

Settlement of inheritance relations in bilateral international agreements of Ukraine with foreign states on legal assistance in civil cases

Arreglo de relaciones de herencia en acuerdos internacionales bilaterales de Ucrania con estados extranjeros sobre asistencia legal en casos civiles

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Abstract: The main features of inheritance relations with a foreign element are given. The main issues to be resolved in inheritance relations with the help of international agreements concluded by Ukraine with foreign states on legal assistance in civil cases were identified. It has been established that the norms of two dozen bilateral international agreements on legal assistance and about three dozen consular conventions that Ukraine has concluded with many states are devoted to the issue of international inheritance. Some of the conventions operate in the order of succession of Ukraine after the collapse of the USSR. Comparative analysis of the content of the texts of bilateral international agreements of Ukraine with foreign states on legal assistance in civil matters allowed classifying them by methods of regulation of inheritance relations into three groups: ones that do not contain separate articles (articles) on the regulation of inheritance relations; agreements on legal relations and legal assistance in civil matters between Ukraine and foreign countries, which contain provisions on inheritance relations, which in turn are divided into two groups depending on the structure and content of the articles: inheritance cases and the right to inheritance. The analysis gives grounds to claim the lack of a unified approach to the conclusion of contracts in the third group. This cannot be explained by the will of the parties, because

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the content of this group of agreements has a high level of identity. The agreement between Ukraine and the Republic of Cyprus on legal assistance in civil matters, which has a separate section IV on inheritance, has an exceptional content in the regulation of inheritance relations, but in comparison with other two groups of agreements with foreign countries contains very brief information. From the analyzed bilateral international agreements it was concluded that most aspects of inheritance relations are regulated by the personal law of a testator or the right of location of a property. There is a gradual overcoming of the problem of splitting the inheritance status, regardless of the location of the inheritance, the spread of the possibility of choosing the applicable law to the estate.

Keywords: Foreign element, legal aid, civil cases, inheritance law.

Resumen: Se dan las principales características de las relaciones de herencia con un elemento extranjero. Se identificaron los principales problemas que deben resolverse en las relaciones de herencia con la ayuda de los acuerdos internacionales concluidos por Ucrania con estados extranjeros sobre asistencia legal en casos civiles. Se ha establecido que las normas de dos docenas de acuerdos internacionales bilaterales sobre asistencia legal y unas tres docenas de convenciones consulares que Ucrania ha concluido con muchos estados están dedicadas al tema de la herencia internacional. Algunas de las convenciones operan en el orden de sucesión de Ucrania después del colapso de la URSS. El análisis comparativo del contenido de los textos de los acuerdos internacionales bilaterales de Ucrania con estados extranjeros sobre asistencia legal en asuntos civiles permitió clasificarlos por métodos de regulación de las relaciones de herencia en tres grupos: aquellos que no contienen artículos separados (artículos) sobre la regulación de las relaciones de herencia; acuerdos sobre relaciones jurídicas y asistencia jurídica en asuntos civiles entre Ucrania y países extranjeros, que contienen disposiciones sobre las relaciones de herencia, que a su vez se dividen en dos grupos según la estructura y el contenido de los artículos: casos de herencia y derecho a la herencia. El análisis da motivos para alegar la falta de un enfoque unificado para la celebración de contratos en el tercer grupo. Esto no puede explicarse por la voluntad de las partes, porque el contenido de este grupo de acuerdos tiene un alto nivel de identidad. El acuerdo entre Ucrania y la República de Chipre sobre asistencia jurídica en materia civil, que tiene una sección IV separada sobre sucesiones, tiene un contenido excepcional en la regulación de las relaciones sucesorias, pero en comparación con otros dos grupos de acuerdos con países extranjeros contiene muy Breve información. De los convenios internacionales bilaterales analizados se concluyó que la mayoría de los aspectos de las relaciones sucesorias están regulados por la ley personal de un testador o el derecho de ubicación de un inmueble. Hay una paulatina superación del problema de la división del estado de la herencia, independientemente del lugar de la herencia, la extensión de la posibilidad de elegir la ley aplicable a la herencia.

Palabras clave: Extranjería, justicia gratuita, causas civiles, derecho sucesorio.

Sumario: I. Introduction. II. Materials and Methods. III. Results and discussion. IV. Conclusions.

