UDC 341.1/8
DOI: 10.32518/sals4.2023.243

Соціально-правові студії. 2023. Т. 6, № 4
Social & Legal Studios. 2023. Vol. 6, No. 4

Principles and aims of international private law

Olga Tur*
PhD in Law, Associate Professor
Ivan Franko National University of Lviv
79000, 1 Universytetska Str., Lviv, Ukraine
https://orcid.org/0000-0002-5782-8234

Marta Kravchyk
PhD in Law, Associate Professor
Ivan Franko National University of Lviv
79000, 1 Universytetska Str., Lviv, Ukraine
https://orcid.org/0000-0003-0823-738X

Iryna Nastasiak
PhD in Law, Associate Professor
Ivan Franko National University of Lviv
79000, 1 Universytetska Str., Lviv, Ukraine
https://orcid.org/0000-0002-3963-1788

Myroslava Sirant
PhD in Law, Associate Professor
Lviv Polytechnic National University
79013, 12 Stepan Bandera Str., Lviv, Ukraine
https://orcid.org/0000-0002-9393-2397

Nataliya Stetsyuk
PhD in Law, Associate Professor
Lviv State University of Internal Affairs
79007, 26 Horodotska Str., Lviv, Ukraine
https://orcid.org/0000-0002-9079-5868

Abstract. The research's relevance lies in its focus on the need to govern private legal relationships complicated by an international aspect, which is further complicated by the ever-evolving facets of life. Efficiently implementing and strengthening the principles of private international law is essential for improving legal relationships between international entities dealing with foreign elements. The research aims to examine how international law principles impact the regulation of these complex private legal relationships. Various research methods, including dialectical, historical, logical, and others, were employed in this study. The article's results encompass the establishment of precise definitions for important terms such as "private international law", "foreign element", and "principles of private international law". Furthermore, it establishes private international law as a separate and distinct legal discipline and examines scholarly research that highlights the essentiality of implementing these principles. The study examines the characteristics and goals of private international law principles, reveals their functioning system, analyses the principles of international law employed to govern legal relationships across borders. Furthermore, it offers a thorough examination of fundamental concepts such as the self-governing nature of one's choices and the principle of the most relevant association. Furthermore, the research identifies challenges related to the effective application of private international law principles in Ukraine. This article's findings and insights are not only academically valuable but also hold practical significance for the legal community and policymakers. This research makes a substantial contribution to the progress of private international law and the

Suggested Citation

Article's History: Received: 18.09.2023 Revised: 09.12.2023 Accepted: 23.12.2023

Tur, O., Kravchyk, M., Nastasiak, I., Sirant, M., & Stetsyuk, N. (2023). Principles and aims of international private law. *Social & Legal Studios*, 6(4), 243-250. doi: 10.32518/sals4.2023.243.

*Corresponding author

Copyright © The Author(s). This is an open access article distributed under the terms of the Creative Commons Attribution License 4.0 (https://creativecommons.org/licenses/by/4.0/)

regulation of international legal relationships involving foreign elements. It provides a comprehensive understanding of the complexities involved and offers a practical roadmap for its application and further development

Keywords: “foreign element”; will autonomy; the principle of closest connection; legal relations; effective application

Introduction

The fundamental essence of any legal system across the globe comprises a collection of regulations and principles that define the entitlements and obligations of individuals who are subject to that legal system. In recent decades, various aspects of human life have witnessed significant development. The principles of private international law offer a highly effective approach to regulating complex private legal relationships involving international elements. Contractual obligations are becoming increasingly significant as time goes by, mainly because of the rise of new fields of operation and their legal framework, as well as the international collaboration among various nations. Consequently, determining the applicable law for managing relationships with foreign elements is particularly pertinent. Consequently, when regulating relations in areas like labour, commerce, or family matters with international elements, conflicts often arise in the application of substantive rules from different countries’ national and private law. To resolve such conflicts and contradictions, private international law principles have been developed.

The principles within any legal domain provide guiding ideas, core concepts, and fundamental provisions that shape the content and direction of regulating social relations through law. These principles are significant because they contribute to the systematic and coherent regulation of social relations and offer guidance for law enforcement and legislative activities. P. Butchard’s (2020) research determined that the principles of private international law form the basis for establishing and governing the operational framework of private international law. This framework unites the system of private international law for regulating international private legal relationships within the context of international cooperation, based on mutual benefit and equality.

The contemporary field of private international law is characterised by an inclination to address practical matters, with relatively less emphasis on theoretical principles, particularly within post-Soviet countries. The evolution of legal relationships within the scope of private international law and the shift towards alternative approaches in the enforcement of private international law also underscore the need for a deeper exploration of its principles (Gramatskyi, 2019).

