the present one considers the EPL as an independent normative education, with its goals, objectives, principles and source system. Many authors call this set of norms "trans-border procedural law" [8, c.5], i.e. such a field of law that is not part of either national or international law, but occupies an intermediate (supranational) position. Others believe that at present the EPL has not yet achieved such a status, but in the future it may well become an integral procedural system for the entire EU territory [38, c.4]. Undoubtedly, the essence of this approach is the recognition of the status of a separate branch of law for the EPL. The ability of the EU to form its own industries was not automatically obvious. On the one hand, EU law is created by an international association, not a national legislator. On the other hand, the rule of law of the EU occupies an intermediate position between national and international law, and therefore has the features of each of them [39, c.3; 40, c.44-45]. In this regard, there is no obstacle to recognizing the existence of independent branches of law in the EU law [41, c.232]. This, however, does not mean that the "civil procedure" has already acquired a similar status.

As we know, the branch of law is a set of single-order and qualitatively separate norms that regulate a certain kind of social relations [42, c.430; 43, c.212]. Any set of norms for acquiring the status of the industry is necessary both qualitatively to differ from the rest of the array of norms, and to have something in common that allows us to speak of it as a single whole. But is the EPL properly "ordered" and "detached"?

If we want to equate it with the existing national branches of the civil procedural law, we will see that the range of issues it regulates is rather narrow, it contains a large number of gaps and references to national law [38, c.4]. The norms that the EPL gives us are not sufficient to properly conduct a court session on their basis, to pass a judgment and its execution. But if we take as a basis the idea that the EPL was never thought of as an analog of national branches of law, but rather was intended to serve the tasks described above (harmonization of law and mutual recognition of judicial acts), the problem will be solved. The EPL will be able to become a branch of law, but this will be a branch of supranational law with its goals and objectives, and not a "mirror image" of the domestic law.

(5) Integrated understanding of the essence of the state system

In our opinion, the diversity of approaches to the EHP significantly hurts both theorists and practitioners, since it separates the former from each other and hinders a fruitful exchange of views, and for the latter it cannot promptly propose effective norms. Since there are both true and erroneous judgments in the above views, the most complex will be a complex characterization of the set of norms that is called the EPL.

In order to answer the question about the essence of the EHP, it is first necessary to clarify the status of the EU itself. As mentioned above, the special qualities of this association no longer allow

it to be attributed to typical international organizations. In connection with this individual authors, it is regarded as a special federal state (existing or under formation) [44, c.11; 45, p.84; 46, p.152], the federation of states, the confederation, the integration association, etc. [47, c.14]. In our opinion, it is the theory of European federalism [48, c.277] that could shed light on the essence of the norms it adopts (both in the sphere of the civil procedure and in relation to any other branch of law) and the order of their operation. Some authors consider the EU a federation, since it is not a state (and therefore cannot have a federal nature) [49, c.163-164; 50, p.53]. Such a position is common among ideological opponents of European integration abroad and "eurosceptics" in the EU. However, from a scientific point of view, this position does not look properly justified. The fact is that "federalism" itself is understood as the principle of the organization of power, characterized by the distribution of powers, functions, tasks and resources between the center and the constituent parts [51, c.8; 52, c.211]. The federation is considered to be a political and legal union, in which such a principle was implemented in practice. Such a treatment of terms means that there is no need for the federation to be understood solely as a form of a national state system [53, c.11; 54, p.54].

Even if we cannot call the EU "federation" for formal reasons, this does not prevent its characterization as a "quasi-federation" [5, c.931] and the use of similar methodological approaches to it (especially when we speak about the distribution of competence). The modern EU could well have been "Supranational federation" and "a federal formation of a special kind" [56, c.30; 50, c.42; 46, c.148]. It has all the necessary attributes: "federal" and "local" (national) bodies, the division of the law into two parts, the existence of exclusive and joint spheres of reference [57, c.52], its own legislative, executive and judicial bodies, as well as its own "Constitution" (the Treaty on the EU and the Treaty on the Functioning of the EU), which can only be interpreted by the Court of Justice (an independent body of the European Union). The limited powers of the EU are not a problem either, since both strong and weak federations are known in practice (differing in terms of competence at the federal and local levels). In addition, the EU legal system is constantly developing in the direction of centralization, including such conservative areas as the civil procedure.