I. Introduction

1. The long existence of the institution of inheritance can be explained by the fact that it is of particular importance both for individual and for society and the state as a whole¹. The collapse of the USSR led to an increase in the number of inheritance cases with a foreign element in the CIS, as the citizens of these countries had extensive family ties. In recent years, due to the blurring of borders in the context of increasing globalization, the number of appeals of Ukrainian and foreign citizens living in Ukraine on inheritance issues has increased significantly. Inheritance relations, even at the national

¹ K. ÅTLAND, „Destined for deadlock? Russia, Ukraine, and the unfulfilled Minsk agreements”, *Post-Soviet Affairs*, 2020 vol.36, n.2, pp. 122-139.

level, have always been an area where there have been a significant number of legal problems and conflicts^{2,3,4,5}. The presence of a foreign element in hereditary relations complicates their regulation, as they go beyond the regulation of one state and the rules of national law. The inheritance law of foreign countries differs from the Ukrainian one in the ways and terms of acceptance of the inheritance and refusal from it, in determining the order and circle of heirs, the procedure for determining and inheriting movable and immovable property, the form and conditions of the will, etc. In addition, the presence of a foreign element in the inheritance relationship raises the problem of determining the national or foreign competent jurisdiction (notary, court) and the law to be applied in a particular situation^{6,7}.

2. The recent increase in the number of cross-border private law disputes necessitates the optimisation of the national legal framework for the regulation of inheritance relations complicated by a foreign element⁸. These aspects determine the relevance of the research topic. Today, some issues related to the regulation of the institution of inheritance with a foreign element are studied mainly in the framework of private international law. After the adoption of the new Civil Code, dissertation research appeared, devoted mainly to the study of certain aspects of inheritance under domestic law or a comparative analysis of its rules with foreign law^{9,10}.

3. Among foreign researchers, it is worth noting the work of I.G. Medvedev¹¹, A.O. Mashovets, E.A. Belyanska, A.T. Movsisyan¹², as well as M.S. Abramnikov, N.A. Barinova, O.E. Blinkov, A.O. Inshakova, E.A. Kirilova and others. Among domestic scientists who paid attention to this issue in their research can be noted O.O. Karmaza¹³, B. S. Mykolayovych¹⁴, S. Ya. Fursu¹⁵, A.V. Kostruba¹⁶ and others. Sources for the study were also international legal acts: Conventions and bilateral treaties concluded by Ukraine. Directly the works devoted to regulation of hereditary relations in bilateral international agreements are practically absent. Some scholars pay attention to this issue as part of private international law, normal or family. Underdevelopment of certain issues in this area of legal relations determined the choice of goals and objectives of the study.

² B. KORMYCH / T. AVEROCHKINA / V. GAVERSKYI, „The public administration of territorial seas: Ukrainian case”, *International Environmental Agreements: Politics, Law and Economics*, 2020, vol.20, n.3, pp. 577-595.

³ T. DOLLE / L. MEDINA, „The EU’s request for arbitration under the EU-Ukraine association agreement”, *Global Trade and Customs Journal*, 2020, vol.15, n.2, pp. 104-110.

⁴ K. WOLCZUK, „State building and European integration in Ukraine. Eurasian Geography and Economics”, 2019, vol.60, n.6, pp. 736-754.

⁵ R. PETROV, „The impact of the EU-Ukraine association agreement on constitutional reform and judicial activism in Ukraine”, *Review of Central and East European Law*, 2018, vol.43, n.2, pp. 99-115.

⁶ M. LENDEL, „International standards and citizens assessment of public administration and local government reform in Ukraine after 2014”, *Public Policy and Administration*, 2019, 18(2), 314-326.

⁷ C. WITTKKE, „The Minsk Agreements—more than “scraps of paper”? *East European Politics*, 2019, vol.35, n.3, pp. 264-290.

⁸ R. KRIL, „The EU transit procedures and regional integration: The case of Ukraine”, *Lex Portus*, 2020, vol.1, n.21, pp. 51-68.

⁹ V. LAZHNİK / S. PUHACH / A. MAISTER, „Regional differentiation of commodity trade of Ukraine with Poland”, *Geographia Polonica*, 2020, vol.93, n.3, pp. 421-442.

