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INTERACTION BETWEEN RUSSIAN AND FOREIGN JURISDICTIONS IN CIVIL PROCEEDINGS

Specialty 5.1.3. – Private law (civil) sciences

ABSTRACT OF THE THESIS

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Relevance of the research topic. The modern world can be compared to a busy road network with many intersections. One might imagine the intersections as places of contact between different legal systems, mutual influence, co-operation and competition of national and international jurisdictions. Companies and citizens of different countries are increasingly engaging with each other across borders. This is facilitated by travelling, working and studying abroad, international trade and active international relations of companies. Cross-border contacts result in foreign trade transactions and a variety of civil law relations and, as a consequence, civil law disputes both on the subject and on the place and applicable law of the dispute. The competition between national jurisdictions becomes more and more intense and turns into a substantive element of the model of interaction of legal systems.

The study of jurisdictional competition allows us to present the main trends, basic meta-processes of development. It's necessary to highlight the increasingly close intertwining of private law regulation and public law, which is especially evident in matters of jurisdiction. This becomes more and more evident with the quantitative and qualitative development of international economic cooperation, on the one hand, and the increasing desire of states to ensure the attractiveness of their jurisdictions for domestic and foreign economic actors, on the other hand.

Countries use various public law methods aimed at: a) forming a system of multilateral and bilateral agreements to develop mechanisms for resolving contradictions between legal entities and persons; b) creating conditions for protecting the interests of national businesses and citizens; c) improving the efficiency of courts (arbitration).

Two multidirectional trends should be distinguished when characterising the modern system of interaction between jurisdictions. The general trend is explained by the needs of the development of economic cooperation between states, which promotes the formation of mechanisms for the enforcement of foreign court decisions and the consolidation of these rules and procedures in an ever-increasing list of international agreements and legal acts of national legislation. At the same time, states are increasingly referencing the incompatibility of foreign judgements with national legislation and the

need to "protect public order". In these circumstances it is particularly important to analyse the mechanisms through which different jurisdictions interact with each other, to study the rules of such interaction and to identify the reasons why one jurisdiction, when considering a particular civil law dispute, gets an advantage over another.

In the context of sanctions against Russia the tasks of resolving disputes and issues that inevitably arise in the course of cooperation between economic entities and citizens are becoming more relevant. This topic actualises the issue of compatibility of judicial decisions of courts of Russia and other countries, interaction of Russian and foreign jurisdictions.

Not only international multilateral and bilateral treaties, but also the mechanism of "dialogue of judges" is intended to overcome the growing contradictions between jurisdictions. Dialogue is not only necessary for judges working in different countries and legal systems: "dialogue of judges" mechanisms are increasingly being used to resolve different interpretations of the law within the same national legal system. Such dialogue is particularly necessary in resolving conflicts between different branches of the same judicial system. Mechanisms of dialogue between judges (in the context of this study, those involved in civil and arbitration dispute resolution) are important in the emerging systems of interaction between the judicial systems of the post-Soviet countries, primarily within the Eurasian Economic Union (EAEU) and BRICS+.

All significant countries seek to keep civil law and arbitration disputes of their companies in their national jurisdiction and to attract disputes with a foreign element into their jurisdiction. The interests of states go far beyond financial gain and image implications. In pursuing the goals of improving the quality of judicial systems and creating an attractive and competitive jurisdiction, countries are no less concerned about preserving their legal identity and the values and principles that they consider fundamental to their societies. Therefore, the preservation of legal identity in the development of legal systems in the context of globalisation and escalating conflicts is a separate aspect of the study.

This dissertation predominantly analyses the private law mechanisms used by courts (arbitration) in resolving disputes in civil law circulation, regulating civil statuses,

protecting the rights and legitimate interests of individuals and legal entities through civil proceedings. The complication of geopolitical processes predetermines additional attention to the issues of choice of jurisdiction, quality of legal proceedings, recognition and enforcement of decisions of Russian courts abroad and foreign courts in the Russian Federation, which adds to the study's relevancy.

The purpose and objectives of the dissertation research. The aim of this research is to present the concept of interaction between Russian and foreign jurisdictions in civil proceedings in modern conditions (geopolitical complexities, increasing uncertainty about the prospects of international legal regulation of the enforcement of judgments, sanctions).

Achievement of the designated goal is ensured by accomplishing the following list of objectives:

- exploration of the concept, main types and characteristics of jurisdiction as a basic legal category;

- study of the impact of the competition factor on civil jurisdiction and court decisions;

- characterisation of the factors promoting or, on the contrary, hindering the attractiveness of Russian jurisdiction in civil (arbitration) proceedings;

- analysis of the main features of competition (interaction, cooperation, confrontation) of different jurisdictions in the regulation of civil law relations;

- study of the practice of recognition and enforcement (exequatur) of foreign court judgments in the Russian Federation and Russian courts abroad, development of legal mechanisms to overcome emerging difficulties in this matter;

- presentation of recommendations on improving the legal regulation of enforcement of civil judgements of Russian courts abroad and foreign courts in Russia;

- exploration of the defining characteristics of cooperation between Russian courts and foreign courts in resolving civil disputes under sanctions;

- and, as a result, presentation of the proposals to improve the competitiveness of Russian jurisdiction in civil proceedings.