Similarly to other existing federations, two levels can be singled out in the EU: the subjects of the federation (which are individual sovereign member states) and the federal (EU legal space). The current division of powers is that the purely national aspects of the civil procedure (almost everything related to the trial and execution of the final decision) remain at the first of the indicated levels, and the second level is involved when there is an legal relationship affecting the jurisdiction of more than one state ("cross-border business"). Thus, what we call a "European civil procedure" is essentially a "federal branch", which is necessary to solve problems common to members of such a federation [58, c.13-24]. In this case, the use of the term "branch" to characterize the YSL is quite legitimate, since we are not trying to give it the same qualities as the national civil process has. By virtue of its position "at the federal level," the EPP has its own tasks, with which it manages within the framework of the stipulated competency. A similar situation develops in state federations (USA, Germany) [59, c.7]. In the United States, for example, state courts consider the vast majority of cases, while federal courts are involved when it is necessary to apply federal legislation (cases that go beyond the jurisdiction of one state and those that the federal legislator has specifically classified as federal competence). As for the interaction between the state judicial systems, the doctrine of "full faith and credit" was developed in American law, similar to the European principle of "mutual recognition" and similarly mediating the recognition by the states of each other's decisions [59, c.4].

At the same time, it is impossible not to see fundamental differences. In the EU there is a "national" and "federal" (represented by procedural Rules and Directives) procedural law, but there are no special courts for the application of the latter. As a result, the courts of the participating states simultaneously fulfill the role of both "national" and "European" judicial bodies [61, p.24; 37, c.23-24]. In this connection, there arises the need for an additional principle of "mutual trust", which is

not proclaimed in the US, because relations are built on imperative principles and the federal government makes the prevailing decisions. In the EU, additional assurances are needed for the court of another state to implement the "federal", rather than the intra-national norm. In other words, the principle of mutual trust is necessary to legitimize the national court as a pan-European court [62, c.9].

Another difference is that in the United States, either the state law, or the federal one, is applied either on a case-by-case basis or not at once. In the EU, even if the situation is "federal", many of the supranational norms contain references to the internal law of the participating states. From our point of view, this testifies to a somewhat different distribution of competence.

The EPL is a "federal" civil procedural law of the EU, which exists on an equal base with national branches and is devoted (on the strength of the distribution of competences by constituent agreements) to very specific issues.

Hence the question arises: what is the scope of the "federal" IPL? First of all, it regulates relations that go beyond one state party, but not the EU as a whole. Relations between the participating countries and third countries are still mostly outside federal jurisdiction. Of all the "cross-border" relations, the EU is regulated only by those mentioned in Art. 81 TFEU, although its creative interpretation (especially paragraph "f" in Part 2, which narrates about "removing obstacles to the proper functioning of civil proceedings") makes it possible to expand the scope of the measures taken to impressive levels. In fact, most of the cross-border interaction of the judiciary is currently mediated by EU law. However, one should not forget that a true federal center not only enforces centralized procedures, but also establishes universally binding standards for all levels of the regulatory system. The right of any federal state to carry out such activities does not raise questions because of the supremacy of its power. In the EU, the application of the principle of supremacy is limited and it is by no means clear that it is his competence to formulate general rules of the IPL. Nevertheless, the existence of different standards of administration of justice (28 national and one supranational) adversely affects the unity of the "justice space", making it illusory. If we really want an equal level of guarantees of judicial protection in the entire EU space, it is obvious that a "procedural bill of rights" is required, which can only be approved at the "top level" of the system. Since the competence of the EU in this matter is not directly defined, it seeks other ways to approve its priority: by adopting the Directives on the basis of the previously mentioned Art. 114, by using of soft law instruments (for example, Recommendations, as in the case of collective claims or general "principles" or "rules" of the proceedings, of which the most known and promising is the joint project of the European Law Institute (ELI) and UNIDROIT [3, c.25])

