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The procedures of civil law in international relations in the practice of Polish courts

Year by year, more and more international elements appear in the everyday practice of common courts. The courts regularly apply international law in domestic proceedings, both in passing judgments and in supporting the judicial process (ancillary activities, e.g. serving correspondence or taking evidence abroad). Courts also cooperate with international and private organisations; they undertake organisational and social contacts with representatives of foreign courts. Increasingly, foreign parties and foreign lawyers appear in court. There are also situations where courts must apply foreign law¹.

Overall, it is believed that with the progressive integration of Poland into the structures of the EU, the transposition of EU law, the economic development of the country and the education of the population and migration, the courts are increasingly applying international procedures, even in ordinary cases. Procedures related to civil law, including those related to family matters, are of particular importance. Lawyers widely believe that special international procedures are regularly used in Polish courts in situations where the parties to a civil action are based abroad, a court decision needs to be enforced abroad, or specific acts, such as service of correspondence or evidence, need to be per-

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¹ J. McIntyre, *Introduction to the Judicial Function*, [in:] J. McIntyre (ed.), *The Judicial Function: Fundamental Principles of Contemporary Judging*, Singapore 2019, pp. 23-31; J. McIntyre, *The Development of Principles of Contemporary Judging*, [in:] J. McIntyre (ed.), *The Judicial Function: Fundamental Principles of Contemporary Judging*, Singapore 2019, pp. 3-19; V. Moreno-Lax, P. Gragl, *Introduction: Beyond Monism, Dualism, Pluralism: The Quest for a (Fully-Fledged) Theoretical Framework: Co-Implication, Embeddedness, and Interdependency between Public International Law and EU Law*, „Yearbook of European Law” 2016, t. 35, no. 1, pp. 455-470; K.S. Ziegler, *The Relationship between EU Law and International Law*, „SSRN Scholarly Paper”, ID 2554069, Social Science Research Network, 2015.

formed outside the country. Moreover, jurists stress that every year the EU introduces new legal and practical solutions for facilitating cross-border civil cases².

After conducting both preliminary literature and statistical research, it is apparent that the number of civil cases (including family and commercial cases) related to international relations in Polish district (*sąd okręgowy*) and regional courts (*sąd rejonowy*) is very small. The common opinion of the population and lawyers does not coincide with the empirical and statistical reality. Furthermore, the existence of specific legal solutions does not effectuate their use in the Polish judiciary. Therefore, a clear research hypothesis is proposed: International mechanisms are not used in Polish courts within the framework of civil and family proceedings. The progressive integration of the country and population migrations do not influence the use of international procedures in Polish civil courts. Newly introduced EU legal instruments in the area of civil law are not applied in the Polish judiciary or are applied very rarely and defectively. Furthermore, Polish courts do not utilise international law mechanisms other than EU law, along with national civil instruments having effect in international relations. Regularly introduced legal solutions on the national and EU level in the field of international relations in civil cases remain absolutely unused in the Polish civil process; they are a dead letter of the law.

An important objective for the study was to identify areas of deficiency of the use of international institutions in the Polish judiciary (exploratory objective). This was followed by an explanation of the reasons for the non-application of international solutions in Polish judicial practice, and the causes and consequences of the deficiency (explicative purpose). Finally, based upon the result of the study, basic proposals for solutions to the identified problem and possible consequences of the worsening problem are presented (implementation aim).

² A. Całus, *Europeizacja prawa prywatnego jako wartość współgrania i konkurencji porządków: międzynarodowego, „europejskiego” i krajowego*, [in:] E. Cała-Wacinkiewicz, J. Menkes, J. Barcz (eds.), *Wspólne wartości prawa międzynarodowego, europejskiego i krajowego*, Warszawa 2018, pp. 3-25; J. Ciszewski, *Obrót prawny z zagranicą w sprawach cywilnych i karnych*, Warszawa 2017; M.A. Dudkowska, *Europeizacja prawa prywatnego – ku Europejskiemu Kodeksowi Cywilnemu*, [in:] *Mechanizmy integracji europejskiej*, Poznań 2015, pp. 34-42; B. Master, *Teorie i koncepcje zjednoczeniowe Unii Europejskiej w założeniach programowych oraz w praktyce polskiej polityki integracyjnej*, Katowice 2014; J. Pisuliński, *Europejskie prawo cywilne*, Warszawa 2009; A. Wróbel (ed.), *Stosowanie prawa Unii Europejskiej przez sądy*, Warszawa 2010, t. 1, pp. 384-435, 468-555.