¹⁰ A. KOSTRUBA, „Right deprivation in the legal regulation mechanism of civil property relations: Comparative analysis of international legislation”. *Asia Life Sciences*, 2020, vol.22, no.2, pp. 143-156.

¹¹ I. MEDVEDEV / A. MASHOVETS / E. BELYANSKAYA, „*International private law, criminal law and process in notarial activities*”, Moscow: Statut, 2015.

¹² A. MOVSISYAN, „*Legal regulation of hereditary relations complicated by a foreign element in Russia and Armenia: thesis of the candidate of legal sciences*”, Moscow: RUDN University, 2015.

¹³ O. KARMAZA, „*Inheritance in modern private international law: thesis of the dissertation of the candidate of legal sciences*”, Kyiv: Taras Shevchenko National University of Kyiv, 2006.

¹⁴ B. MYKOLAYOVYCH / L. VOLODYMYROVYCH / M. VASYLIVNA, „Marriage: Religious and legal aspects”, *Cogito*, 2020, vol.12, no.2, pp. 77-85.

¹⁵ S. FURSA / E. FURSA / O. KLIMENKO / S. RYABOVSKAYA / L. KARMAZA (Eds.), „*Inheritance law: Notary. Advocacy. Court. Scientific and practical manual*”, Kyiv: Publisher Fursa S.Ya.: KNT, 2007.

¹⁶ A. KOSTRUBA / V. VASYLYEVA, „International regulation of termination of rights in the field of civil and intersubjective state relations”, *Astra Salvensis*, 2020, vol.1, pp. 131-153.

II. Materials and methods

4. Analytical and legal methods of analysis served as the methodological basis of the research. General scientific and special methods were used. The main provisions of the legal framework at the international, national level and in the CIS region were studied. The applied methodology allowed revealing the main problems on the way of optimisation of application of inheritance norms, implementation to the national system of the law of effective achievements of foreign countries concerning the decision of disputes concerning inheritance. The methods used allowed obtaining reliable and substantiated conclusions and results. As one of the main methods of analysis the comparative analysis was used, which made it possible to compare domestic practice and legislation on the settlement of inheritance relations and their features in the presence of a foreign element with the legal framework and practice of regulating the object of study in the CIS and internationally.

5. At the theoretical level of analysis, the main provisions of international treaties on the regulation of inheritance relations were studied at the international, foreign and national levels. The descriptive method allowed to present the results of the study in a logical sequence. Methods of synthesis, analogy, system, classification and analytical method were also used during the research. The normative method was used to analyse the content of international agreements on legal assistance in civil cases on the settlement of inheritance relations. The application of the analytical method allowed concluding about the existence of three legislative systems for the settlement of inheritance relations in bilateral international agreements of Ukraine with foreign states, operating in the national legislative system.

6. The method of synthesis allowed solving the research problems through its application to primary sources on this issue. The method of induction and deduction were used to analyse the content and structure of legislative texts, the characteristics of legal norms in the context of the research topic. In the process of analysis, the historical method was used, which allowed studying the process of formation of the regulatory framework for the settlement of inheritance relations in rule-making and legal doctrine. The genetic method allowed identifying stages in the evolution of the base of international agreements of Ukraine with foreign states on legal assistance in civil matters, establishing their sequence in time and tracing how and under the influence of which factors the rules governing inheritance changed. Thanks to the structural and functional analysis, it was possible to consider the features of the structural organisation of international agreements of Ukraine with foreign countries on legal assistance in civil matters, as well as to systematise information on their application both in Ukraine and abroad and internationally.

III. Results and discussion

7. Inheritance relations with a foreign element are characterised by the following features: one of the subjects is foreign; an object is located outside the national territory; abroad there was a legal fact that led to the emergence, change or termination of inheritance. In practice, inheritance relations with a foreign element can be simple (one foreign element), double (real estate of a non-resident in Ukraine is inherited by a Ukrainian citizen) and complex – there are several foreign elements (real estate of a non-resident in Ukraine is inherited by citizens of several states based on a will made in a third country).