Many scholars who delve into the field of private international law often explore its principles within the context of their interrelation with other elements and components of private international law. For example, A.S. Dovgert (2020) attempted to reduce the principles of private international law to those of civil law. However, it is challenging to agree with this perspective because international law encompasses not just civil legal relationships but also economic, family, procedural, and labour relations with a foreign element. The prospects for the development and functionality of private international law and its constituent elements in Ukraine began with Ukraine’s independence, offering an opportunity to build a democratic and European country, which included the development of private international law as one of its essential tasks. Ukraine currently lacks comprehensive research on the concept, content, and application of the principles of private international law, leading to conflicts and ambiguities in the legislation governing international legal relations.

In light of the continuous development of society and various fields of operation, it is essential to establish and effectively implement the principles of private international law. It is essential to guarantee the effective coordination in the legal framework of private legal relationships that are complicated by an international component. This research employed a range of specific and general methods to conduct a thorough study of the topic. The main approaches used to investigate the subject matter involved dialectical, logical, and formal legal methods of scientific inquiry. The hermeneutical approach was utilised to examine the key principles of private international law, including the autonomy of will and the principle of the closest connection. This method also helped in elucidating the essence and necessity of applying the principles of private international law to regulate private legal relations with foreign elements. The dialectical method was utilised to analyse the provisions found in Ukrainian and foreign scholarly literature that discuss research on the principles of private international law to different degrees. The systemic and structural approach was adopted to study the central issue of effectively implementing and applying the principles of private international law in Ukraine. Furthermore, by V.A. Ryzhenko (2021) the logical and semantic method was utilized to deepen the conceptual framework, while the formal legal and logical method facilitated a comprehensive and detailed consideration of legal principles used to govern relations complicated by a foreign element. The study by A.H. Neidhardt (2018) offers a fresh and transformative perspective on European private international law, challenging established paradigms and providing a rich historical and conceptual framework for understanding the family anomaly. It is a significant contribution to the field, and its nuanced analysis will undoubtedly stimulate further scholarly debate and exploration in this area.

The research endeavours to achieve several key objectives. Firstly, it aims to offer a lucid comprehension of the concept and goals of the principles of private international law. Moreover, it seeks to conduct a comprehensive analysis of the legal principles utilised by private international law entities to regulate their relationships. The primary aims of this study can be succinctly summarised as follows:

- examine international private law as a distinct legal discipline;
- establish a well-defined framework for the principles of international private law;
- explain the characteristics and objectives of these principles of international private law;
- conduct a comprehensive study of the existing principles of international law employed to regulate complex relationships marked by foreign elements;
- examine the principles of international private law as outlined in Ukrainian legislation or inferred from the provisions of the laws.

General provisions of private international law as a legal field and its principles

The term "private international law" refers to a body of international treaties, customs, and domestic legislation that governs complex legal relationships involving a "foreign element" in civil, economic, labour, family, and other areas (Novosad, 2022). The term "private international law" was initially introduced for general usage by the American researcher and lawyer J. Story (2010). Consequently, it began to find active application within the framework of existing conflict-of-laws principles. It is formulated to govern private legal relations, guided by the principles of legal equality, property autonomy, and voluntary choice. Its primary subjects encompass both legal entities and individuals. To establish the principles of private international law, it is crucial to take into account the unique characteristics of this legal system, the relationships it governs, and the involvement of a "foreign element". The "foreign element" concept comprises three key components: legal events occurring in a foreign country; entities with foreign ties; objects situated in foreign territories. Furthermore, private international law is distinguished by its emphasis on civil law-related connections and its primary focus on legal entities and individuals.

Legal principles are the foundational concepts that shape and govern the structure and operation of a specific area of law. Consequently, they function as standards for assessing legality and exert a substantial influence on the implementation of the law. Within the realm of private international law, these principles possess a distinct attribute – they can be formally incorporated into public legal statutes. The task of the principles of any branch is to promote the unity and internal integrity of legal regulation of social relations and is the basis for both law enforcement and law-making activities. The principles of private international law are characterised by the following features and attributes, namely: regulatory, ideological, normative and other. One of the characteristics and main features of the principles of private international law is their unsystematic nature and normative uncertainty, so they (principles) are either directly enshrined in legislation or derived and determined from the content of legislation. I.S. Podlisnyak and Ye.D. Streltsova (2019) noted that in the context of globalisation taking place in the modern world and during cooperation between private legal entities of different countries of the world, the principles and institutions of private international law are gaining special importance and relevance. E.M. Gramatskyi (2019) noted that every year scientists and lawyers pay more and more attention to the study of the principles of private international law. Such attention to the study of the principles of it and the specifics of their application can be explained by the active democratisation processes currently taking place in the world.