Methodology

The presented survey results are part of a larger sociological and legal study on the internationalisation of the Polish justice system and the international provision of legal services in Poland. The sociological survey was conducted between 7 August 2017 and 22 January 2019. The non-reactive source survey was conducted between 1 March 2021 and 20 May 2021. Also during this period, the survey, conducted via sociological methods, was supplemented and updated³.

The methodological axis of the study was the content analysis of statistical data on the activity of Polish common courts⁴. The data originates from compulsory reports submitted annually by Polish courts of all instances to the Ministry of Justice (*Ministerstwo Sprawiedliwości, MS*) and the Central Statistical Office (*Główny Urząd Statystyczny, GUS*)⁵. The reports of Polish courts are prepared quarterly and subsequently consolidated into annual reports. They are based on quantitative court statistics obtained from the record-keeping systems of particular court divisions and are usually based on electronic and automatic reports obtained from court recording tools such as the *Currenda* programme⁶. The reports of individual courts were analysed; however, these did not include the collective reports of the Ministry of Justice and the Central Statistical Office because while grouping and compiling collective reports, the desired information was omitted by central institutions⁷.

In the Polish judicial system, district courts (*sąd okręgowy*) occupy a special place in terms of handling international procedures⁸. As part of the search, we analysed the court reports for the year 2020 of all 46

³ S. Lipiec, *Świadczenie międzynarodowych usług prawnych. Studium socjologiczno-prawne polskich prawników, rozprawa doktorska*.

⁴ e. g. *Statystyka – Sąd Okręgowy w Częstochowie*, <https://www.czestochowa.so.gov.pl/statystyka> [31.05.2021].

⁵ Główny Urząd Statystyczny, <https://stat.gov.pl/> [31.05.2021]; *Ministerstwo Sprawiedliwości*, <https://www.gov.pl/web/sprawiedliwosc> [31.05.2021].

⁶ *Currenda*, <https://www.currenda.pl/> [31.05.2021]; *Sprawozdanie MS-KOM 23*, Warszawa 2019.

⁷ *Informator Statystyczny Wymiaru Sprawiedliwości*, <https://isws.ms.gov.pl/pl/baza-statystyczna> [18.04.2021].

⁸ Rozporządzenie Ministra Sprawiedliwości z dnia 28 January 2002 r. w sprawie szczególnych czynności sądów w sprawach z zakresu międzynarodowego postępowania cywilnego oraz karnego w stosunkach międzynarodowych (Dz. U. z 2014 r. poz. 1657 z późn. zm.); art. 16b - art. 16d Ustawa z dnia 27 July 2001 r. *Prawo o ustroju sądów powszechnych* (Dz. U. z 2020 r. poz. 2072).

district courts in Poland⁹. Regional courts (*sąd rejonowy*) play a smaller role than district courts (*sąd okręgowy*) in civil cases with foreign elements. Forty-six regional courts were designated, whose annual reports on the implementation of civil, commercial and family cases in 2020 were analysed¹⁰. The selection of the sample of courts was conducted in a simple random manner without return on the assumption that within each judicial district one regional court should be drawn¹¹. The survey is entirely representative of the international activity of all Polish district courts (*sąd okręgowy*). Regarding regional courts (*sąd rejonowy*), the survey is representative of all Polish regional courts in Poland, but subject to the indicated maximum error and confidence level as specified in the table 1.