8. Ukraine's international agreements with foreign states on legal assistance in civil matters make it possible to clarify the possibilities and procedure for issuing a certificate of inheritance of a non-resident testator whose property is located in Ukraine and claimed by a particular heir, as well as to resolve this issue for a domestic heir, who has the right to inherit abroad. In this process, the main issues to be addressed are the following: obtaining a properly executed death certificate (apostille, legalization); identification of the testator's identity with the identity of the property owner in Ukraine

(or a testator who has property abroad and an heir from Ukraine) taking into account the differences in the spelling of the full name in foreign and Ukrainian documents; checking the existence of a will and its possible changes or differences; presence of the inheritance case at the notary or in the court of a country where a testator lived and died; the range of available heirs, including those entitled to the obligatory part, etc.

9. In the domestic legal field, inheritance relations with a foreign element after September 1, 2005 are regulated according to the Law¹⁷, in which to this issue Section X “Conflict rules on inheritance” is devoted. The fundamental difference between the conflict regulation under this Law compared to the previous rules (Civil Code of Ukraine of 1963) is that a testator now has the opportunity to choose the law that will be used to settle his inheritance (with some exceptions – change of citizenship after will) by indicating this in his will. There are peculiarities regarding the order of inheritance of property entered in the state register of Ukraine. The ability of a person to make and cancel a will, as well as the form of a will and an act of its cancellation are also determined. Among other things, this Law determines the law of which country should be applied in a typical situation when a testator or heirs have different citizenship and lived in different states, when the inheritance property or its part is under the jurisdiction of a country other than the last place of testator’s residence.

10. The norms of two dozen bilateral international agreements on legal assistance and about three dozen consular conventions that Ukraine has concluded with many states are devoted to issues of international succession. Some of the conventions operate in the order of succession of Ukraine after the collapse of the USSR. In addition, Ukraine has signed two multilateral conventions on legal assistance and legal relations in civil, family and criminal matters¹⁸: in 1993 in Minsk and in 2002 in Chisinau, of which 12 countries are members – the former Soviet republics. However, the Chisinau Convention has not been ratified by the Verkhovna Rada of Ukraine, and the Minsk Convention has been ratified with conditions¹⁹. Thus, only the 1993 Minsk Convention and its 1997 Protocol apply to Ukraine. The 1993 Convention on Legal Assistance entered into force for the following states: Belarus, Uzbekistan and Kazakhstan – May 19, 1994; Russia – December 10, 1994; Tajikistan – December 20, 1994; Armenia – December 21, 1994; Ukraine – April 14, 1995, ratified with conditions that do not apply to inheritance relations: Kyrgyzstan – February 17, 1996; Moldova – March 26, 1996, signed with the proviso: “According to Article 86”; Azerbaijan, Georgia – July 11, 1996; Turkmenistan – February 19, 1998.

11. The comparative analysis of the content of texts of bilateral international agreements of Ukraine with foreign states on legal assistance in civil matters allowed classifying them by methods of regulation of inheritance relations into three groups: ones that do not contain separate articles (article) on the regulation of inheritance relations; agreements on legal relations and legal assistance in civil matters between Ukraine and foreign countries, which contain provisions on inheritance relations, which in turn are divided into two groups depending on the structure and content of articles: inheritance cases and the right to inheritance. Thus, the first group includes agreements on legal relations and legal assistance in civil matters between Ukraine and countries such as the People’s Republic of China²⁰, Mongolia²¹, the

¹⁷ Law of Ukraine No. 2709 “*On Private International Law*”, 2005, June. <https://zakon.rada.gov.ua/laws/show/2709-15#Text>.

¹⁸ Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters, 1993. https://zakon.rada.gov.ua/laws/show/997_009#Text.

¹⁹ Law of Ukraine N 240/94-VR “*On Ratification of the Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters*”, 1994, November. <https://zakon.rada.gov.ua/laws/show/240/94-%D0%B2%D1%80#Text>.

²⁰ Resolution of the Verkhovna Rada N 2996-XII “*On Ratification of the Agreement between Ukraine and the People’s Republic of China on Legal Assistance in Civil and Criminal Matters*”, 1993, February. <https://zakon.rada.gov.ua/laws/show/2996-12#Text>.

²¹ Law of Ukraine N 471/96-VR “*On Ratification of the Agreement between Ukraine and Mongolia on Legal Assistance in Civil and Criminal Matters*”, 1996, November. <https://zakon.rada.gov.ua/laws/show/471/96-%D0%B2%D1%80#Text>.