M.L. Logvinenko (2021) highlighted that universally recognised principles hold significant positions within the legal systems of states that identify themselves as democratic and lawful. Currently, there is no widely agreed upon definition for the term "principles of private international law" in the field of private international law academia. Consequently, multiple scholars interpret these principles as being akin to the principles of public international law, as articulated in Article 2 of the United Nations Charter. The principles of public international law encompass the prohibition of employing force or making forceful threats, the equal sovereignty of states, and the preservation of states' territorial integrity (United Nations Charter, 1945). E.M. Gramatskyi (2019), along with other proponents of this viewpoint, rationalises this stance by emphasising the correlation between public and private international laws.

Critics of the aforementioned approach to defining the principles of private international law included A.S. Dovgert and V.H. Kysil (2012). It has been observed that when individuals are involved in private legal matters that have an international aspect, they typically belong to different legal systems. Private international law operates on a framework that is built upon general legal principles and private law principles. The effective utilization of private international law principles fosters equality among the various legal systems across the world and contributes to enhancing international cooperation. It plays a significant role in regulating contractual relationships, as well as governing private legal aspects of life that involve foreign elements and international economic activities. Compared to the general principles of other legal disciplines, the principles of private international law possess distinct and substantial applicative specificity. On one hand, they establish connections between national legal systems, while on the other, they create legal links between national and international law. The main goal of applying and implementing international law principles is to effectively regulate complex international private law relationships that involve a "foreign element" between entities governed by private international law.

Characteristics of international private law

Several fundamental principles are of great significance in the field of private international law: the adherence to legal principles, the recognition and protection of human rights, refraining from interfering in the internal affairs of other nations, resolving international conflicts through peaceful means, faithfully fulfilling international agreements, upholding the principle of individual autonomy, recognising the importance of strong connections, promoting cooperation and non-discrimination, and ensuring equality. The system of principles in private international law is complex and can be classified according to different criteria. It is important to acknowledge that the principles are interconnected and mutually enhance each other. Any breach of a principle has a ripple effect on the entire system of principles and hampers the execution of other principles.

The aforementioned principles can be categorised as follows: the principles that govern the regulation of private law relations and the principles that govern specific private law relations, commonly known as conflict-of-laws principles. The first category encompasses several principles: the principle of unconditionally applying foreign law according to conflict of laws rules, the principle of regulating conflicts of laws, the principle of national jurisdiction over international private relations, the principle of autonomy of will, and the principle of prioritising an international treaty over a national law rule (Makarov, 2011). The second category comprises conflict-of-laws bindings utilised in private international law, such as the flag principle in regulating international carriage relations, the principle of location in property relations, and the principle of location of the contractor in contractual relations.

The principles can be divided into three levels:

- principles of private law (voluntariness, legal equality, legal protection of private interests, dispositive, coordination);

- public international law principles that exert a notable influence on the governance of international private legal relationships (including principles like the prohibition of using force or threats, the observance of human rights, non-interference in the internal affairs of foreign states, principles of non-discrimination, equality, and other relevant principles);
- the principles of private international law that distinguish it from other legal systems include the principle of the closest connection, the principle of autonomy of will, and the principle of public order.

The principle of autonomy of will is a significant tenet in private international law. Therefore, it is a fundamental principle of private international law that allows individuals from different countries to select the applicable law for their legal relationships (Hasneziri, 2023). The principle of autonomy of the will is also protected by the Law of Ukraine "On International Private Law" (2005), which states that parties involved in legal relationships have the freedom to select the governing law for their legal relationships. In accordance with Ukrainian legislation and customary practise, the selection of applicable law can be either explicitly stated or inferred from the parties' actions, the circumstances, or the terms of the transaction. It is important to mention that this principle is widely acknowledged in numerous countries, such as the USA, Canada, Singapore, and Western Europe, as the most efficient method for resolving conflicts in the regulation of private law relationships (Podlisnyak and Streltsova, 2019).

I.M. Makarov (2011) noted that B. Dumoulin was the first to develop and study this principle, long before the development of private international law and the official enshrining of the principle of autonomy of will. Thus, the scholar believed that the autonomy of will should be applied in the regulation of contractual obligations, namely, the law intended by the parties to such a contract should be applied to contracts. The principle of autonomy of will is a fundamental aspect that permeates the entire private international law system and can have regulatory consequences. For instance, in scenarios like international commercial agreements, the involved parties can select the governing law of any state to regulate their relationship. However, in cases related to property rights protection, the governing law is typically confined to the law of the applicant or the state where the property is situated. Despite the extensive use of party autonomy in private international law, there remains no unified consensus among scholars regarding its legal nature. Consequently, there are three main theories regarding the legal nature of the parties' autonomy of will, namely:

- a consequence of freedom of contract, which in turn is enshrined and supported by the legislation of various countries of the world (Shevchenko, 2019);
- an institution created to resolve conflicts of laws;
- a peculiar and ambiguous way to resolve conflicts and problems that arise when regulating relations complicated by a "international aspect".