Table 1. Basic sampling parameters

	Population	Sample	Confidence level	Maximum error
District courts	46	46	99,9%	1%
Regional courts	318	46	95%	12%

Source: own study based on: *Statystyka – Sąd Okręgowy w Częstochowie*, <https://www.czestochowa.so.gov.pl/statystyka> [31.05.2021].

We also treated business, family, competition and patent law cases as civil cases in line with common practice (according to civil procedure)¹². The table below presents the status of court reporting in particular types of cases.

The research, conducted by the method of statistical data content analysis, was complemented by other non-reactive research, that is, literature content analysis and legal research. The latter were conducted using the functional analysis method¹³. However, the legal analysis was limited only to the explanation of the legal institutions displayed in the

⁹ *Lista sądów powszechnych*, <https://dane.gov.pl/pl/dataset/985,lista-sadow-powszechnych> [31.05.2021]; Rozporządzenie Ministra Sprawiedliwości z dnia 4 October 2019 r. w sprawie utworzenia Sądu Okręgowego w Rybniku (Dz. U. poz. 1938 z późn. zm.).

¹⁰ *Lista sądów powszechnych...*, op. cit.

¹¹ C. Frankfort-Nachmias, D. Nachmias, *Metody badawcze w naukach społecznych*, Poznań 2001, s. 191-220.

¹² W. Siedlecki, Z. Świeboda, *Postępowanie cywilne: zarys wykładu*, Warszawa 2000, s. 21-31.

¹³ D. Kędzierski, *Metodologia i paradygmat polskich szczegółowych nauk prawnych*, „Transformacje Prawa Prywatnego” 2018, nr 3, s. 34-46.

justice statistics. During the construction of the study and within the framework of the preliminary analysis, the results of a sociological survey conducted by means of an in-depth structured interview (SSI) were also used, which was conducted among Polish advocates (*adwokat*) and legal advisers (*radca prawny*) – representatives of regional councils of bar associations (both *rada okręgowej izby radców prawnych OIRP*, *okręgowa rada adwokacka, ORA*).¹⁴ Detailed methodological considerations of the non-reactive research and the empirical study can be found in the main research report¹⁵. The source material is retained for further use.

Table 2. Method of collecting and analysing data from court reports

Types of cases	Reports/departments	Analysis	
	District courts	Regional courts	
Criminal	46	46	Criminal cases
Civil	46	46	Civil cases
Commercial	20	8	
Family	7	18	
Different (patent, competency)	1	0	

Source: own study based on: *Statystyka – Sąd Okręgowy w Częstochowie*, <https://www.czestochowa.so.gov.pl/statystyka> [31.05.2021].

Number of international cases

In 2020, all district courts (*sąd okręgowy*) in Poland received over 400,000 civil cases (including commercial and family cases), while the 46 regional courts (*sąd rejonowy*) studied received about 10% less. Only 15% of all regional courts are represented in the research sample, so it should be noted that in 2020 regional courts received about seven times more cases than district courts. It is evident that year by year the number of new cases registered in court statistics is significantly increasing. Nevertheless, this does not imply that a final judgment is issued in each case. Many of these cases are dismissed or left unresolved, and many of them are also brought again. This does not change the fact that the number of all civil cases is very high, and higher than most other EU countries on a per capita basis¹⁶.

¹⁴ Krajowa Izba Radców Prawnych, <http://kirp.pl> [3.03.2019]; Naczelna Rada Adwokacka, <http://www.nra.pl> [3.03.2019].

¹⁵ S. Lipiec, *Świadczenie międzynarodowych usług prawniczych...*, op. cit.

¹⁶ *The EU 2019 justice scoreboard*, Luxembourg 2019, pp. 10-15.

What we are most interested in, is what percentage of all these civil cases can be considered as international cases. Having summed up all the foreign legal turnover procedures in the district courts, we note that in 2020 only 466 cases were filed with the courts that can be classified as cases with an international element. In the case of regional courts, there were 173 cases appearing in the research sample. It appears, therefore, that only 0.11% of cases in the district courts were cases with an international element, while for the regional courts it was only 0.05% of cases. The average percentage of international civil cases (including commercial and family cases) for all Polish courts was 0.08% of all cases in 2020. The details are presented in Table 3.