Among the results of the conducted research it is worth mentioning the analysis of the measures taken to improve the competitiveness of the Russian jurisdiction as well as specific proposals for the development of legal regulation of the enforcement of civil judgements of Russian courts abroad and foreign courts in the Russian Federation.

The object of the study is legal acts (international and national), phenomena and processes that characterise the interaction between Russian and foreign jurisdictions in resolving civil law disputes. Among the relevant factors characterising the object of the study, it's necessary to point out several trends. On one hand, the complication of regulation of the rules of choice of jurisdiction as a result of unfair competition and the application of sanctions pressure measures against Russian companies when considering disputes abroad, and the protectionist legal protection measures legislatively enshrined in Russian law, on the other. The analysis of various aspects of competition of jurisdictions in the field of civil litigation allows us to determine the current state of national jurisdiction, to identify areas that can be improved in order to increase its quality and attractiveness.

The subject of the study is the regularities of emergence, functioning and development of models and legal mechanisms of interaction between Russian and foreign jurisdictions in the sphere of civil proceedings. In this study, the concept of jurisdiction is studied from the perspective of private law in relation to the activities of the courts (arbitrage). Jurisdiction issues are presented as the processes of: a) determining and/or choosing the place for judicial (in the broad sense) resolution of issues and disputes arising between legal entities and persons; b) legal regulation regarding the process of determining the competent judicial body for the disputes; c) resolution of issues of recognition and enforcement (exequatur) of foreign court decisions on civil disputes.

Therefore, this study considers: a) the problems of interaction between the judicial systems of different states (within the framework of conflicts resolved by means of private international law) and the issues of interaction between national judicial bodies and judicial bodies of integration associations (Eurasian Economic Union, European Union); b) the tasks of preserving national legal identity in the resolution of civil disputes; c) mechanisms of "dialogue of judges" in the activities of the courts.

The extent of academic development of the topic and the range of sources used. The foreword by William A Schabas to Luc Reydams' monograph Universal Jurisdiction: International and Municipal Legal Perspectives begins with a reminder of Mark Twain's famous phrase about the weather : «Everybody talks about it, but nobody does anything about it»[1] This approach is explained by the extremely wide and diverse use of the concept of 'jurisdiction' in legal science, in international law (both public and private) and in various branches of national law. Accordingly, the scientific literature on this subject of study is extremely diverse and varied.

Fundamental works of domestic jurists, civilists, scientists in the field of civil law and process, activities of judicial and arbitration bodies of Russia, private international law are the basis of this study. This basis was formed by the works of Y.G. Barsegov, M.M. Boguslavsky, D.I. Dedov, V.V. Zaitsev, V.P. Zvekov, V.M. Zhuikov, B.M. Klimenko, V.M. Koretsky, P.V. Krasheninnikov, A.G. Lisitsyn-Svetlanov, S.N. Lebedev, I.I. Lukashuk, L.A. Luntz, L.Y. Mikheeva, E.A. Sukhanov, E.T. Usenko, S.V. Chernichenko, V.F. Yakovlev and others.

The quality of Russian jurisdiction has been studied by such legal scholars as V.D. Zorkin, A.A. Ivanov, V.M. Lebedev, V.V. Momotov, T.G. Morschakova, O.S. Chernichenko. Among the analytical materials it's necessary to mention the Report of the Russian Bar Association and RANEPA "National Jurisdiction: a Course for Competitiveness of the Legal System" (2019)[2], the report of the National Research University – Higher School of Economics "After the Supreme Arbitration Court: Russian Economic Justice Today and Tomorrow" (2015)[3], as well as the Guide for Judges "When Private International Law Overlaps with Intellectual Property Law"[4].

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[1] Schabas William A. Foreword to «Universal Jurisdiction: International and Municipal Legal Perspectives» by Luc Reydams. Oxford University Press Inc., New York, 2003.

[2] National jurisdiction: the course for competitiveness of the legal system of Russia: - M.: Publishing House "Delo" RANEPA, 2019. – 224 p.

[3] Baryshnikov P.S., Vorozhevich A.S., Zagorulko L.P., Zakharova M.V. et al. After the SAC: Russian economic justice today and tomorrow. M., 2015. – 720 p.

[4] Bennett A. and Granata S. When Private International Law Meets Intellectual Property Law - A Guide for Judges. The Hague: The Hague Conference on Private International Law; Geneva: World Intellectual Property Organisation. 2019. – 110 p.