Table 1. Agreements on legal relations and legal assistance in civil matters between Ukraine and foreign countries, which do not contain provisions on inheritance relations.

Country	Date of signing	Ratification date	Effective date
China	31.10.1992	05.02.1993	19.01.1994
Mongolia	27.06.1995	01.11.1996	01.08.2002
Syria	09.10.2008	18.11.2009	30.01.2011
Jamahiriyah	08.04.2008	10.06.2009	01.01.2010
Iran	11.05.2004	07.09.2005	31.08.2007
Greece	02.07.2002	22.11.2002	23.04.2001
Bulgaria	21.05.2004	22.09.2005	22.09.2005
Hungary	02.08.2001	10.01.2002	08.03.2002
UAE	26.11.2012	19.06.2013	20.02.2014
India	10.12.2012	5.11.2013	19.08.2017

Syrian Arab Republic²², the Great Socialist People's Libyan Arab Jamahiriya²³, the Islamic Republic of Iran²⁴, the Hellenic Republic²⁵, Bulgaria²⁶, and the Republic of Hungary²⁷ (Table 1).

12. It is not possible to identify the visible reasons for the lack of norms for the settlement of inheritance relations. After all, the countries in this list belong to different groups, both to the former socialist camp and to the so-called capitalist system, with different forms of government and legal systems. If to compare by the criterion of time interval, these agreements are also concluded at different times, mainly in the first half of the 2000s. An exception is the agreement with the People's Republic of China, which was signed in 1992 and entered into force in 1994. Currently, bilateral agreements have been concluded with other countries, in which the issue of settlement of inheritance relations is a separate section or several articles. That is, there is no reason to claim that the time factor had an impact. Its lack of influence can also be traced to the example of the agreement with Mongolia, which was signed in 1995 and entered into force only in 2002. As for agreements with other countries, they have been ratified and entered into force within one or two years.

13. The latest agreements in this group are ones signed with the UAE and India. Regarding them, the latest trend is significant changes in the name and content. So instead of combining regulatory issues with the field of criminal law is their consolidation in the contract with commercial law. A common feature of this group is the absence of the countries of the former USSR, it includes only Bulgaria and Hungary from the socialist camp. Perhaps this is the reason for the lack of inheritance rules, because after the collapse of the Soviet Union, this issue was not relevant for Ukraine, because the citizens of a country had no opportunity to go abroad and buy property there, had virtually no family ties in these countries. The second group of contracts is less numerous – twice less than the first and third (Table 2). It includes the countries of the former USSR and the socialist camp.

²² Law of Ukraine N 1730-VI "On Ratification of the Agreement between Ukraine and the Syrian Arab Republic on Legal Relations and Mutual Legal Assistance in Civil and Criminal Matters", 2009, November. <https://zakon.rada.gov.ua/laws/show/1730-VI#Text>.

²³ Law of Ukraine N 1491-VI "On Ratification of the Agreement between Ukraine and the Great Socialist People's Libyan Arab Jamahiriya on Legal Assistance in Civil and Criminal Matters", 2009, June. <https://zakon.rada.gov.ua/laws/show/1491-VI#Text>.

²⁴ Law of Ukraine N 1491-VI "On Ratification of the Agreement between Ukraine and the Great Socialist People's Libyan Arab Jamahiriya on Legal Assistance in Civil and Criminal Matters", 2009, June. <https://zakon.rada.gov.ua/laws/show/1491-VI#Text>.

²⁵ Law of Ukraine N 244-IV "On Ratification of the Agreement between Ukraine and the Hellenic Republic on Legal Assistance in Civil Matters", 2002, November. <https://zakon.rada.gov.ua/laws/show/244-15#Text>.

²⁶ Law of Ukraine No. 2911-IV "On Ratification of the Agreement between Ukraine and the Republic of Bulgaria on Legal Assistance in Civil Cases", 2005, September. <https://zakon.rada.gov.ua/laws/show/2911-IV#Text>.

²⁷ Law of Ukraine N 2926-III "On Ratification of the Agreement between Ukraine and the Republic of Hungary on Legal Assistance in Civil Matters", 2002, January. <https://zakon.rada.gov.ua/laws/show/2926-14#Text>.

Table 2. Agreements on legal relations and legal assistance in civil matters between Ukraine and foreign countries, which contain provisions on inheritance relations (inheritance cases).