Table 3. Number of civil cases in Polish district and regional courts

Cases	Amount international	Percentage
District courts		
414 837	466	0,11%
Regional courts		
373 024 (sample)	173 (sample)	0,05%
TOTAL		
		0,08%

Source: own study based on: *Statystyka – Sąd Okręgowy w Częstochowie*, <https://www.czestochowa.so.gov.pl/statystyka> [31.05.2021].

The percentage of civil cases of an international nature in Polish courts is extremely low and falls within the statistical error. A very simple conclusion emerges: in Polish courts, legal solutions related to international solutions are not used in civil cases, including family and commercial cases. The amount of use of EU and other international procedures is so low that a deeper analysis of the data is virtually unreliable. Polish courts absolutely avoid using solutions introduced by EU law, other international law and national law on foreign relations. In addition, the court statistics take into account only a few types of civil cases with an international element. The remaining 23 types of cases are ignored in the statistics. The picture of a marginal amount of civil legal solutions from international relations will not be changed even by the reservation that judicial statistics on international cases may be inaccurately, unreliably, negligently or erroneously kept. Even the enormity of the shortcomings

cannot change the overall picture of the lack of international elements in Polish civil cases.

Distribution of international cases

Civil cases with international elements, including family and commercial cases, are virtually unheard of in Polish district and regional courts. Court staff, including judges, do not specialise in transnational issues and foreign issues are not distinguished from typical Polish cases. In the vast majority of Polish judicial institutions, international cases are both statistically and mentally non-existent among judicial officers. However, there are about 20 judges and other court staff in Poland who specialise in international issues. These people are scattered across the country. Their presence, nevertheless, does not translate into an increased volume of international cases in a given unit or a reputation for the court's familiarity with non-national cases. Often, the staff of the court where the international specialist works are not even aware that such a person exists and is willing to support them in their international activities. One has to completely agree with the opinion of advocates and legal advisers from different parts of Poland that Polish judges and court staff are completely "immune" to cases with international elements and completely disregard them¹⁷.

The very small number of civil international cases does not allow for a reliable determination of where they occur. Based on the available data, we note that the vast majority of civil cases with international elements occur in Warsaw and Krakow. These are followed by Wroclaw, Gdansk, Lodz and Poznan, and Rzeszow, Szczecin and Katowice. We are dealing with particularly difficult cases with a higher value of the dispute since the vast majority of international cases take place in district courts. District courts handle only cases with a higher degree of complexity or value exceeding PLN 75,000¹⁸. The common opinion of Polish advocates and legal advisers that cases with international elements are taken up by litigants only when the issues are particularly important or the value of claims is high, is therefore confirmed. Otherwise, the complexity of the

¹⁷ S. Lipiec, *International court actions in practise: problems of the Polish judiciary*, „Prawo i Więź” 2021 in press.

¹⁸ art. 17 Ustawa z dnia 17 November 1964 r. *Kodeks Postępowania Cywilnego* (Dz. U. z 2016 r. poz. 1822 z późn. zm.).

case, potentially higher costs and the risk incurred effectively discourage clients from engaging in cases with transnational elements.

In absolute numbers, the number of cases classified as international is minimal, even marginal, in all Polish district and regional courts. However, when we compare the number of non-domestic civil cases to typical domestic cases, we can see that there are courts in Poland which handle relatively more non-domestic cases. Among district courts, the following stand out here: Rzeszow, Kraków, Białystok and Olsztyn, while among regional courts: Zielona Góra, Ostrzeszow and Nowy Sacz. Although statistically these are the courts where the number of international cases in relation to domestic civil cases is the highest, the ratio of the number of cases does not exceed 0.38% (District Court in Rzeszow, *Sąd Okręgowy w Rzeszowie*). This is such a low percentage that it is difficult to speak of any trend or tendency. Nevertheless, the probable reason for such a state of affairs in Rzeszow is border cases connected with the Polish-Ukrainian border¹⁹.