Recognition and enforcement (exequatur) of judicial (arbitration) decisions of foreign courts, various aspects of international judicial jurisdiction have been studied in detail in the works of domestic civilists and specialists in the field of private international law such as: S.A. Babkin, S.V. Bakhin, V.N. Borisov, I.V. Getman-Pavlova, N.G. Doronina, N.Yu. Erpyleva, R.V. Zaitsev, B.L. Zimnenko, V.A. Kanashevsky, M.N. Klevchenkova, A.A. Kostin, D.V. Litvinsky, L.A. Lunts, A.A. Mamaev, N.I. Marysheva, Y.A. Makhonin, E.V. Mokhova, A.I. Muranov, V.A. Musin, O.A. Papkova, L.V. Terentyeva, T.Y. Khabrieva, N.A. Shebanova, L.G. Shcherbakova, A.I. Shchukin, V.V. Yarkov and others, including pre-revolutionary authors: S.B. Gomolitsky, A.N. Mandelstam, P.A. Markov, F.F. Martens, I.E. Engelman, T.M. Yablochkov and others.

The issues of interaction of Russian judicial and arbitration instances with international courts, courts of integration associations have been explored in the works of such authors as K.L. Branovitsky, T.Y. Izgagina, A.I. Ispolinov, O.V. Kadysheva, S.Y. Kashkin, P.P. Myslivsky, T.N. Neshataeva, E.A. Osavelyuk, V.P. Ocheredko, E.E. Rafalyuk, K.L. Chaika, G.G. Shinkaretskaya, K.V. Entin, M.L. Entin and others.

The study of topical problems of confrontation between Russian and foreign jurisdictions under the pressure of sanctions, analysis of measures of anti-sanctions legal regulation are presented in the works of M.A. Bychikhin, A.F. Voronov, V.S. Vunukainen, A.V. Gabov, M.L. Galperin, A.S. Eremenko, O.V. Zaitsev, R.O. Zykov, B.R. Karabel'nikov, M.V. Keshner, A.A. Klishas, N.P. Melnik, R.M. Khodykin and others.

The topic in question implies the necessity to reference the works of leading foreign researchers and a wide analysis of foreign (primarily English- and French-language) scientific literature. In particular, the basic issues of jurisdiction in civil disputes, the application of conflict of laws rules in civil proceedings are disclosed in the works of English-speaking jurists, such as: W. E. Butler, P. S. Berman, A. Briggs, E. Burg, H.C. Gutterridge, D.D. Girsberger, R. Dworkin, T. Kruger, M. Lemann, R. Michaels, J. Neels, J.A. Pontier, T. Putnam, C. Ryngaert, L. Reydams, Sh. Rosenne, S.N. Trevor, W. Twining, J.W. Walsh, Chr. C. French, T.C. Hartley and others.

The works of French and Francophone researchers have deeply investigated the issues of correlation between European and national jurisdictions, they provide a detailed analysis of judicial decisions of French courts and the courts of the European Union, demonstrate the models and tools to support the "dialogue of judges", substantiate the importance of ensuring judicial independence. In particular, these issues are reflected in the works of such researchers as B. Ancel, E. Bartin, P. Vareilles-Sommières, V. Dubos, R. de Guttes, Kh. Zaher, G. Canivet, H. Gaudemet-Tallon, P. Lagarde, B. Lamy, M.-E. Lancel, X. Latour, Y. Lequette, P. Lehmann, F. Mailhé, V. Moissinac-Massenat, P. Manin, H. Muir Watt, B. Audit, L. Usunier, C. Chainais and others.

Different aspects of the topic of this study have been explored in various dissertations such as the works of V.N. Pligin "Recognition and enforcement of foreign judgments in the EU and EFTA countries" (1993); A.A. Mamaev "International judicial jurisdiction in civil cases involving foreign persons" (2001); M.O. Lits "Recognition and Enforcement of Foreign Court Judgments and Arbitration Awards in the Russian Federation: Correlation of International and Domestic Legal Regulation" (2002); S.S. Sorokina "Recognition and Enforcement of Foreign Court Judgments in the Russian Federation" (2004); R.V. Zaitsev "Recognition and Enforcement of Foreign Judicial Acts in Russia" (2005); E.A. Osavelyuk "Determination of the Place of International Civil Procedure in the System of Russian Law" (2005); A.N. Borisov "The Doctrine of Reverse Reference and Reference to the Law of a Third State (renvoi)" (2008); I.S. Marusin "International Judicial Institutions, in which individuals are entitled to be parties to proceedings: new trends in the development and improvement of their activities" (2008); I.M. Shevchenko "Problems of consideration of cases involving foreign persons in the Russian arbitration process: international jurisdiction, court notices, means of proof" (2012); S.E. Gafarov "Basic models of international jurisdiction of civil cases in national law" (2012); R.A. Gurbanova "Interaction of judicial bodies in the European space: issues of theory and practice" (2016); D.M. Zamyshlyaev "Types of judicial jurisdictions: comparative-legal and historical approach" (2017); A.A. Kostin "Legal grounds for the recognition and enforcement of foreign judgments in the Russian Federation" (2018); A.S. Ispolinov "Courts of regional integration associations in

international justice (on the example of the EU Court of Justice and the EAEU Court" (2018); A.V. Trubacheva "Recognition and enforcement of judgments in economic disputes in the EAEU and the EU" (2019); A.V. Malyshkin "Integrated jurisdiction (doctrine, practice, technique)" (2021); E.A. Khachatryan "The Role of the Decisions of the EAEU Court and the EU Court of Justice in Strengthening Regional Legal Orders: Comparative Legal Analysis" (2022); K.L. Chaika "Courts of Integration Associations among Other Bodies of International Justice" (2022); O.A. Shepovalova "Legal Regulation of Indirect Judicial Jurisdiction in Cross-Border Private Law Disputes" (2024), D.V. Tarikanov "Conflicts of Qualifications in Private International Law" (2024).

