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Introduction:

The article analyzes the problems associated with the application of foreign civil procedure norms in the settlement of disputes in international civil procedure. The tendency to apply foreign civil procedural norms has appeared in judicial practice relatively recently, however, at present, reference to foreign procedural law is enshrined in most national and international legal acts on private international law and international civil procedure. This creates the problem of identifying a special category of conflict of laws — procedural conflict of laws rules, the problem of defining their concept and structure (including rules on conflict of jurisdiction resolution).

The purpose of the study is to show that in private international law and international civil procedure there is a special category of norms prescribing the application of foreign civil procedure law, i.e. procedural conflict of laws rules. The purpose of the study is to show that the application of the procedural law of the country of the court in modern international civil procedure should be positioned not as a procedural imperative, but as a general conflict of laws binding. To solve the tasks set, the relevant norms of national laws and international legal acts, as well as examples from judicial practice, are considered. A brief overview of the doctrinal views concerning the problem under consideration is given.

The main research methods are comparative law, comparative and retrospective analysis.

Currently, the application of foreign civil procedure norms is an everyday reality, in connection with which it can be argued that there is a special legal category of "procedural conflict of laws rules". It is advisable to assert the law of the country of the court in international civil procedure not as a procedural imperative, but as a conflict of laws principle, a general conflict of laws binding. It is also proposed to define the rules on resolving the conflict of jurisdictions as procedural conflict of laws rules.

Keywords: private international law, international civil procedure, procedural conflict of laws rules, foreign civil procedure rules, procedural conflict of laws issue, conflict of jurisdictions.

The intricate interplay of legal systems in our increasingly globalized world underscores the significance of conflict of laws rules within civil procedure activity. As individuals and entities engage across borders, the legal implications of these interactions necessitate a robust framework to determine applicable laws and jurisdiction. Conflict of laws rules serve as essential tools to resolve discrepancies that arise when different legal systems govern the same issue, particularly in civil matters ranging from contracts and torts to family law. This article explores the foundational principles of conflict of laws in civil procedure, examining how these rules facilitate fair and efficient adjudication in a multi-jurisdictional context. By analyzing key concepts such as jurisdiction, choice of law, and recognition and enforcement of judgments, we aim to illuminate the challenges and solutions that arise in navigating the complexities of legal pluralism. Understanding these dynamics is pivotal for legal practitioners, scholars, and policymakers as they seek to ensure justice and coherence in an interconnected legal landscape.

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Procedural Conflict-of-Laws Rules in Private International Law and International Civil Procedure

The article analyzes the problems raised from the use of foreign civil procedure norms in the settlement of disputes in the international civil process. The trend towards the application of foreign civil procedural rules has emerged in judicial practice relatively recently, but the reference to foreign procedural law is now enshrined in most national and international legal instruments on private international law and on international civil procedure. This gives rise to the problem of distinguishing a special category of conflict of laws — procedural conflict of laws rules, the problem of determining their concept and structure (including rules on the resolution of conflict of jurisdiction). The aim of the study is to illustrate that there is a special category of rules in international private law and international civil procedure which prescribes the application of foreign civil procedure law, i.e. procedural conflict-of-laws rules. The task of the study is to show that the using of

procedural law of the court's country in the current international civil process is advisable to position not as a procedural imperative, but as a general conflict – of-laws binding. The relevant norms of national laws and international legal acts, examples from judicial practice are considered to solve mentioned tasks.

The author gives a brief overview of doctrinal views on the problem raised in the article.

Main research methods are: comparative law, comparative and retrospective analysis.

Currently, the application of foreign civil procedure rules is a daily reality, and therefore it is possible to assert the existence of a special legal category “procedural conflict-of-laws rules”. The law of the court's country in the international civil process should be approved not as a procedural imperative, but as a conflict-of-laws principle, as a general conflict-of-laws binding. Also the author proposes to define the conflict-

of-laws rules as a procedural conflict-of-laws rules.

Keywords: international private law, international civil process, procedural conflict-of-laws rules, foreign civil procedure rules, procedural conflict-of-laws question, conflict of jurisdiction.

public (including foreign civil procedural) law was not applied. In private law relations related to foreign legal order, it could only be a question of the application of foreign substantive private law. Since civil procedural law is a branch of public law, in IHL, only the *lex processualis fori* (the procedural law of the forum) was applicable. Until the 1960s, Soviet and foreign doctrine was dominated by the position that "the activities of the judicial bodies of a given state, as well as other bodies of the state, are determined only by the state's own law. It is inappropriate here to raise the question of a connecting factor, i.e. the law with which this relationship has the closest connection, since legal proceedings and related civil procedural relations,

Approximately until the middle of the 20th century, private international law (hereinafter referred to as PIL) and international civil procedure (hereinafter referred to as IHL) had an unshakable principle: foreign

as a rule, are subject only to the court's own right."