When we study the distribution of the number of international civil cases held in Polish district and regional courts, we notice that there is no increased judicial activity on cross-border cases in the border districts and regions. This is particularly noticeable on the Polish-Czech-German border. Although economic and private relations between Poles, Czech and Germans are very active, cases do not find their final outcome in the courts of Zielona Góra, Gorzow Wielkopolski or Slubice²⁰. Apparently, relations between the western neighbours do not require the intervention of the courts or are not recognised by the courts as international. Certainly, the number of such cases is very small. A similar situation applies to other border areas, although in the Rzeszow courts one can tentatively observe a slightly higher relative number of cases involving Ukrainians (border cases).

Civil cases with international elements that take place in Warsaw deserve special attention. The research sample examined the activity of the District Court in Warsaw (*Sąd Okręgowy w Warszawie*), the Regional Court Warsaw – Praga (*Sąd Rejonowy Warszawa – Praga*) and the Regional Court for the capital city of Warsaw (*Sąd Rejonowy dla miasta*

¹⁹ S. Lipiec, *The legal services market for Ukrainians in the European Union: the example of Poland*, „Eastern European Journal of Transnational Relations” 2021, in press.

²⁰ A. Górzyńska (ed.), *Polska Czechy Niemcy. Wzajemne relacje/współpraca/rozwój*, Warszawa 2013, pp. 11-37.

stolecznego Warszawy). As expected, it is in these courts that approximately 30% of all cases with international elements happening in Poland in 2020 will be concentrated. This is due to Warsaw's capital city character, and numerous economic and private transactions in the area of civil law with international elements. It is in the capital city that foreign companies, public institutions and most foreigners reside. Hence, the courts' capacity to handle foreign cases is the largest in Poland. Moreover, it is the Regional Court in Warsaw (*Sąd Okręgowy w Warszawie*) and the District Court for the Capital City of Warsaw (*Sąd Rejonowy dla miasta stolecznego Warszawy*) that are the default courts in civil cases where Polish judicial jurisdiction is demonstrated, but it is not possible to indicate the competent court or in special procedures. Therefore, also the number of transnational cases in these two courts may be higher than in other centres.²¹

Types of international cases

The perspective of the types of cases categorised as international handled in Polish district and regional courts is shaped by court reports. This means that on their basis we can learn only about those problems that appear only there. As previously mentioned, the reporting does not include all civil procedures with an international character. Twenty-three civil procedures introduced by international law, mainly EU law and national law with international implications, are not included in the reports, despite the fact that Poland is obliged to implement them and they are functioning in the Polish legal order.

In the reports of Polish district courts, only eight civil procedures of international character are listed, while in regional courts there are four procedures. In the latter case, two procedures overlap with those in district courts and differ only in the value of the subjects of the disputes. This means that through court statistics we are only able to look at six civil procedures of an international nature even though there are at least 31 of them. The remaining cases are not reported. In fact, nothing is known about their implementation.

A very common civil procedure for vindicating claims of relatively small value is the writ of payment procedure, in which payment orders

²¹ art. 508, art. 518(2), art. 569, art. 579(4), art. 629, art. 734, art. 1106(6), art. 1144(4), art. 1148(1), art. 1208 and other Ustawa z dnia 17 November 1964 r. *Kodeks Postępowania Cywilnego*.

are issued. Every year, Polish district and regional courts issue more than 3 million orders for payment in total (also under electronic proceedings)²². However, if a party to the proceedings has its seat or domicile outside Poland, but in an EU country (European connector²³), it can apply to the court for an EOP²⁴. Potentially, the European procedure should be the most popular and the most important institution of civil process of international character.