Despite the various theories about the parties' intentions being separate, scholars generally agree that the independence of the parties' will is a fundamental principle (Mills, 2019). A.G. Pokachalova (2016) noted that the autonomy of the parties will is the most widely used, generally recognised and relevant principle of private international law, which plays a special role in the regulation of contractual relations and obligations, as it allows the parties to the contract to choose a particular legal order for regulating relations. Thus, in practice, the autonomy of the parties will be manifested through the mechanism of harmonising the concerns or stakes of the parties involved in the contract regarding the regulatory procedure or jurisdiction of regulation.

The principle of autonomy of the will is a crucial concept in international private law. It enables the recognition and enforcement of the law that is most closely connected to the parties' intentions and relationships. However, it should be noted that the autonomy of the will is not an absolute rule and does not mean that the parties to legal relations have absolute and unlimited rights, as the state may introduce mandatory rules and adopt legislation that allows the parties to apply the law in certain cases. The principle of autonomy of the will can be understood as a mechanism by which the state grants individuals the ability to assert their dominant interests in order to rectify any flaws in the conflict of laws principle. Given that the concept of self-governing will is acknowledged in the legal frameworks of numerous nations, it remains imperative to regard it as a manifestation of the fundamental nature of the law. It's important to highlight the extent of the autonomy of the will principle. What matters most is not necessarily the involvement of a "foreign element" or the connection between diverse legal systems, but rather the nature of these connections being within the domain of private law and founded on principles of legal equality and voluntary consent (Shevchenko, 2019). This perspective underscores the universality of self-governing will as a core component of legal systems, emphasizing that its application transcends geographical boundaries and is upheld by the fundamental principles of fairness and individual choice within the realm of private law.

Analysing of international private law

Studying and analysing the principle of free will, several issues arise which are addressed in different ways in several countries. The initial issue revolves around the time constraints related to the application of the parties' autonomy of will principle. Presently, most countries adopt the notion of unrestricted time limits for this principle. The Hague Convention on the Law Applicable to Contracts for the International Sale of Goods (1986) exemplifies this principle by allowing parties the autonomy to select the applicable law for their contracts at any point, with some restrictions on previously chosen laws. However, this approach is not universally embraced. For instance, Germany and Switzerland endorse an unlimited timeframe for the autonomy of will, whereas Hungary mandates the choice of governing law at the transaction's time. Notably, Ukraine aligns with the concept of unlimited time limits for the parties' autonomy of will principle.

The second crucial consideration often requiring attention pertains to the criteria for applying the parties' autonomy of will principle. In private international law, the primary and pivotal condition for the application of this principle involves the complexity and existence of a "foreign element" in the legal ties between the parties. Some state codifications, such as the Civil Code of Quebec (1991), grant the option to choose the governing law irrespective of the presence of a "foreign element" in a legal act explicitly stated in the act itself. Conversely, the Civil Codes of People's Republic of China (2020) and Lithuania (2000) stipulate that the presence of a "foreign element" is essential for regulating legal relations between parties and subjects of private international law, as chosen by the parties. The Law of Ukraine "On

International Private Law" (2005) asserts that the choice of law is inapplicable in the absence of a "foreign element" in the legal relationship.

Another aspect addressed in the application of the autonomy of will principle involves determining the form or method of expressing and implementing it. For instance, the aforementioned Hague Convention (1986) specifies that a contract between parties is directly subject to the law chosen by them. The agreement on such a choice must be explicitly stated or clearly inferred from the contract's terms, the circumstances of the transaction, and the overall conduct of the involved parties. There are two main forms of expressing the autonomy of the parties will: tacit and express. Therefore, based on the transaction terms, it can be inferred that the parties intended to place the obligation under a particular legal system, as a manifestation of their autonomy of will. On the other hand, when the autonomy of the parties' will be explicitly implemented, the subordination of obligations between the parties is established through direct indication either in the contract itself or in a separate document that the parties can create (Pokachalova, 2016).