At the same time, the doctrine expressed the opposite point of view, the supporters of which defended the possibility and necessity of applying not only foreign substantive private law rules, but also foreign public law rules: "If the possibility of applying the norms of foreign public law is excluded, then in this case the judge cannot determine the citizenship of foreigners in accordance with their national legislation; it cannot apply foreign exchange laws; he may not apply foreign administrative laws to establish the legality of a foreign document issued by a notary public or an official of a foreign state; and it cannot even apply foreign substantive rules in the field of civil law, since all foreign legal norms are the result of

the exercise of the sovereign power of the state.

In the second half of the 20th century, the provision on the non-applicability of foreign civil procedural law lost its unconditionally imperative character. In the judicial practice of different countries, as early as the 1950s-1960s, there was a tendency to apply the norms of foreign civil procedural laws. law), but also their direct application. Thus, in May 1960, the People's Court of the Korosten District of the Ukrainian SSR, applying Article 311 of the Civil Procedure Code of the Polish People's Republic, warned the plaintiff Sh. about the liability for giving false testimony, which is not practiced in Soviet law. stipulates that the application of a rule of foreign law cannot be limited only on the basis that this rule is of a public law nature. A similar provision is established in many national laws on PIL : "Foreign law claimed by a conflict of laws rule shall.

apply even if it is contained in the rules of public law" (Article 85 of the

PIL Law of the Dominican Republic of 2014).

Many representatives of modern doctrine advocate the establishment of an obligation to apply foreign procedural legal norms. The application by the court only of its own procedural law puts all participants in the process (both its own citizens and foreigners) in the same position, i.e. there is "equal treatment with unequal things" – a legal dispute related to a foreign legal order is considered as a national dispute. The procedural theory of the law of the court contradicts the protection of the rights of foreign persons⁶.

The most reasoned concept of the application of foreign procedural law was proposed by the Hungarian scientist I. Sasi. He wrote that the strict requirement to apply only the law of the court in the process violates the connection between national substantive and procedural rules, since the norms of foreign substantive law are practically impossible to implement in the form of a procedural order of the law of the country of the

court, which is alien to them. This hinders the achievement of objective truth and violates the connection between civil rights and freedoms of the individual in the material sense and their procedural forms.⁷

Justice requires that actions based on foreign.

The main principle in the field of civil procedure should be the application of the law that has the closest connection with the legal proceedings, with the procedural act that can be appealed, and with the issues of procedural legal relations.

uniformity of court decisions, the duration of the proceedings. The *lex fori* defines a wide range of issues: (a) the international jurisdiction of courts, their competence *ratione materiae et ratione loci* (in accordance with the nature of matter and the nature of place); b) admissibility of court proceedings; c) taking urgent and temporary measures; d) the rights of the prosecutor in the judicial process; e) the need for legal representation; f) maintenance of order and conduct of the trial by the judge, the possibility of jury trials and their functions; g)

1. The general conflict of laws link is *lex processualis fori* (procedural law of the forum country). The application of the *lex processualis fori* may be justified by: (1) its closest connection with the procedural issues to be considered or with the judicial organization as a whole; 2) constitutional, social, economic and political considerations, requirements of state policy, protection of the territorial boundaries of the sovereignty of the state; 3) practical necessity: the convenience of the court, the increasing the importance of means of proof; h) the consequences of non-fulfillment of their obligations by the parties; i) the procedural status of witnesses; j) the mode of the trial, for example, whether the court should act under common law or conduct a trial in equity, or whether the application of some special procedure is permissible; k) the nature and degree of legal protection, interim measures; l) the form and procedure for decision-making and its implementation, etc.

However, the conflict of laws principle *lex fori* should give way to those foreign procedural rules that are the most significant for resolving the dispute on the merits (from the substantive point of view) regardless of the personal relations of the parties.