On the basis of court statistics, we note that the EOP is relatively the most common supranational civil procedure in Polish courts. Even so, the number of cases using this procedure is marginal. Within the surveyed regional courts it was used only 154 times in 2020, while in district courts only 139 times. Considering that the sample of regional courts constitutes one seventh of all courts of this type, it should be stated that the EOP was issued in 2020 just over 1,200 times out of more than 3 million of all orders for payment, which constitutes 0.0004% of all orders for payment issued in all courts in 2020. Hence, it seems that the most popular international civil procedure is very niche in Polish courts. It is practically never used in most courts.

A similar European procedure, the small claims procedure, is naturally linked to the EOP. It applies to civil claims not exceeding EUR 5,000 and where at least one party to the proceedings is domiciled in another EU country. This procedure falls exclusively within the jurisdiction of the regional courts²⁵. As research shows, in 2020, a total of only 11 proceedings under the small claims procedure was initiated in Poland. Such a small number indicates practically no knowledge of the existence of this procedure both among litigants and their attorneys, as well as judges and court staff. In fact, this EU procedure remains a dead letter of the law in Poland.

²² I. Gil i in., *Postępowanie cywilne w teorii i judykaturze*, Warszawa 2020, pp. 375-398; K. Orowiecka, J. Kowalczyk, *Postępowanie nakazowe, upominawcze i europejskie postępowanie nakazowe w sądach rejonowych i w sądach okręgowych w latach 2011-2015*, Warszawa 2016.

²³ M. Pazdan, *Prawo prywatne międzynarodowe*, Warszawa 2017, pp. 64-74, 262-266, 346-349; K. Stryjski, *Łącznik miejsca zwykłego pobytu w prawie prywatnym międzynarodowym UE*, „Internetowy Przegląd Prawniczy TBSP UJ” 2016, no 6 (28), pp. 77-85.

²⁴ P. Ryłski, *Europejski nakaz zapłaty w praktyce sądowej*, „Prawo w Działaniu. Sprawy Cywilne” 2012, no 12, pp. 145-187.

²⁵ J. May, M. Malczyk, *Europejskie postępowanie w sprawie drobnych roszczeń i jego miejsce w systemie polskich postępowań odrębnych*, [w:] *Drobne spory: europejskie i ukraińskie doświadczenia rozwiązywania sporów: zbiór prac naukowych uczestników Międzynarodowej Konferencji Naukowo-Praktycznej, 23-24 November 2018 r.*, Kijów 2018, pp. 69-99.

A similar situation exists with the ECS. It seems that the ECS is practically not used in Polish courts. The unitary number of European succession cases in courts demonstrates how few foreigners want to go through succession procedures in Poland and how few foreigners have inheritable property in Poland. Apparently, Poland is not a friendly country for inheritors, so they prefer to submit inheritance cases to procedures in other countries²⁶.

The number of civil proceedings of an international nature is extremely small throughout the country. However, there are judicial districts where such procedures occur slightly more frequently. When we look at the most internationally active district courts in Warsaw (*Sąd Okręgowy w Warszawie*) and Krakow (*Sąd Okręgowy w Krakowie*), we notice that about half of all transnational cases are related to the issuance of the EOP. This is a normal situation, as it is the most important and flagship institution of EU cross-border civil law. In addition, the courts in Kraków and Warsaw are relatively more likely to use the procedure for a declaration of enforceability of judgments of EU courts and to order the return of the child under the provisions of the 1980 Hague Convention. Other international civil procedures are used very rarely in these courts. It is also interesting that, in these two district courts, more than half of all cross-border civil procedures taking place in Poland are concentrated. The likely reason for this situation is that it is in Poland's largest cities that there is the highest awareness among parties and their attorneys about the use of cross-border procedures. Moreover, in those two courts there are specialists working in proceedings with foreign elements. This situation is also influenced by social and cultural factors, such as a larger number of foreigners, a larger number of foreign companies, access to foreign media, participation in the activities of central and academic institutions, or better education and legal awareness of citizens. In other Polish district courts, the situation is quite different²⁷.

²⁶ K. Flaga-Gieruszyńska, *Europejskie poświadczenie spadkowe – zagadnienia wybrane* [w:] A. Marciniak (ed.), *Notarialne poświadczenie dziedziczenia*, Warszawa 2019, pp. 17-41.