The problems of recognition and execution of court decisions in foreign countries have been explored in various dissertations such as the works of A.L. Zharko (in the UK, 2006), L.V. Knyazeva (in the USA, 2015), D.V. Konev (in Germany, 2008), D.V. Litvinsky (in France, 2004).

Among the dissertations defended by Russian jurists abroad, it's necessary to highlight the works of D.V. Litvinsky "Recognition of foreign court decisions: a comparative study of Russian law and French law" ("La reconnaissance des décisions de justice étrangères: une étude comparative du droit russe par l'entremise du droit français", Paris, 2007) and T.Y. Kuteeva-Vatelo "Evolution of the international jurisdiction regime in Russian private international law" ("L'évolution du régime de la compétence internationale en droit international privé russe", Paris, 2010).

However, it should be noted that most of the aforementioned studies focus on the study of public international law issues, while this dissertation is devoted to the analysis of private-law (civil) aspects of the topic, the analysis of the difficulties faced by the participants of civil and economic transactions in modern conditions.

The legal basis of the study is made up of:

a) constitutional acts of the Russian Federation, federal legislation and other normative legal acts of the Russian Federation;

b) acts of public international law (fundamental conventions, multilateral and bilateral treaties), conflict of laws rules of private international law;

c) decisions and opinions of the Constitutional Court of the Russian Federation, decisions of the Supreme Court of the Russian Federation;

d) decisions of courts (arbitration courts) of the Russian Federation, reviews of judicial practice and information letters of the highest judicial bodies, decisions of international arbitration courts and courts of a number of foreign states.

Before the onset of globalization processes, the formation of large interstate associations, the growth of international trade and economic cooperation between states, the presentation of rules and principles that determined the choice of jurisdiction was very laconic. And this is regarding the situation of the late 1960s and early 1970s, not some prehistoric era. For the economy existing at that time, a limited list of international multilateral and bilateral agreements and conflict of laws rules of private international law was sufficient. For example, the rules determining the choice of court and overcoming any conflicts that arise, as provided for by the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention of 1958), the Convention on the Settlement of Investment Disputes between States and Nationals of Other States of 18 March 1965 (Washington Convention), the UNCITRAL rules and a limited list of arbitration institutions (the Arbitration Court of the International Chamber of Commerce, ICC (Paris), the London Court of International Arbitration, LCIA, the Arbitration Institute of the Stockholm Chamber of Commerce, SCC).

Currently, the choice of jurisdiction is regulated by a wide range of laws of universal, regional and national importance. Among those used in this study it's necessary to highlight:

a) the Convention of 30 June 2005 on Choice of Court Agreements (Convention of the Hague Conference on Private International Law);

b) agreements of regional organisations and integration associations with the participation of the Russian Federation (Commonwealth of Independent States, Eurasian Economic Union), as well as acts of judicial institutions, in particular the EAEU Court;

c) legal positions, decisions and clarifications of the Supreme Court of the Russian Federation. In this context, this dissertation pays special attention to the reviews of

judicial practice of the Supreme Court of the Russian Federation, judicial and arbitral decisions;

d) normative legal acts and regulations of the European Union, a number of foreign countries, international and foreign judicial (arbitration) institutions.

This dissertation analyses the provisions of the draft versions of some conventions, as well as conventions that never entered into force, in particular, those elaborated by the Hague Conference on Private International Law (HCCH). Particular attention is paid to the Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters of 2 July 2019 (entered into force on 1 September 2023, in force for EU Member States, signed by the Russian Federation in 2021 but not ratified).

The empirical basis of the research. The analysis of the quality of national jurisdiction prompts to consider not only positive law (legislation and legal regulation), but above all the law enforcement practice, functional definition of the place of judicial institutions among other state institutions, formal and informal aspects of interaction between judicial institutions and law enforcement agencies. In this context, special attention is paid to the decisions and explanations of the Supreme Court of the Russian Federation.

Obviously, these aspects are far from always regulated by positive law. The real functioning of the jurisdiction is determined by both formal and informal regulation, which, in turn, is conditioned by the peculiarities of legal culture, traditions of dispute and conflict resolution in different societies. Judicial (jurisdictional) practice is a cumulative (generalising) representation of a country's legal system, its attractiveness both for national business, citizens of the country, and for international business and foreigners. This circumstance predetermined the attention to the detailed analysis of specific cases on dispute resolution with the presence of a foreign element in the Russian jurisdiction and Russian participants in the consideration of disputes by foreign courts.