Another crucial principle within private international law is the principle of the closest connection. This principle is significant in applying the law of the state most closely linked to the regulation of private legal relations that involve a "foreign element". The development of this principal stems from the nature of international private legal relations, necessitating appropriate regulation. Initially, the principle of the closest connection emerged in Anglo-American legal doctrine, giving rise to two main theories: the localisation theory and the intention theory. The localisation theory posits that the law most closely related to contractual relations is the one linked to all elements and provisions of the contract. Conversely, the intention theory asserts that the law most closely tied to the contractual relationship is the one intended by the parties involved in the contract (Butchard, 2020).

The principle of the closest connection operates as a subsidiary and exclusive concept, governed by specific rules and criteria. Despite encountering uncertainties and challenges in its application, this aspect of international law is gaining in relevance each year. This trend is driven by the ongoing efforts within private international law to establish highly adaptable criteria for determining the applicable law. The closest connection can be interpreted in different ways. The approaches to determining and choosing the law according to this principle were outlined in the so-called "Savigny doctrine", which can be interpreted as follows: finding for each legal relationship the legal sphere to which this relationship belongs by its nature. In private international law, any conflict-of-laws rule must provide a response to the inquiry of which substantive law is to be employed in governing a specific legal relationship (Pokachalova, 2017).

The principle of closest connection is a broad rule that governs the resolution of international private law disputes involving a "foreign element". It has a wide-ranging impact on all aspects and institutions of private international law. This principle is applicable to determining the governing law for contractual obligations or transactions, aligning with the law most closely tied to the specific transaction or contract. Typically, the law most closely associated with the transaction is that of the location or residence of one of the parties involved. As a fundamental principle of private international law, the principle of the closest connection finds application in numerous countries globally. For instance, the Republic of Poland's "On Private International Law" designates this principle as a foundation for addressing gaps, stipulating that in the absence of specified applicable law, the rules of Poland, international treaties, and European Union (EU) law should defer to the law most closely connected to the relationship under the Act of February 4, 2011, "Private International Law" (2011).

The principle of national jurisdiction over private law relations involving a "foreign element" is a crucial aspect of private international law. The core of this principle is that when private legal relationships involve a "foreign element", they are regulated by the rules of a particular national legal system. Furthermore, it dictates that foreign legal entities and individuals fall under the jurisdiction of the state where they are located. Within the principles of private international law, there exists the principle of equality among participants in private legal relations complicated by a "foreign element" (Edelman & Salinger, 2021). Applying this principle ensures the equality of all parties involved in international private law relations, prohibiting any forms of discrimination. Another principle of private international law is the principle of ensuring adequate legal regulation. The distinct feature of private international law, as a legal branch, is the ability for legal relations subjects to seek recourse to foreign national legislation for effective regulation. The application of this principle mitigates any adverse consequences arising from the choice or application of law in regulating private legal relations complicated by a "foreign element". Additionally, an essential principle in private international law is the principle of the right of retorsion. Thus, the concept of retorsion should be understood as measures taken by a state in response to unfriendly and hostile actions of another state, which in turn involve the application of similar actions to the subjects of the hostile state (Hartley, 2022). The main purpose of retorsions is to cancel discriminatory actions against subjects of private legal relations applied in a foreign state. The principle of granting legal regimes, namely national, special and most favoured nation treatment. National and special treatment (also called preferential treatment) is granted to foreign individuals and the principle of treating a nation as the most favoured to foreign legal entities.

This study also analyses the principles of private international law in European countries. The so-called European private international law is at the stage of development and formation, which is primarily due to the achievement of both the traditional goals of the private international law branch and the desire to develop political, social and economic integration between the Member States of the EU (Davì, 2018). Along with the traditional principles of private international law, there are also special principles of European private law principles on the structure and functioning of the internal market and those related to the creation of the area of freedom, security and justice. Thus, among the principles of private international law in force in the EU, several principles can be distinguished, including the principle of minimum conflict, which aims to preserve the stability and continuity of private legal relations between different states of the world, regardless of the borders between them; the principle of the most favoured nation; the principle of taking into account the purpose and content of substantive law when developing rules for the choice of laws. It is also possible to mention the general principles that are common to all branches of law, namely the principle of equality;

non-discrimination; the principle of proportionality; the principle of respect for human rights. The general principles of EU law have an important role in shaping the principles of private international law applicable in the countries of the EU. The principle of mutual recognition is considered one of the most crucial principles in the European judicial area. It was highlighted as the "cornerstone" in the 1999 Tampere European Council Presidency Conclusions.