²⁷ A. Cieślak-Wróblewska, *Cudzoziemcy ciągną do wielkich miast; Przestrzenny wzorzec osiedlania się cudzoziemców w Polsce*, „*Studia Demograficzne: organ Komitetu Nauk Demograficznych Polskiej Akademii Nauk*” 2006, pp. 54-67; J. Stulin, *Obok siebie. Obcokrajowcy w Polsce*, <https://www.morizon.pl/blog/obcokrajowcy-w-polsce/> [1.06.2021].

Table 4. Use of civil international procedures
in the most active regional courts

County (powiat)	Total civil cases	Small claims	ECS	Enforceability clause - alimony	EOP	Total international cases (sample)	Percentage international
Nowy Sacz	9631	1	0	0	9	10	0,10%
Poznan	38248	1	0	0	29	30	0,08%
Warszawa	98678	0	0	0	73	73	0,07%

Source: own study based on: *Statystyka – Sąd Okręgowy w Częstochowie*, <https://www.czestochowa.so.gov.pl/statystyka> [31.05.2021].

In regional courts, international civil procedures are even rarer than in district courts. Theoretically, in the Regional Court in Nowy Sacz (*Sąd Rejonowy w Nowym Sączu*), the Regional Court Poznań – Old Town (*Sąd Rejonowy Poznań – Stare Miasto*) and the Regional Court for the capital city of Warsaw (*Sąd Rejonowy dla miasta stołecznego Warszawy*), the percentage of cases of international character is higher than in the other Polish courts in the research sample. As revealed in the table above, in all three courts, the EOP procedure is practised almost exclusively. Other international procedures are completely absent. However, the number of executions of EOPs is still extremely low. This does not change the fact that as many as 70% of the EOPs in the whole country are executed in these three institutions. The reasons for this are similar to those of the county courts (the benefit of a large city and the capital). The difference between a capital city, a provincial city and a district city is significant. The larger and more economically and demographically serious the city, the more international procedures are carried out. Nonetheless, the percentage of cases classified as international compared to all civil cases of the regional court is still at an extremely low, marginal level. Even the highest absolute number of cases does not translate into a relative volume, and even in the most internationally engaged regions, the significance of international cases is still negligible.

Conclusions

It is puzzling why international, especially EU, procedures of civil law are not applied in Polish courts, which after all are supposed to facilitate Poland's functioning in the world. The reason here is certainly not the lack of existence of these procedures in the Polish legal order, because they have been transposed into Polish law or are directly applicable. It appears, therefore, that the problem lies in the application of the law, and not in the law itself.

Undoubtedly, the basic macro-cause is Poland's still limited integration with other countries of the EU and, subsequently, with the whole world. If Polish businesses do not conduct cross-border business, and Polish residents do not move between different countries, fewer cross-border relationships are concluded²⁸. Consequently, the judiciary is less likely to enter into such relationships. If courts are not present in such relationships, they simply do not use civil mechanisms of an international character. Thus, no transnational relations, no international judicial activity, no transnational procedures. Of course, this observation should be confronted with the common opinion that Poles are eager to immigrate to other countries. Yes, emigration is noticeable, but migrants try to settle their affairs abroad. There are not increased cross-border relations, but relations within the other countries. Migrants cut themselves off legally from Poland and solve their cases directly in the courts of England, Norway or Germany. There is no international link; hence the lack of application of cross-border procedures in Polish courts.