2. Procedural law of the essence of the relationship (*lex civilis causae* (more precisely, *lex processualis causae*)). *De lege ferenda*, this procedural connecting factor should become general, unless the *lex fori* rule specifically specifies (for example, for reasons of economic or public policy) the mandatory application of the *lex processualis fori*. Under the *lex processualis causae*, the following issues may be resolved: (a) certain conditions applicable to the various forms of legal protection (the possibility of judicial protection of the rights of the parties; the question of the existence of an interest, if necessary to determine it; the possibility of combining the actions of several co-plaintiffs in one proceeding; the interference of a third person in the judicial process; the right of set-off

and admissibility of a counterclaim); b) rules determining the identity of the parties on whose behalf the proceedings may be initiated (in particular, when the plaintiff is not the original owner of the subject matter of the dispute; the claim on behalf of the partnership or partnership is brought by one of its participants); c) the rules of law relating to evidence that have an impact on the decision of the case on the merits (burden of proof, presumption, evidence, admissibility of means of proof and their evidentiary value, as well as issues related to the presentation of evidence); d) issues of limitation of actions, determination of the amount and extent of damages, liability for moral or non-material damage (for example, liability for defamation, malicious prosecution or insult of feelings, which is not prosecuted without proof or any monetary loss), deferral of liability, the issue of joint liability of several persons, issues of the plaintiff's fault in the event of damage; e) the validity and legal effect of the arbitration agreement, the legality and legal effect of the arbitral

award; f) active and passive legitimation of the parties in relation to the dispute (the right to file a claim and the right and/or obligation to respond to the claims filed); g) procedural legal relations based on procedural actions that are related to the procedure, but are not part of it (for example, an out-of-court compromise or an agreement under which a foreign lawyer undertakes to give a legal opinion in the process); h) substantive objections available to the defendant and procedural objections related to civil and civil procedural legal capacity (lack of capacity to be a plaintiff or defendant, lack of legal representation, etc.).

3. Procedural personal law (*lex processualis personalis*, understood as *lex processualis domicilii* or *lex processualis patriae*) should regulate the ability of a person to seek and respond in court (as a general rule, this depends on the legal capacity and restrictions of legal capacity in civil law). The application of *lex processualis personalis* is justified for the same reasons as the application of *lex civilis personalis*.

4. The procedural law of the place where the act was committed (*lex processualis loci actus*), the application of which is motivated by the same as the application of the principle of *locus regit actum*. The *lex processualis loci actus* should regulate: (a

) the manner in which the commencement of the trial is notified; b) the validity of the evidence presented; c) the validity and form of court decisions, their finality and indisputability (if the question of their recognition and enforcement in the country of the court is raised).

5. The procedural law of the location of the thing (*lex processualis situs*), for example, the *lex situs* of a document, should determine the obligation to draw up and present the document. The application of the *lex processualis situs* is justified in the same way as the application of the *lex rei sitae*.

In modern foreign doctrine, a stable concept of "procedural conflict of laws" has been developed: "There can be no question of the fact that there is no procedural conflict of laws law, that it is logically unthinkable. It is clear that German courts cannot sit abroad and that German international civil procedure law cannot give any instructions to a foreign court. But just as German private international law can only 'order' a German judge which private law he should apply, German

international civil procedural law can oblige him to apply the procedural law of a foreign state to certain issues ." Conflict of laws problems in IHL arise when distinguishing between procedural and substantive categories (burden of proof, limitation periods, application of set-off claims), in cases of using contractual jurisdiction or arbitration agreement. Recognition of the existence of procedural conflict of laws changes the usual ideas about PIL (as a "monopolist" in relation to conflict of laws rules) and IHL (in which not only the law of the court, but also foreign procedural rules are applied).

It follows that relations related to a foreign legal order cannot be considered solely on the basis of the procedural law of the country of the forum. Most procedural rules are "tied" to substantive law, so in IHL it is necessary to apply foreign procedural law, if in this way it is possible to most correctly fulfill the provisions of its own conflict of laws rule (PIL rules) on the application of a foreign legal order. In IHL, there are conflicts of procedural laws, and a

"procedural conflict of laws issue" arises: "The rule of conduct in IHL must be the sum of two rules: the procedural conflict rule of the country of the court and the procedural rule (its own or foreign, depending on the binding of the procedural conflict of laws rule)." To resolve a procedural conflict of laws issue, it is necessary to establish the "center of gravity of the legal relationship" (the law of the essence of the relationship — *lex processualis causae*).

In the same way, in PIL, the main principle should not be the law of the court, but the principle of application of the rules of the procedural legislation that is most closely related to the process. The law of the court in both IHL and PIL should be applied only if national conflict of laws rules refer to it. to be carried out on the basis of the law of the country of the forum .

Unlike PIL, in IHL, the *lex processualis fori* should be a general connecting factor. It is expedient to construct procedural conflict-of-laws rules as unilateral, i.e., defining a list of exceptions to the application of the

lex fori. Foreign procedural rules should be applied in specially specified cases, as well as if the consideration of the dispute is clearly most closely related to foreign procedural law. The application of foreign procedural rules is excluded if it contradicts the public policy of the country of the forum. In such cases, the *lex processualis fori* is unequivocally applied. The procedural law of the court is competent in all situations where the application of foreign procedural law may disrupt the normal functioning of the judicial apparatus, the unity of legal proceedings, the principles of justice and equality of all before the law and the court.