Principles of private international law in Ukraine

Ukraine's approach to international private law is firmly based on the principle of the rule of law, which is a fundamental principle that influences its legal system. The adherence to the rule of law guarantees that all principles in the realm of private international law are founded upon equity, uniformity, and foreseeability. In Ukraine, while the legislative framework does not provide a comprehensive list of principles specific to private international law, the principle of autonomy of will is clearly articulated in the Law of Ukraine "On International Private Law" (2005). This principle underscores the importance of respecting parties' choices regarding the applicable law in international contracts and dealings. Beyond this, a deeper understanding of Ukraine's approach to private international law can be gleaned by analysing a variety of legal sources. These sources reveal a multifaceted legal framework that seeks to balance domestic legal norms with international obligations, aiming to create a coherent and effective system for managing cross-border legal issues. This approach reflects Ukraine's endeavour to align its legal practices with global standards while maintaining the integrity and sovereignty of its own legal system.

One significant principle is the application of domestic law when a "foreign element" is present. According to J. Plhakova (2020), in cases involving international elements, the applicable laws are primarily those of Ukraine. This principle also asserts that in instances of legal conflict, Ukrainian law will take precedence. This approach ensures that international transactions and relations involving Ukraine are governed by familiar legal standards, providing clarity and stability for those operating within its jurisdiction.

The study by S.M. Zadorozhna (2013) delves into the intricate relationship between international treaties and domestic laws within the Ukrainian legal framework. The analyse casts light on the nuances of the Law of Ukraine "On International Private Law" (2005), particularly highlighting its inclination towards prioritizing international rules over domestic legislation. This aspect of Ukrainian law is critical in understanding the country's approach to international law. It demonstrates Ukraine's strong commitment to honouring its international treaty obligations and seamlessly incorporating these into its domestic legal system. By placing international treaties above its laws, Ukraine aligns itself with global legal standards, thereby ensuring consistency and reliability in its international legal dealings. The author's work underscores this commitment and provides a valuable perspective on how Ukraine navigates the balance between its international obligations and domestic legal requirements. This approach not only fosters international cooperation but also enhances the predictability and stability of the legal environment for both domestic and international actors engaging with Ukraine.

Ukraine also employs a dual method involving both conflict-of-laws and substantive law to manage international private relations. This method involves determining the applicable law using conflict-of-laws rules as established in the Law of Ukraine "On International Private Law" (2005), followed by the application of the relevant substantive law. This comprehensive approach allows for a more nuanced resolution of legal issues that arise in the international arena. A further principle, as noted by J. Plhakova (2020), is the prohibition against referring to the laws of third countries. This means that the application of conflict-of-laws rules is restricted to direct relations between the involved parties, without allowing for the laws of an unrelated third country to influence the legal process.

In terms of equality and non-discrimination, Ukrainian law treats foreign legal entities and individuals equivalently to Ukrainian nationals, barring specific rights and obligations enshrined in the Constitution of Ukraine and other national laws. This principle ensures that foreign parties are not disadvantaged in Ukrainian legal proceedings and contributes to an equitable legal environment. Finally, an essential aspect of Ukraine's private international law is the principle of public order. This principle mandates the protection of the country's legal order, sovereignty, and security from undue foreign law influences. It acts as a safeguard, ensuring that foreign legal norms do not undermine Ukraine's core values and legal stability (Yuldashev, 2004).

Additionally, principles from Ukrainian civil law significantly influence the realm of private international law. These include the assumption that individuals act in good faith and reasonably in exercising their civil rights, and the prioritization of parties' intentions in civil transactions. These principles are balanced against the need to adhere to the general principles of civil law. Moreover, there is a clear emphasis on prioritizing international treaties over domestic civil law rules, provided these treaties are ratified by the Ukrainian Parliament and integrated into the national legal framework. Despite the richness of these scholarly contributions, Ukraine still faces the challenge of lacking a unified legal act that encapsulates these principles for governing international private legal relations. The creation of a legislative act that explicitly outlines the principles of private international law would not only fill existing gaps but also bring greater clarity and structure to this area of law in Ukraine. This step is essential for enhancing the legal framework's effectiveness and transparency, ensuring a more cohesive approach to international private law.

Conclusions

Private international law is basically a set of rules from international treaties, customs, and local laws. It deals with various legal relations like civil, economic, labour, and family matters that involve a "foreign element". The unique thing about this law branch is that it specifically regulates relationships that get complicated because of this foreign element. The system of principles in private international law is quite extensive, with many principles at different levels. The study looks into three main levels of these principles: those from private law, principles from public international law that significantly affect cross-border private law relations, and the specific principles of private international law itself.

The principles in private international law are explored, highlighting the significant role of the autonomy of will. This principle is crucial because it allows foreign law to govern social relations based on the parties' free will. The study

comprehensively examines various principles in private international law, emphasising the need to improve their regulatory inclusion in Ukraine's national laws. This improvement is necessary to effectively regulate private legal relations complicated by a "foreign element" among private international law subjects.