References

- 1) Freudenthal M. The Future of European Civil Procedure. Electronic Journal of Comparative Law. 2003. Vol. 7.5. Access through Internet: <http://www.ejcl.org/ejcl/75/art75-6.html> (Date of access: 26.01.2014).
- 2) Kramer X.E. Cross-Border Enforcement in the EU: Mutual Trust Versus Fair Trial? Towards Principles of European Civil Procedure // International Journal of Procedural Law. 2011. Vol. 2. P. 202-230.
- 3) Maňko R. Europeanisation of Civil Procedure: towards Common Minimum Standards? //European Parliamentary Research Service. 2015. P. 1-29.
- 4) Šinová R., Valentová L. Handbook of European Civil Procedure Law. Olomouc. 2012. 175 p.
- 5) Juenger F. Some Comments on European Procedural Harmonization // American Journal of Comparative Law. 1997. Vol. 45(4). p. 931-937.

- 6) van der Grinten P. Challenges for the Creation of a European Law of Civil Procedure // *Civil Justice Review*. 2007. Vol. 3. p. 65-70.
- 7) Storskrubb E. *Civil Procedure and EU Law: a Policy Area Uncovered*. Oxford: OUP. 2008. 184 p.
- 8) Hess B. The Integrating Effect of European of European Civil Procedure Law // *European Journal of Law Reform*. 2002. Vol. 4. p. 3-17.
- 9) Nekrošius V. *Europos Sąjungos civilinio proceso teisė (pirma dalis)*. Vilnius: Justitia. 2009. 304 p.
- 10) Grebentsov A. M. the Unification of rules of jurisdiction of civil cases of an international character in Europe. *Arbitration and civil process*. 2003. No. 1. Pp. 34-44.
- 11) Stewart D. Private International Law: a Dynamic and Developing Field // *University of Pennsylvania Journal of International Law*. 2009. Vol. 30(4). p. 1121-1131.
- 12) Kontrauskas R. Tarptautinis civilinis procesas: samprata ir vieta nacionalinės teisės sistemoje // *Jurisprudencija*. 2008. No. 7(109). p. 70-75.
- 13) Bayraktaroglu G. Harmonization of Private International Law at Different Levels: Communitarization v. International Harmonization // *European Journal of Law Reform*. 2003. Vol. 5. P. 111-150.
- 14) Bogdan M. *Private International Law as Component of the Law of the Forum: General Course*. The Hague: Hague Academy of International Law. 2012. 352 p.
- 15) Collier J. *Conflict of Laws*. Cambridge: CUP. 2001. 403 p.
- 16) Zharko A. L. Recognition and enforcement of foreign judgments in England: Diss... candidate of law. N. Moscow: Russian University of friendship of peoples. 2006. 187 p.
- 17) Boguslavskii M. M. *Private International law: textbook*. Moscow: Yurist. 2005. 604 p.
- 18) Saenko V. A. Sources of international civil procedural law. Gaps in Russian legislation. 2012. No. 3. Pp. 92-95.
- 19) Salma M. About evolution of concept of European civil procedure law legislation. *Zbornik radova Pravnog faculty at the Novi Sad*. 2007. No. 1-2. p. 187-198.
- 20) Storskrubb E. Civil Justice – a Newcomer and an Unstoppable Wave / *The Evolution of EU Law*. Eds.: G. de Búrca, P. Craig. Oxford: OUP. 2011. P. 309-330.
- 21) Kramer X. Harmonizing of Civil Procedure and the Interaction with Private International Law / *Civil Litigation in a Globalising World*. Eds.: X.E. Kramer, C.H. van Rhee. The Hague. Springer. 2012. p. 121-139.
- 22) Boele-Woelki K. *Unifying and Harmonizing Substantive Law and the Role of Conflict of Laws*. Leiden: Brill. 2010. 288 p.
- 23) Kramer X. Towards ELI-UNIDROIT Model Rules of Civil Procedure: Basic Premises and Challenges. Bay Area Civil Procedure Forum, Hastings (San Francisco). 19 April 2016. p. 1.
- 24) Крымский Д.И. Упрощенные производства в гражданском процессе зарубежных стран: автореф. дисс....к.ю.н. Москва. МГУ. 2011. 26 с.
- 25) Kramer X. The Structure of Civil Proceedings and Why it Matters: Exploratory Observations on Future ELI-UNIDROIT European Rules of Civil Procedure // *Uniform Law Review*. 2014. Vol. 19(2). p. 218-238.
- 26) Guinchard E. L'Europe, la procédure civile et le créancier: l'injonction de payer européenne et la procédure européenne de règlement des petits litiges / *Revue trimestrielle de droit commercial et de droit économique*. 2008. p. 465-483.
- 27) Kramer X. Enhancing Enforcement in the European Union. The European Order for Payment Procedure and its Implementation in the Member States, Particularly in Germany, the Netherlands and England / *Enforcement and Enforceability. Tradition and Reform*. Eds.: C.H. van Rhee, A. Uzelać. Portland: Intersentia. 2010. p. 17-40.
- 28) Nekrošius V. Europos Sąjungos sumariniai procesai - ar esame kelyje į bendrą Europos Sąjungos civilinį procesą? / *Teisė besikeičiančioje Europoje. Liber Amicorum Pranas Kūris*. Vilnius: Mykolo Romerio universitetas. 2008. p. 787-798.