Methodology of the thesis research. The object and subject of the study predetermined the choice of methodology and methods of cognition of legal reality. The methodology of the study of the concept of "jurisdiction" and a number of related legal and not only legal categories involves the active use of a wide range of methods. The

basic list is formed by a combination of general scientific and private scientific (special) methods. Among the general scientific methods, it's necessary to highlight the method of dialectics, a method that implies the study of the phenomenon of jurisdiction in development, dynamics. Historical method is also essential here as it helps present the development of the object of this study in the continuum of history. In addition to that, this dissertation implements the methods of legal anthropology, sociology and other disciplines of social sciences, as this approach is important for the understanding of jurisdiction in different countries with different cultural and political traditions.

Among the set of private scientific (special) methods of studying jurisdiction it is necessary to emphasize those typical for the majority of studies on private-law disciplines in general (civil law and private international law): formal legal method, the method of systematic approach, and the method of comparative law.

The methodological basis for the study of jurisdiction is invariably normative positivism, since it is positivism that puts the concept of jurisdiction in the list of basic categories of real law. Another essential method is hermeneutics, an approach that implies the active use of methods of social modeling and value interpretation. This dissertation attempts to combine the empirical-logical model, which in jurisprudence is realized in normative positivism, and hermeneutics based on the method of interpretation[5].

The concept of interpretation as a method of research and assessment of the quality of jurisdiction differs from the classical positivist approach. This difference consists in the increasing role of the interpreter of the law. In interpretation, it becomes teleological and contextual. This is what is the most challenging novelty of the methodology of cognition of jurisdiction. Jurisdiction and its practical expression (acts and decisions) in this methodology are conditioned by historical, social, economic, philosophical factors of life and development of a particular society, nation, country.

The metaphysical approach to jurisprudence inevitably leads to the analysis of the value component. In this context, the gap between the "realistic" and "metaphysical"

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[5] The essence of the dialectical opposition between the two methodological approaches in general for the social sciences was revealed by the Canadian philosopher C. Taylor. (C. Taylor, "L'interprétation et les sciences de l'homme" / in La liberté des modernes, Paris: Presses Universitaires de France, 1987. P. 5).

perception of jurisdiction and justice is significant. The ethico-legal component enters into a vivid and sharp contradiction with the real jurisdictional activity. This leads to the need for sociological analysis of jurisdictional activity in the categories of "perception" and "trust".

In general, the key methodological problem of the study of the concept of "jurisdiction" is terminological sophistry, which is expressed in the multiple meanings of its content, multiplicity of terms formed from it with subsequent confusion in their use in legal science and law enforcement practice. These difficulties increase immeasurably when using the original concept and the terms formed from it when dealing with a foreign element, which implies their use in different languages, in different legal and judicial systems.

The scientific novelty of the dissertation research consists in the analysis of the main trends in the development of the doctrine of jurisdiction in relation to the development of civil law regulation and resolution of civil law and arbitration disputes, the analysis of legal mechanisms and conflict of laws norms that determine the quality of Russian jurisdiction and allow resolving current contradictions between jurisdictions. Based on the analysis of the consequences and challenges of Russia's accession to the 2019 Convention on Judgments, a number of decisions of Russian judicial (arbitration) bodies, the paper substantiates proposals for improving the civil procedural legislation of the Russian Federation in the field of recognition and enforcement (exequatur) of foreign court (arbitration) judgments in civil law disputes.

The following main provisions (conclusions) are formulated and submitted for defense in this thesis:

1. Noting the multiple meanings of the category "jurisdiction", its application to various legal phenomena, the dissertation offers the following definition as a basic one: jurisdiction as an activity is a sequence of actions taken by various subjects, all those who participate in the processes of development and application of laws.

Asserting that jurisdictional activity is not reduced only to the work of judicial and quasi-judicial bodies, this study distinguishes and reveals the content of three types of jurisdictional activity: a) jurisdictional activities of a public-law nature (activities of

public authorities (judicial and executive), as well as a number of activities of local self-government bodies); b) jurisdictional activities of institutions formed not by public authorities, but through private-law instruments (arbitration courts, various types of other quasi-judicial bodies, for example, in the field of labor law, antimonopoly legislation, regulation of the securities market); c) activities of institutions accompanying the implementation of the national legislation (e.g. functioning of the notary system, dispute resolution system within the framework of self-regulatory organisations (SROs), etc.).

The application submitted for defense corresponds to points 3 and 31 of the passport of the scientific specialty 5.1.3. «Private law (civil) sciences».

2. The international nature of large companies operating in different jurisdictions and/or having contracts with partners from multiple foreign jurisdictions makes them somewhat vulnerable to the need to take into account the requirements of these jurisdictions and, in the event of disputes, to litigation (arbitration) under the requirements and rules of these jurisdictions. In these cases, there may be situations both providing a choice of jurisdictions and a plurality of court proceedings. It's possible that a competition of jurisdictions may take place regarding the case or even parts of the case. This dissertation defines jurisdictional competition as a situation in which a dispute or different aspects of a dispute may be subject to resolution in different jurisdictions, and therefore, a process intended to be unified will face difficulties in choosing the jurisdiction and the law to be applied in resolving the dispute.