The principles discussed in the study aren't final and complete. The evolving world brings about new activities and social relations, requiring ongoing clarification and enhancement of private international law principles to address contemporary challenges. Effective statutory and doctrinal consolidation of these principles, as evidenced by research and analysis, will enhance private international law as a legal branch, contribute to better regulation of relations among entities in this field. A clear statutory definition of international law principles will signify the completion of forming the theoretical foundations of private international law, allowing it to adapt to future challenges and new societal spheres.

The study highlights the necessity for further research in several key areas. There's a need to explore the integration of international treaties and customs into local laws, particularly how these diverse sources of law interact and influence each other in the Ukrainian context. Given the prominence of the autonomy of will principle, future studies should investigate how this principle is applied in various international contexts and its impact on the legal certainty and predictability in cross-border relations. Additionally, there's a crucial need for research on the harmonization of Ukraine's private international law with evolving international standards, especially in emerging areas such as digital transactions, international e-commerce, and cross-border data protection. Such studies would contribute to the ongoing refinement and development of private international law, ensuring its relevance and effectiveness of modern international relations.

Acknowledgements

None.

Conflict of interest

None.

References

[1] Act of February 4, 2011. Private International Law. (2011, February). Retrieved from https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20110800432.
[2] Butchard, P. (2020). *Principles of international law: A brief guide*. Retrieved from https://researchbriefings.files.parliament.uk/documents/CBP-9010/CBP-9010.pdf.
[3] Civil Code of Quebec. (1991, January). Retrieved from https://www.legisquebec.gouv.qc.ca/en/pdf/cs/CCQ-1991.pdf.
[4] Civil Code of the People's Republic of China. (2020, May). Retrieved from https://wwwex.ilo.org/dyn/natlex2/natlex2/files/download/111290/CHN111290%20Eng.pdf.
[5] Civil Code of the Republic of Lithuania. (2000, July). Retrieved from https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/87072/98918/F821662156/LTU87072%20ENG.pdf.
[6] Convention of 22 December 1986 on the Law Applicable to Contracts for the International Sale of Goods. (1986, December). Retrieved from https://www.hcch.net/en/instruments/conventions/full-text/?cid=61.
[7] Davì, A. (2018). *The role of general principles in EU private international law and the perspectives of a codification in the field*. Retrieved from https://www.sipotra.it/wp-content/uploads/2018/09/The-Role-of-General-Principles-in-EU-Private-International-Law-and-the-Perspectives-of-a-Codification-in-the-Field.pdf.
[8] Dovgert, A.S. (2020). The doctrine of international private law in Ukraine at the turn of the century. *Law of Ukraine*, 6, 13-40.
[9] Dovgert, A.S., & Kysil, V.H. (2012). *International private law. General part*. Kyiv: Alerta.
[10] Edelman, J., & Salinger, M. (2021). Comity in private international law and fundamental principles of justice. In *A conflict of laws companion* (pp. 325-356). Oxford: Oxford University Press.
[11] Gramatskyi, E.M. (2019). Principles of international private law: General provisions. *Journal of the Kyiv University of Law*, 1, 116-120.
[12] Hartley, T.C. (2022). Basic principles of jurisdiction in private international law: The European Union, the United States and England. *International & Comparative Law Quarterly*, 71(1), 211-226. doi: 10.1017/S0020589321000427.
[13] Hasneziri, L. (2023). The principle of autonomy of contractual will. *European Journal of Multidisciplinary Studies*, 8(1), 134-147.
[14] Law of Ukraine No. 2709-IV "On International Private Law". (2005). Retrieved from https://zakon.rada.gov.ua/laws/show/2709-15#n43.
[15] Logvinenko, M.L. (2021). The nature of private international law and its place in the legal system. *Actual Problems of Politics*, 67, 163-167.
[16] Makarov, I.M. (2011). Principles of international private law. *Scientific Bulletin of the International Humanitarian University*, 2, 196-198.
[17] Mills, A. (2019). Conceptualising party autonomy in private international law. *Revue Critique de Droit International Privé*, 2, 417-426. doi: 10.3917/rcdip.192.0417.
[18] Neidhardt, A.H. (2018). *The transformation of European private international law. A genealogy of the family anomaly*. Florence: European University Institute.
[19] Novosad, I.V. (2022). Private international law: Historical retrospective and present. *Legal Scientific Electronic Journal*, 7, 135-137. doi: 10.32782/2524-0374/2022-7/29.
[20] Plhakova, J. (2020). Choice of law in private international law. *Comparative and Analytical Law*, 2, 260-264.
[21] Podlisnyak, I.S., & Streltsova, Ye.D. (2019). The principle of autonomy of will in international private law: General characteristics. In *A collection of abstracts of reports of students, post-graduate students and awardees – participants of the 75th report conference of I.I. Mechnikov Odesa National University. Section of eonomic and legal dciences* (pp. 85-88). Odesa: Feniks.
[22] Pokachalova, A.G. (2016). Lex Voluntatis as a fundamental principle for control of securing obligations. *Actual Problems of International Relations*, 128, 93-104. doi: 10.17721/apmv.2016.128.0.93-104.
[23] Pokachalova, A.G. (2017). The principle of the closest connection in the sphere of regulation of guaranteeing obligations. *Entrepreneurship, Economy and Law*, 2, 304-309.

