

International Encyclopaedia of Laws

Private International Law - Outline

The Author Table of contents List of abbreviations Preface

General Introduction

- §1. Historical development
- §2. International und supranational legal framework
- §3. Nature and scope
- §4. Characteristics of national Private International Law (PIL)
- §5. Domestic authorities involved, interpretation and application of Private International Law

Part I. General Principles (Choice of Law Technique)

Chapter 1. Sources of Private International Law

- §1. Public international law
- §2. Supranational law
- §3. National law
- §4. Case law
- §5. Doctrine
- §6. Customary law

Chapter 2. Determination of the Applicable Law

- §1. Conflict of law rules
 - I. Types of Conflict of Law Rules
 - II. Connecting Factors
 - III. Time Factors
 - IV. Dépeçage
 - V. Legal Consequences
- §2. Relevant contact and evasion of the law
- §3. Choice of law
- §4. Objective connecting factor
 - I. Principle of the closest connection
 - II. Nationality
 - III. Residence
 - A. Domicile (of origin, of choice, of dependence)
 - B. Habitual residence
 - C. Temporary residence
 - IV. Registered office
 - V. Lex loci delicti
 - VI. Lex rei (cartae) sitae
- §5. Changes in the connecting factors; changes in the lex causae
- §6. Combination of connecting factors

Chapter 3. Basic terms

- §1. Characterization (Classification)
- §2. Preliminary Question



- §3. Substance and Procedure
- §4. Renvoi
- §5. General Conflict Rule / Special Conflict Rule
- §6. Assimilation
- §7. Ordre Public (Public Policy)
- §8. Overriding Mandatory Rules
- §9. Evasion of the Law
- §10. Reference to the Law of States with Multiple Legal Orders

Part II. Conflict of Law Rules

Chapter 1. Persons

- §1. Natural Persons
 - I. Legal Capacity
 - II. Name
 - III. Nationality / habitual residence / domicile
 - IV. Stateless persons and refugees
 - V. Transsexuals
- §2. Legal Persons
 - I. Incorporated Organizations
 - II.
 - III. Unincorporated Organizations
 - IV. Scope of the lex societas
 - V. Liability
 - VI. Relocation
 - VII. Cross-border transformation

Chapter 2. Obligations

- §1. Contractual Obligations
 - I. Party Autonomy
 - II. Form
 - III. Validity and Formation
 - IV. Performance
 - V. Breach of Contractual Obligations (including damages)
 - VI. Rescission
 - VII. Representation
 - VIII. Interpretation
 - IX. Third Parties and Multiparty Agreements
 - X. Assignment and Subrogation
- §2. Particular Contracts
 - I. Sales Contract
 - II. Service Contract
 - III. Consumer Contracts
 - IV. Employment Contracts
 - V. Contracts of Carriage
 - A. Carriage of Persons
 - B. Carriage of Goods
 - VI. Insurance Contracts
 - VII. IP Contracts
 - A. Licence Agreement
 - B. Trade Mark Agreement
 - C. Other



- VIII. Hybrid Contracts
 - A. Leasing
 - B. Factoring
 - C. Franchise
 - D. Publishing Contract
 - E. Other
- IX. Negotiable Instruments
 - A. Bills of Exchange
 - B. Cheques

Х.

- C. Letters of Credit
- Agency Contracts
- §3. Non-Contractual Obligations
 - I. Party Autonomy
 - II. Objective Connection
 - III. Law of Torts
 - A. Lex loci delicti
 - B. Scope of Application
 - C. Damages (Compensation)
 - D. Insurance and Social Security Law
 - IV. Unfair Competition
 - V. Negotiorum gestio
 - VI. Unjust Enrichment
 - VII. Culpa in contrahendo
 - VIII. Other
- Chapter 3. Property
- §1. Lex rei sitae
- §2. Moveable Property
 - I. Collateral
 - II. Goods in Transit
 - III. Cultural Property
 - IV. Other
- §3. Immoveable Property
 - I. Mortgage
 - II. Immissions
 - III. Easements
- §4. Securities
- §5. Trust
- §6. Expropriation
- Chapter 4. Intangible Property Rights
- §1. Rights of Personality
 - I. Applicable Law
 - II. Remedies
- §2. Patents
 - I. Creation
 - II. Protection
 - III. Ownership and Transfer
 - IV. Infringement
- §3. Copyright
 - I. Creation
 - II. Protection