- 29) Kramer X. Procedure Matters: Construction and Deconstruction in European Civil Procedure. Rotterdam. 2013. 30 p.
- 30) Tulibacka M. Europeanization of Civil Procedures: in Search of a Coherent Approach // Common Market Law Review. 2009. Vol. 4. p. 1527-1565.
- 31) Reding V. Strengthening Mutual Trust: Towards a True European Area of Civil Justice (Public Lecture). Max Planck Institute Luxembourg (MPIL). Luxembourg. 25 March 2014. p. 1-4.
- 32) Droit processuel civil de l'Union Européenne. Eds.: L. Cadiet, E. Jeuland et S. Amrani-Mekki. Paris: Lexis Nexis. 2011. 350 p.
- 33) Basedow J. The Communitarisation of Private International Law – Introduction // Rabels Zeitschrift für ausländisches und internationales Privatrecht. 2009. Vol. 73, p. 455-460.
- 34) Storme M. A Single Civil Procedure for Europe: A Cathedral Builders' Dream // Ritsumeikan Law Review. 2005. No 22. P. 87-100.
- 35) Kapustin Y. A. International legal framework the institutional system of Eurasian integration // Journal of Russian law. 2013. No. 10. p. 116-121.
- 36) Nicolae-Horia T. How Far Have We Reached in European Cooperation in Civil Matters? A View on European Enforcement. CES Working Papers. 2015. Vol. VII(2A). p. 637-647.
- 37) Vernadaki Z. EU Civil Procedure and Access to Justice after the Lisbon Treaty: Perspectives for a Coherent Approach (PhD Thesis). London: University College London. 2013. 296 p.
- 38) Loredó M. ¿Hacia un Derecho procesal europeo? // InDret. 2006. Vol. 1. P. 1-24.
- 39) Chevychelova J. V. Unification of collision rules of European Union law. Teoriya i practice pravoslavljia. 2013. No. 2(4). Pp. 1-5.
- 40) European law. European Union law and the legal protection of human rights. Ed. by L. M. Entin, Moscow: Eksmo, 2007. 960 p.
- 41) Mikhaleva T. N. On target installations in the context of development of integration law (for example, the European Union and the Eurasian community) // Actual problems of international public and international private law: scientific collection. Tr. Vol. 5. Minsk. BSU. 2013. P. 231-238.
- 42) Nersesyants V. S. General theory of law and state. Moscow: Norma, 2001. 520 p.
- 43) General theory of law and state: textbook. Under the editorship of V. V. Lazareva. Moscow: Yurist. 2002. 520 p.
- 44) Dossenrode S. Approaching the European Federation? London: Routledge. 2007. 232 p.
- 45) Scutaru M.S. Globalization and Interregionalism. Research and Science Today. 2014. Vol. 7(1). p. 81-88.
- 46) Postnikova E. V. Federalism in the international private law of the European Union. Journal of Higher school of Economics. 2015. No. 4. Pp. 147-164.
- 47) Schmitter P. Examining the Present Euro-Polity with the Help of Past Theories. / Governance in the European Union. Eds.: G. Marks, F.W. Scharpf *et al.* London: SAGE Publications. 1996. p. 1-15.
- 48) Brand R. The European Union's New Role in International Private Litigation. Loyola University Chicago International Law Review. 2005. Vol. 2(2). p. 277-293.
- 49) Moravcsik A. Federalism in the European Union: Rhetoric and Reality / The Federal Vision: Legitimacy and Levels of Governance in the United States and the European Union. Ed. by: K. Nicolaidis, R. Howse. Oxford: OUP. 2001. p. 163–164.
- 50) Tömmel I. The European Union – a Federation *sui generis*? / The EU and Federalism: Politics and Policies Compared. Ed.: F. Laursen. Farnham: Ashgate. 2011. p. 41-56.
- 51) Bideleux R. Introduction: European Integration and Disintegration. In: European Integration and Disintegration: East and West. Eds.: R. Bideleux, R. Taylor. London: Routledge. 2002. p. 1-9.
- 52) Pobedinsky I. M. the Role of federalism in theory of European integration. Izvestiya of Russian state pedagogical University. A. I. Herzen. 2008. No. 67. Pp. 210-215.