[24] Ryzhenko, V.A. (2021). Principle of autonomy of the will of the parties in the international private law. *Legal Scientific Electronic Journal*, 11, 236-239. doi: 10.1017/9781139941419.001.
[25] Shevchenko, L.A. (2019). The essence and value of the principle of autonomy of the will in international private law. *Young Scientist*, 4(68), 165-168. doi: 10.32839/2304-5809/2019-4-68-39.
[26] Story, J. (2010). *Commentaries on the conflict of laws foreign and domestic in regard*. Clark: The Lawbook Exchange, Ltd.
[27] United Nations Charter. (1945). Retrieved from https://www.un.org/en/about-us/un-charter/full-text.
[28] Yuldashev, O.Kh. (2004). *Private international law: Theoretical and applied aspects*. Kyiv: Interregional Academy of Personnel Management.
[29] Zadorozhna, S.M. (2013). *Concept, genetic basis and system of principles of international private law*. Chernivtsi: Yuriy Fedkovich Chernivtsi National University

Принципи та цілі міжнародного приватного права

Ольга Тарасівна Тур
Кандидат юридичних наук, доцент
Львівський національний університет імені Івана Франка
79000, вул. Університетська, 1, м. Львів, Україна
https://orcid.org/0000-0002-5782-8234
Марта Богданівна Кравчик
Кандидат юридичних наук, доцент
Львівський національний університет імені Івана Франка
79000, вул. Університетська, 1, м. Львів, Україна
https://orcid.org/0000-0003-0823-738X
Ірина Юріївна Настасяк
Кандидат юридичних наук, доцент
Львівський національний університет імені Івана Франка
79000, вул. Університетська, 1, м. Львів, Україна
https://orcid.org/0000-0002-3963-1788
Мирослава Миколаївна Сірант
Кандидат юридичних наук, доцент
Національний університет «Львівська політехніка»
79000, вул. С. Бандери, 12, м. Львів, Україна
https://orcid.org/0000-0002-9393-2397
Наталія Василівна Стецюк
Кандидат юридичних наук, доцент
Львівський державний університет внутрішніх справ
79000, вул. Городоцька, 26, м. Львів, Україна
https://orcid.org/0000-0002-9079-5868

Анотація. Актуальність дослідження полягає в його зосередженості на необхідності регулювання приватних правовідносин, ускладнених міжнародним аспектом, який ще більше ускладнюється постійними мінливими аспектами життя. Ефективне застосування та зміцнення принципів міжнародного приватного права має вирішальне значення для зміцнення правових відносин між міжнародними суб'єктами, які стикаються з іноземними елементами. Дослідження спрямоване на вивчення того, як принципи міжнародного права впливають на регулювання цих складних приватних правовідносин. У дослідженні використовувалися різні методи дослідження, зокрема діалектичні, історичні, логічні та інші. Результати статті включають визначення таких ключових понять, як «міжнародне приватне право», «іноземний елемент» і «принципи міжнародного приватного права». Він також визначає міжнародне приватне право як окрему галузь права та аналізує наукову роботу, наголошуючи на необхідності застосування цих принципів. У дослідженні окреслено особливості та цілі принципів міжнародного приватного права, розкрито систему їх дії та детально розглянуто принципи міжнародного права, які використовуються для регулювання транскордонних правовідносин. Крім того, він забезпечує комплексний аналіз фундаментальних принципів, таких як автономія волі та принцип найтіснішого зв'язку. Крім того, дослідження визначає проблеми, пов'язані з ефективним застосуванням принципів міжнародного приватного права в Україні. Висновки та висновки цієї статті є не лише цінними з академічної точки зору, але й мають практичне значення для юридичної спільноти та політиків. Проливаючи світло на складність міжнародного приватного права та пропонуючи дорожню карту для його застосування та розвитку, це дослідження робить значний внесок у розвиток галузі та регулювання міжнародних правовідносин з іноземними елементами

Ключові слова: «іноземний елемент»; автономія волі; принцип тісного зв'язку; правові відносини; ефективне застосування