The application submitted for defense corresponds to point 3 of the passport of the scientific specialty 5.1.3. «Private law (civil) sciences».

3. Proceeding from the understanding that the national court and national administrative instances, even without recognizing the decision of a foreign court and without agreeing to enforce it, cannot completely ignore the very fact of its existence and the consequences of this decision in other jurisdictions, the dissertation substantiates the conclusion about the double-edged (negative) nature of such opposition of jurisdictions. Confrontation of jurisdictions leads to: a) instability of civil circulation and uncertainty in the just resolution of disputes; b) unpredictability (or negative predictability) of court

and arbitration decisions; c) as a consequence, reduction of foreign trade relations, civil circulation and economic damage.

Under these conditions the approach of civil law disputes resolution is predominantly tort liability: judicial decisions are enforced to the extent that the assets belonging to the parties are located in a jurisdiction that is accessible for enforcement. In this case, the competition of jurisdictions is realized not in terms of attractiveness, but in the actual ability of law enforcement structures of one or another state to "reach" the subject of liability. In this context, the application of liability measures goes beyond private law.

The application submitted for defense corresponds to point 31 of the passport of the scientific specialty 5.1.3. «Private law (civil) sciences».

4. The rules for determining and exercising jurisdiction delimit competence between states and thus serve as the main tools for resolving civil law disputes with a foreign element. Often the dispute on the choice of jurisdiction is much more complicated and takes much longer than the consideration of the issue on the merits. In the dissertant's opinion, the essence of the procedure for choosing jurisdiction in civil law disputes is the process of interpretation of the norms of national and international private law in relation to a particular case.

The concepts of "interpretation" and "construction" have several differences. Interpretation emphasises the subjective factor of the interpreter. Initially "construction" was understood as explanation of the content, a largely technical process, the purpose of which is to help clarify the meaning intended by the legislator. The creative subjective role of the constructor was minimised. In the modern understanding, interpretation is not only a technical process of clarifying the meaning intended by the legislator, but also relating its meaning to the conditions that have potentially changed over time.

After implementation of the interpretation process, courts (arbitration) on the basis of value comprehension determine the jurisdiction suitable for the resolution of civil law (arbitration) disputes and only then proceed to the construction of the system of legal norms applicable to the resolution of the dispute. Moreover, at the current stage of development of the theory and practice of legal proceedings, normative interpretation is

increasingly transformed into interpretation. The difference between them is that in the process of interpretation the judge (law enforcer) not only seeks to comprehend the meaning of the law, but also to disclose the objectives pursued by the legislator when adopting it and, moreover, to realize these objectives in a particular case.

The application submitted for defense corresponds to point 1 of the passport of the scientific specialty 5.1.3. «Private law (civil) sciences».

5. Based on the analysis of judicial and arbitration practice of the Russian Federation, this dissertation argues for a unified approach to be followed in resolving jurisdictional disputes:

a) a clear distinction is to be made between the question of the jurisdiction of a court that has the competence to resolve a dispute and the law applicable to the resolution of the dispute. The correct determination of the jurisdiction of a particular civil case to the jurisdiction of a particular court of a foreign state ("indirect jurisdiction condition") implies following a clear sequence of steps in the choice of jurisdiction, which are presented in detail in this study;

b) the inspection by a national court of a decision of an international commercial arbitral tribunal or a court of another state as to the conformity of that decision with national public policy categorically does not mean the possibility that the merits of the decision under inspection are admissible for a review. Such an approach is most consistent with the interests of stability of justice and predictability, which are obvious values in commercial relations.

The application submitted for defense corresponds to points 22 and 28 of the passport of the scientific specialty 5.1.3. «Private law (civil) sciences».

6. The doctrine of jurisdiction is increasingly influenced by geopolitical factors. First of all, this impact is reflected in civil law regulation, which, in turn, causes a qualitatively new intertwining of private law regulation and public law, up to their convergence. An example of convergence is the significant strengthening of the influence of the public policy clause in the resolution of civil law disputes, primarily in relation to the recognition and enforcement of foreign judgments and arbitral awards. This strengthening is formalized in the decisions of the highest judicial instances of the most

developed legal systems, including the decisions of the Supreme Court of the Russian Federation.

The use of the public policy clause by judicial (arbitration) institutions should be free from purely political grounds and should be reduced to ascertaining: a) the legality (following from the contract) of the very fact of the decision on a particular case by a foreign court; b) the conformity of the adopted decision with the Russian public policy and international public policy; c) the possibility of exequatur of a foreign court decision in the national legal system.

The application submitted for defense corresponds to points 3 and 31 of the passport of the scientific specialty 5.1.3. «Private law (civil) sciences».