- 53) Boyko Yu. p. the Conceptual basis of federalism in the legal science. Legal science. 2011. No. 3. pp. 8-11.
- 54) Prokhorov V. A. Understanding of Federation and federalism in the modern legal science. Almanac of modern science and education. 2010. No. 3(2). P. 52-54.
- 55) Burgess M. Federalism and the European Union: the Building of Europe (1950-2000). London: Routledge. 2002. 290 p.
- 56) Wolinetz S. Comparing the Incomparable: Treating the EU in Comparative Context / The EU and Federalism: Politics and Policies Compared. Ed.: F. Laursen. Farnham: Ashgate. 2011. Pp. 27-39.
- 57) Kelmen R. Build to Last? The Durability of EU Federalism / Making History: State of the European Union. Eds.: S. Meunier, K. McNamara. Oxford: OUP. 2007. p. 51-66.
- 58) Folker Ber. Standardized and harmonized European law and its impact on third States // Baltic region. 2011. No. 3. Pp. 13-24.
- 59) Baca W.M.K. The Principle of Mutual Recognition of Judicial Decisions in EU Law in the Light of the 'Full Faith and Credit' Clause of the US Constitution. Access through Internet: <http://www.comunidadandina.org/BDA/docs/CAN-INT-0061.pdf> (date of access: 21.12.2015).
- 60) Get'man-Pavlova I. V. Private International law: textbook. Moscow: "Eksmo". 2005. 752 p.
- 61) Gorywoda L., Hatzimihail N., Nuyts A. Introduction: Market Regulation, Judicial Cooperation and Collective Redress / Cross-Border Class Actions: The European Way. Eds.: A. Nuyts, N. Hatzimihail. Munich: Sellier European Law Publishers. 2013. P. 1-58.
- 62) Mikhailova S. A. Legal regulation of judicial cooperation in civil, commercial and family matters in the European Union. Cand. Diss. Thesis. Moscow: Moscow State Law Academy. 2012. 25 C.
- 63) Follesdal A.; Hix S. Why There is a Democratic Deficit in the EU: A Response to Majone and Moravcsik // Journal of Common Market Studies. 2006. Vol. 44(3). p. 533-562.
- 64) Jano D. Understanding the "EU Democratic Deficit". A Two Dimension Concept on a Three Level-of-analysis // Politikon: The IAPSS Journal of Political Science. 2008. Vol. 14(1). p. 57-70.

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