- III. Ownership and Transfer
- IV. Infringement
- §4. Trademarks
 - I. Creation
 - II. Protection
 - III. Ownership and Transfer
 - IV. Infringement
- §5. Industrial Designs
- Chapter 5. Family Law
- §1. State Law Religious Law
- §2. Marriage
 - I. Engagement
 - II. Heterosexual Marriage
 - A. Form
 - B. Substance
 - III. Same-Sex Marriage
 - A. Form
 - B. Substance
 - IV. Personal Effects of Marriage
 - V. Dissolution
 - A. Annulment
 - B. Divorce
 - C. Other
- §3. Matrimonial Property
 - I. Choice of Law Agreement
 - II. Relationship to Succession Law
- §4. Registered Partnership Partnership / Civil Unions
 - I. Personal Effects
 - II. Dissolution
 - III. Property
- §5. Extra-Marital Cohabitation
 - I. Personal Effects
 - II. Dissolution
 - III. Property
- §6. Maintenance Law
 - I. Spousal Maintenance
 - II. Partnership Maintenance
 - III. Maintenance of Cohabitees
- §7. Child Law
 - I. Determination of Parenthood
 - II. Custody and Contact
 - III. Guardianship
 - IV. Adoption
 - V. Artificial Insemination, Surrogacy
 - VI. Child Support
 - VII. Child Abduction
- §8. Protection of Adults
- Chapter 6. Succession Law
- §1. Lex successionis
- §2. Scope of Application



- §3. Testamentary Disposition
 - I. Legal Capacity
 - II. Choice of Law
 - III. Compulsory Portion
 - IV. Interpretation
 - V. Last Will
 - A. Formal Validity
 - B. Substantive Validity
 - VI. Legacy
 - A. Formal Validity
 - B. Substantive Validity
 - VII. Testamentary Contract
 - A. Formal Validity
 - B. Substantive Validity

§4. Inheritance and Liability

Part III. Annex: International Civil Procedure

Chapter 1. Sources of ICP Chapter 2. The principle of lex fori Chapter 3. National Jurisdiction Chapter 4. International Jurisdiction §1. Statutory Forums §2. Choice of Forum Agreement §3. Procedural Requirements §4. International Service §5. Rules of Evidence §5. Rules of Evidence §6. Temporary Relief Chapter 5. Recognition and Enforcement of Foreign Decisions Chapter 6. International Insolvency Law Chapter 7. International Arbitration

Table of Cases

Table of Statutory Instruments

Table of International Treaties

Selected bibliography

Index

ANNEX: National Legal Sources (English version)

Note to Contributors: The outline serves as a basis for comparative work. Therefore, it is very important to follow the proposed structure. All headings need to be mentioned as such. Authors are kindly requested to mention if an issue is not relevant under the law of their country. They are welcome to add issues that are of crucial importance to the application of Private International Law in their legal system.

Although multilateral and bilateral treaties, supranational law etc. are not mentioned under Part III. Choice of Law Rules, it is clear that the author should pay due regard to these issues whenever relevant in law. However, harmonized / unified law should not be included by way of mirroring the relevant texts (e.g. Hague Conventions,



EU-Regulations etc and the preambles). Instead, the author is required to focus on how such conflict rules have been integrated in their national system, applied by domestic authorities, and commented by national doctrine. Legal sources should be mentioned and properly cited. The relevant domestic legal sources are to be added in an Annex to the monograph, provided they are available in English. Conflict of Laws and International Civil Procedure (ICP) are linked with one another. However, the authors should consider **ICP only to a certain extent (around 15 % of their entire monograph).**