7. From the analysis of a considerable list of definitions of the Supreme Court of the Russian Federation, decisions of other judicial (arbitration) bodies of Russia, this dissertation notes the prevalence of the legal position that justifies the possibility of refusal to issue an exequatur not only for reasons of inconsistency of the decision in question with Russian substantive law or using the clause on the protection of domestic public order, but also for the reasons of refusal to recognize and enforce in Russia the decisions of foreign courts (arbitrations). This legal position will lead to a situation where the enforcement in Russia of many (if not most) foreign court judgments will be complicated on the grounds that the judicial compositions involved citizens of "unfriendly" states. Such an approach may become an additional obstacle to the fair settlement of civil law disputes and entail complications in the conclusion of foreign trade transactions. The situation is particularly complicated by the lack of understanding of what circumstances may testify in favor of partiality (impartiality) of judges (arbitrators).

Particular attention is paid to the application of "*anti-suit injunctions*" mechanisms with the subsequent transfer of disputes between Russian companies and foreign counterparties to Russian courts, contrary to arbitration clauses established by contracts. This study proposes the adoption in the Russian legal system and court proceedings of a number of fundamental theses that have been tested in international practice and already have a certain tradition of application in Russia. Among them: a) expansion of practice of application of estoppel mechanisms; b) more restrained (i.e. legally detailed

substantiated) application of the instrument of refusal to issue exequatur; c) clear disclosure in the explanations of the Supreme Court of the Russian Federation of the grounds for attributing this or that arbitration centre to the "unfriendly" jurisdiction. This dissertation also discloses the requirements for the application of the mechanisms in question: if a Russian company agreed to a particular dispute resolution option when signing a contract, the departure from the signed agreement must be justified.

The application submitted for defense corresponds to points 28 and 31 of the passport of the scientific specialty 5.1.3. «Private law (civil) sciences».

8. As one of the protectionist measures that should be recognised as permissible, the study examines arbitration court decisions on the recognition of bankruptcy of foreign companies in Russia. At the same time, in the conditions of Russia's rejection of UNCITRAL model laws on cross-border bankruptcy, it is necessary to develop and justify on the basis of arbitration practice a list of necessary conditions for such a decision, namely: a) the company subject to bankruptcy conducts predominantly commercial activities in Russia; b) the majority of the company's property is located in Russia; c) the company is owned by Russian citizens; d) restrictions on access to justice for claimants at the place of the company's registration and a number of other circumstances that were examined in this dissertation.

The application submitted for defense corresponds to point 32 of the passport of the scientific specialty 5.1.3. «Private law (civil) sciences».

9. Coming to the conclusion that the Russian doctrinal understanding of indirect judicial jurisdiction does not coincide with the concept laid down in the Hague Convention on Judgments 2019, this dissertation proposes a number of measures to overcome this contradiction, which is significantly aggravated in the conditions of imposition of sanctions against Russia by a number of states. Under the conditions of the sanctions regime the lack of ratification and enforcement of the Convention in question can be substantially compensated by the recognition and enforcement of foreign judgments on the basis of: a) the principle of reciprocity, which should be enshrined in the Civil Procedure and Arbitration Procedure Codes of the Russian Federation; b) bilateral and multilateral (e.g., within the framework of BRICS+, Shanghai Cooperation

Organisation (SCO), EAEU) treaties; c) alternative models of dispute resolution (e.g., within the framework of BRICS+) and new international and regional judicial models.

Highlighting the historical tradition of concluding agreements on the recognition and enforcement of court decisions of countries that are close to each other both geographically and in terms of the history of formation of their national legal systems, the dissertation substantiates the need to expand the practice of enforcing the decision of the EAEU Court, the formation of other interstate judicial (arbitration) institutions.

The application submitted for defense corresponds to point 31 of the passport of the scientific specialty 5.1.3. «Private law (civil) sciences».

The theoretical significance of this research is determined by the fact that it makes a certain contribution to the analysis of significant theoretical and legal issues of jurisdiction, competition and cooperation between Russian and foreign jurisdictions in civil proceedings. A number of concepts and doctrines set out in foreign scientific literature in terms of the interaction of jurisdictions, mechanisms of "dialogue of judges" are introduced into the scientific discourse, and a number of exemplary decisions of Russian and foreign courts in the consideration of civil law disputes are analyzed.

The practical significance of this dissertation research lies in the possibility of taking into account and applying the theoretical positions, expert assessments and recommendations outlined in this study, such as:

a) in practical activities to protect the rights and legitimate interests of Russian companies and citizens in civil law disputes involving them both in Russian and foreign jurisdictions;

b) in the activities of judicial (arbitration) bodies of the Russian Federation in resolving civil law disputes with a foreign element;

c) in the discussion and preparation of international treaties on cooperation and mutual legal assistance in civil, commercial and family cases, agreements on the recognition and enforcement of foreign court judgements in civil cases;

d) in the development of policies to improve models of cooperation between Russian courts and courts of integration associations, courts and arbitration tribunals of foreign states, and commercial arbitration tribunals.

This dissertation's analysis of the practice of application of anti-sanctions legislation and "anti-suit injunctions" mechanisms in 2022-2025 may be of practical interest for lawmaking and law enforcement activities. This analysis prompts the adoption of a number of measures to bring more certainty to the procedure of application of anti-sanctions legislation in the interests of ensuring the attractiveness of the Russian national jurisdiction.