Country	Date of signing	Ratification date	Effective date	Content
Poland	24.05.1993	04.02.1994	14.08.1994	identical
Moldavia	13.12.1993	10.11.1994	24.02.1995	identical
Latvia	23.05.1995	22.11.1995	12.07.1996	additional article
Uzbekistan	19.02.1998	05.11.1998	19.06.1999	two additional articles
Czech Republic	28.05.2001	10.01.2002	18.11.2002	additional articles

14. All agreements were concluded during the 1990s, with the exception of an agreement with the Czech Republic, which was concluded in the early 2000s. According to the chronology of the conclusion of agreements, it can be observed that their content is constantly updated over the years by adding new articles and expanding the rules contained in previously concluded agreements. The content of Ukraine's agreements with Poland and Moldova is completely identical. As for the agreements with Latvia, an additional article on inheritance protection measures has already been included. The agreements with Uzbekistan and the Czech Republic also contain additional provisions on inheritance protection in two articles. And the agreement with the Czech Republic also carefully defines the content of the competence of the judiciary and the procedure for the issuance of inheritance. Agreements on legal relations and legal assistance in civil matters between Ukraine and foreign countries, which contain provisions on inheritance relations, of the third group are aimed more at regulating the rules of inheritance (Table 3).

Table 3. Agreements on legal relations and legal assistance in civil matters between Ukraine and foreign countries, which contain provisions on inheritance (right of inheritance).

Country	Date of signing	Ratification date	Effective date	Content
Lithuania	07.07.1993	17.12.1993	20.11.1994	identical, division by articles
Estonia	15.02.1995	22.11.1995	17.05.1996	identical
Georgia	09.01.1995	22.11.1995	05.11.1996	identical
Vietnam	06.04.2000	02.11.2000	18.02.2000	identical
Macedonia	10.04.2000	22.03.2001	20.06.2003	identical, division by article
Turkey	23.11.2000	05.07.2001	02.05.2004	two articles are absent
Korea	13.10.2003	04.06.2004	17.12.2004	identical
Romania	30.01.2002	07.09.2005	30.10.2006	identical

15. Agreements with Estonia, Georgia, Vietnam, Romania and Korea are absolutely identical in terms of the regulation of inheritance relations. The treaty with the Republic of Lithuania has an identical text in content, but in contrast to the previous treaties, the structure of two articles (34 and 39) is divided in half by thematic content²⁸. A similar situation occurs in the agreement with Macedonia – here the regulations are presented in a more branched article. Thus, agreements with all countries have the same content, in some countries differ slightly in the number and content of articles. This is one of the distinguishing features compared to the second group of contracts. An exception among all treaties is the one concluded with Turkey, which is much truncated in content: the article on inheritance protection measures has only one item instead of five, there is no article on the issuance of inheritance.

²⁸ Law of Ukraine N 3737-XII “On Ratification of the Agreement between the Government of Ukraine and the Government of the Republic of Lithuania on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters”, 1993, December. <https://zakon.rada.gov.ua/laws/show/3737-12#Text>.

16. Thus, in chronological order, after the adoption of this agreement with Lithuania, there was the unification of the thematic text in the article, with their consolidation, which is reflected in the next three years of agreements. However, then the agreement with Macedonia returns to the use of branching provisions, and with Turkey – even to their reduction. While the following concluded bilateral international agreements again have the same combined content of the articles. That is, there is the reason to claim the lack of a unified approach to the conclusion of this type of contract. The explanation for this cannot be the will of the parties, because the content of this particular group of agreements, is very identical.

17. The agreement between Ukraine and the Republic of Cyprus on legal assistance in civil matters has an exceptional meaning regarding the regulation of inheritance relations²⁹. Although the agreement between the countries has a separate section IV, devoted to special provisions in civil matters, which regulates the issues of inheritance. However, compared to the other two groups of agreements with foreign countries, this agreement contains very brief information (only two articles and a third, which defines general issues of jurisdiction, including in matters of inheritance). In particular, it is established that the law of a country that was the last permanent residence of a testator (Article 18 Part 1) applies to inheritance relations, and the law of a country where it is located applies to the inheritance of real estate (Article 18 Part 2).