A significant reason for the lack of use of international procedures in the Polish judiciary is also the lack of foreigners in Poland and the limited number of foreign investments. The small number of foreigners limits the pool of cases that could be handled by Polish courts. Potentially, these should be cross-border cases. Ukrainians, on the other hand, who are widely present in Poland, avoid getting involved in court cases, which they prefer to deal with only in Ukraine. As the study has shown, in those cities where the number of foreigners and foreign investments is higher, a slightly higher percentage of the use of international mechanisms is

²⁸ 15 lat członkostwa Polski w Unii Europejskiej, Warszawa 2019, pp. 1-23; 2020 European Semester: Country Reports, https://ec.europa.eu/info/publications/2020-european-semester-country-reports_en [1.06.2021]; A. Balcer, P. Buras, G. Gromadzki, E. Smolar, *Polish views of the EU: the illusion of consensus*, Warszawa 2017, pp. 1-18.

observed (Warsaw, Kraków, Poznań)²⁹. This phenomenon testifies to a certain correlation between the presence of foreigners in the country and the status of the use of supranational procedures by the courts.

The third most significant factor influencing the limited number and relevance of the use of international civil procedures by Polish courts is political factors. Poles, foreigners and foreign companies are afraid to bring cases to Polish courts. They know that cases in Polish courts are lengthy and procedures are complicated. They also know that, increasingly, court judgments are not enforced in Poland. That is why foreigners prefer to avoid Polish courts or, if necessary and possible, use the services of courts in other countries³⁰. Unfortunately, the political conflict and constitutional irregularities that have persisted for several years have led to a decrease in confidence in the Polish justice system. The effects are particularly felt by foreigners, who can simply choose between Polish and foreign courts.

In addition to the important reasons of a broad nature, there are many smaller and specific issues that significantly limit the use of international law instruments in Polish civil courts. These include:

1. Lack of knowledge of EU law procedures and other international relations law by judges, court staff, lawyers and citizens. The reason is the defective and backward education of lawyers in the course of university preparation and apprenticeship, as well as deficiencies in continuing education³¹.
2. The opinion of citizens and legal practitioners that cases of an international, EU nature are complex, costly and involve only “big players”. This is a common opinion that is far from reality. The reason is the lack of education, promotion and information on new national and especially EU solutions.

²⁹ M. Diakonowicz, M. Kern, *Investing in Poland: Untapped Potential. The Experience of German Investors*, Warszawa 2017; *Inwestycje zagraniczne*, https://www.paih.gov.pl/polska_w_liczbach/inwestycje_zagraniczne# [11.04.2020].

³⁰ K. Metelska-Szaniawska, *Niezależność sądownictwa a wzrost gospodarczy*, „*Ekonomista*” 2006, no. 1, pp. 89-104; G. Szacoń, *Praworządność a społeczeństwo i gospodarka*, https://ingremio.org/2017/08/prawo_rzadnosci-a-spoleczenstwo-gospodarka/ [1.06.2021].

³¹ T. Biernat, *Polityka prawa a model edukacji prawniczej*, Kraków 2007, pp. 22-56; T. Braun, *Uwagi o studiach prawniczych i aplikacjach z perspektywy współczesnych oczekiwań rynku*, „*Krytyka Prawa. Niezależne studia nad prawem*” 2018, t. 10, no 3, pp. 161-175; J. Jabłońska-Bonca, *O szkolnictwie wyższym i kształceniu prawników*, Warszawa 2020, pp. 51-71.

3. Overlooking, disregarding or dismissing the possibility of using cross-border civil procedures. The phenomenon particularly concerns judges and lawyers who do not offer beneficiaries the possibility of using transnational procedures or push to use national procedures instead of international ones. The reason is the fear of foreign cases, lack of competence and too many cases to handle.
4. Finally, lack of support from the Ministry of Justice, the European Commission and other institutions in implementing, applying and improving the use of civil international procedures.

There may be many solutions to the problem of the lack of application of international procedures in Polish civil proceedings. The indicated proposals should be applied to make the system more efficient. Without increased attention to this problem in Poland, courts will continue to fail to apply international mechanisms in civil proceedings. As a consequence, this will lead to a complete loss of citizens' confidence in the Polish judicial system and legal disintegration with the EU. This is the last moment to make the necessary changes and to consider further solutions. The introduction of reforms will enable the Polish justice system to keep abreast of European and global changes. However, the lack of reforms may derail the great effort of the Polish justice system in European integration.

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