This dissertation research can be of use when teaching courses of civil law, private international law, international civil procedure, a number of related disciplines, preparation of teaching aids in higher educational institutions.

The approbation of the research results. The main provisions of the dissertation presented in this study and put forward for defence were considered, approved and recommended for defence by the Department of Legal Support of the Market Economy of the High School of Law of the Institute of Public Administration and Civil Service of the Russian Presidential Academy of National Economy and Public Administration. The results of the research, a number of expert assessments based on the results of the analysis of current legislation and modern law enforcement practice, the author's proposals for their improvement were reflected in publications in peer-reviewed journals, as well as in the monograph "National jurisdiction in terms of attractiveness, competition and cooperation" (Moscow: Publishing House "Statut", 2025), in the author's speeches, including at international scientific conferences, in particular "Inequality as a subject of transdisciplinary research" (31 May 2024). The author is one of the winners of the contest of works by young researchers held by the Publishing House "Development of Legal Systems" and the Russian Yearbook of the European Convention on Human Rights in 2020.

The structure of the dissertation is designed to fully reflect the logic of the research and structure its content. The study includes an introduction, three chapters containing seven paragraphs, a conclusion containing the main conclusions and recommendations to improve legal regulation, as well as a list of used normative legal acts and scientific literature.

The introduction presents the main structural elements mandatory for the dissertation research, including the relevance and degree of scientific development of the topic, its scientific and practical significance, the goals and objectives pursued in the course of the research, the disclosure of the subject, object and methodology of the research work, and most importantly, the elements of scientific novelty and defence provisions are outlined. The first chapter explores the topics of the attractiveness of jurisdiction, examines the concept, main types and characteristics of jurisdiction, principles of choosing jurisdiction when considering civil law disputes, presents legal tools and mechanisms used in foreign jurisdictions leading in terms of the level of theoretical elaboration and the number (volume) of disputes resolved. The second chapter studies the means of resolving conflicts between jurisdictions, focuses on the mechanisms of "dialogue of judges", the role and purpose of judicial institutions in integration associations. The third chapter analyses the main trends in the development of civil law jurisdiction in the context of sanctions geopolitical confrontation. The conclusion presents the prospects of interaction between Russian jurisdiction and the jurisdiction of the EAEU courts, judicial institutions and arbitration centres of other potential integration associations in resolving civil law disputes.

The dissertation research has been prepared in accordance with the passport of scientific speciality 5.1.3. "Private law (civil) sciences". The topic of the research, the provisions put forward for defence and the applied methodology fully correspond to the specified passport.

The author's publication on the research topic:

In total, the author has published 9 scientific papers, including a monograph, 7 articles in scientific journals from the list of peer-reviewed scientific editions approved by the Higher Attestation Commission of the Ministry of Science and Higher Education of the Russian Federation, in which the main scientific results of dissertations for the degree of Candidate of Sciences should be published.

List of the author's publication:

1. Bartsits V.I. Maintaining Balance and Recognising the Risks to the Attractiveness of the Russian Jurisdiction in the Process of Applying Anti-Sanctions Legislation / V.I. Bartsits // Sovremennoe pravo. – 2024. – No. 3. – P. 112–118. (In Russ.).

2. Bartsits V.I. Jurisdiction: insights, essential attributes, and guidelines for selection/ V.I. Bartsits // Gosudarstvennaya sluzhba. – 2024. – No. 2. – P. 45–54. (Eng)

3. Bartsits V. I. The Trust Factor as the Main Obstacle to Recognition and Execution of Foreign Court Judgments / V.I. Bartsits // Jurist. – 2023. – No 4.– P. 47–53. (In Russ.).

4. Bartsits V. I. Competition between European and UK Jurisdictions in the context of Brexit / V.I. Bartsits // North Caucasus Legal Vestnik. – 2023. – No 1.– P.109–119. (In Russ.).

5. Bartsits V.I. Development of the European Union Legislation in the Field of Personal Data Protection / V.I. Bartsits // Bulletin of the Law Faculty, SFEDU. – 2022. – Vol.9 - No 2. – P. 150-164. (In Russ.).

6. Bartsits V.I. European Union law and «acquis Communautaire» / V.I. Bartsits // Gosudarstvennaya sluzhba. –2019. – No 2. – P. 81–86. (In Russ.).

7. Bartsits V.I. Constitution of the Fifth Republic: the organization of state power in France / V.I. Bartsits, L.R. Simonishvili, I.N. Bartsits // Gosudarstvennaya sluzhba. – 2018. – Vol. 20 – No 5 (115). – P. 18-28. (Eng)

8. Bartsits V.I. Privacy and personal data protection in the decisions of the European Court on Human Rights / V.I. Bartsits // Russian Yearbook of the European Convention on Human Rights. –2020. – Vol. 20 – No 6. – P. 169-182. (In Russ.).

9. Bartsits V.I. National jurisdiction in terms of attractiveness, competition and cooperation: a monograph / V.I. Bartsits // M.: Statut, 2024. – 172 p.