18. Citizens of Ukraine and Cyprus are endowed with equal rights in connection with the discovery of inheritance and the receipt of property (Article 18 Part 3). However, there may be restrictions imposed by the national laws of the parties on foreigners. As for jurisdiction, the court is considered to have it in hereditary relations in three cases (Article 17): location of immovable property in the territory of the court; permanent residence of the deceased in the territory of the court; the presence of the bulk of the property in the territory of the court at the time of death. Determining the form of a will (as well as the process of its change and cancellation) is regulated in two ways: by the law of the testator's country; by the law of the country where the will was made.

19. Through the exchange of notes, the succession of Ukraine under the following bilateral international agreements of the former USSR, which regulate inheritance relations, has been formalised:

- Agreement between the Union of Soviet Socialist Republics and the Republic of Finland on legal protection and legal assistance in civil, family and criminal matters³⁰;
- Agreement between the Union of Soviet Socialist Republics and the People's Democratic Republic of Algeria on mutual legal assistance³¹.

20. In the first agreement, the content of only two articles pays attention to the issue of research – on the national inheritance regime and the form of a will. The second agreement does not contain rules on the regulation of inheritance. An analysis of bilateral international agreements concluded by Ukraine with foreign states on legal assistance in civil matters shows that most aspects of inheritance relations are regulated by the personal law of a testator (*lex domicilii*, *lex patriae*) or the right of location (place of registration) of property. At the same time, in the international environment, there is a gradual overcoming of the problem of splitting the inheritance status, regardless of the location of the estate and the spread of the possibility of choosing the applicable law to the estate.

²⁹ Agreement between Ukraine and the Republic of Cyprus on legal assistance in civil matters, 2004. https://zakon.rada.gov.ua/laws/show/196_008#Text.

³⁰ Agreement between the Union of Soviet Socialist Republics and the Republic of Finland on legal protection and legal assistance in civil, family and criminal matters, 1978. https://zakon.rada.gov.ua/laws/show/246_008#Text.

³¹ *Ibid.*

IV. Conclusions

21. As follows from the analysed bilateral international agreements, most aspects of inheritance (only some form of will is an exception) are governed by the personal law of a testator (*lex domicilii*, *lex patriae*) or the right of location (place of registration) of property. However, in order to develop optimal conflict regulation of inheritance relations, it is necessary to take into account the latest trends in this area, which can be traced in the norms of national and international acts. Of the current trends at the international level, it should be noted the gradual overcoming of the problem of splitting the hereditary status regardless of location of the inheritance estate (splitting of the inheritance statute – the application of different conflict criteria for movable property (subordination to the *lex domicilii*, *lex patriae*) and for real estate (the law of the country of location).

22. In particular, this trend is reflected in the law of the European Union – Regulation of the European Parliament and the Council of the European Union No. 650/2012 on jurisdiction, applicable law, recognition and enforcement of decisions, as well as the adoption and enforcement of authentic instruments of succession and the creation of a European certificate of inheritance and the Convention on the law applicable to the inheritance of deceased property. However, in the CIS countries, except Azerbaijan, with which Ukraine has common legal traditions and inherited legal system, special formulas of attachment are applied to the real estate: the law of the location of real estate and the law of the state of its place of registration. In particular, such provisions apply in Belarus, Kazakhstan, Kyrgyzstan, Russia, Uzbekistan, and similar rules apply in Ukraine. The legislation of Azerbaijan stipulates the division of the inheritance statute regardless of the location of the hereditary estate.

23. The division of the inheritance takes place in the legislation of Moldova: for the movable – the national law of a testator, which was in force at the time of his death, and real estate – the law of location, regardless of the place of registration of property. The possibility of choosing the applicable law to the hereditary estate has become widespread. Thus, the legislation of the CIS countries (exception – the Civil Code of the Russian Federation) allows the use of limited autonomy of the parties: in the will, a testator may choose the law of a country of which he is a citizen, or the law of his last place of residence. In particular, such norms are contained in the legislation of the following countries: Azerbaijan, Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Uzbekistan, Estonia. A certain specificity is inherent in the norms of the civil legislation of Moldova, which enshrines the autonomy of the will of the parties, limited only to the mandatory provisions of their national law. The legislation of Ukraine also contains these norms with a clarification of the invalidity of the choice of law by a testator in the event of a change of citizenship after a will.