At present, the dominant application of the law of the court in IHL is mainly justified by practical expediency and convenience: "The practical difficulties of applying complex foreign procedural law justify the application of the *lex fori*". The *ex officio* judge knows his procedural law and applies it. The application of foreign procedural law, the conduct of proceedings in foreign

forms leads to time and material costs, and requires special training from judges. The problem of the language of the trial arises: the use of a foreign procedure presupposes the use of the appropriate language. In addition, the *lex processualis fori* in

IHL remains fundamental, based on the general principle of *forum regit processum* (the court governs the process).

The doctrine is still debating whether the *lex processualis fori* appears in IHL as a conflict of laws principle (general connecting factor) or as a procedural imperative (since there is no place in principle for reference to foreign law in matters of civil procedure). Legislation and judicial practice demonstrate both approaches: *lex fori* is a procedural imperative: "Civil proceedings conducted in Italy are governed by Italian procedural law" (Article 12 of the Italian PIL Law of 1995); "German courts apply only German procedural law to disputes before them" (decision of the Supreme Court of the Federal Republic of Germany, 1977); The *lex fori* is a conflict of laws principle:

"[Questions] of competence and the form of procedure are governed by the law of the official before whom they arise" (Article 56 of the Venezuelan Law on PIL of 1998).

It seems that in modern IHL, the *lex processualis fori* rule should be regarded as a conflict of laws principle (general connecting factor). The legislation of almost all states enshrines numerous provisions that directly or indirectly predetermine the application of foreign procedural law:

- 1) the civil procedural legal capacity and legal capacity of foreign individuals is determined by their personal law: "1. The procedural legal capacity and legal capacity of foreigners are determined by the laws of the state of which they are citizens.
2. If a foreigner has several citizenships, his/her procedural legal capacity and legal capacity shall be determined by the laws of the state with which he/she has closer ties.
3. The procedural legal capacity of a stateless person shall be determined by the laws of the state in which this person has a permanent place of residence, and in the absence of such

a state, by the laws of the state in which he/she usually resides. 4. Procedural legal capacity and legal capacity of refugees are determined by the laws of the state in which they have found asylum" (Article 441 of the Civil Procedure Code of Azerbaijan

1999 (as amended in 2012)). As a general rule, a person who is not procedurally capable under his national law may be recognized as capable in the territory of the country of the court, if he has procedural capacity under the local law (Article 455.4 of the Civil Procedure Code of Moldova of 2003 (as amended in 2013));

2) the civil procedural legal capacity of foreign organizations is determined by their personal law: "(1) The national law of a foreign organization is the law of the state where this organization is established. The procedural legal capacity of a foreign organization is determined by its national law. (2) A foreign organization that does not have procedural legal capacity under the national law may be recognized as

having legal capacity on the territory of the Republic of Moldova in accordance with the legislation of the Republic of Moldova" (Article 456 of the Civil Procedure Code of Moldova);

3) In some cases, the court may take into account the possibilities of refusal to testify under foreign law,

In the German subsystem of law, the obligation to maintain medical confidentiality is subject to relative protection: the doctor loses the right to refuse to testify if the patient exempts him from maintaining medical confidentiality (Germany, Austria). That is, he is not obliged to testify in any case. This state of affairs has made it possible to take into account foreign prescriptions regarding the right to refuse to testify. First of all, this is characteristic of Anglo-American law: a person filing a corresponding petition is given the right not to testify in accordance with his national law. In such a case, the court issues a "protective order

In the provision of legal assistance and the execution of foreign letters rogatory, it is possible to apply

foreign procedural rules, if so requested by the court requesting such execution. This is a right, not an obligation, of the state that has received a request for legal assistance. The application of foreign procedural rules must not be contrary to the public policy of the State from which legal assistance is sought. "At the request of the agency giving the commission, foreign procedural rules may be applied or taken into account where this is necessary for the recognition abroad of the relevant legal claim, unless there are serious reasons related to the person concerned. The Swiss judicial and administrative authorities may draw up documents in accordance with the forms accepted under foreign law, as well as accept the applicant's testimony under oath, if the form provided for under Swiss law, but not recognized abroad, prevents the recognition abroad of a legal claim that deserves protection" (Article 11 of the Swiss PIL Act);

5) enforcement of obligations by levying execution on the salaries of employees of some international

organizations (for example, NATO) is limited by the law of the sending state (i.e., the personal law of the employee is applied, and not the law of the country of the forum);

6) the filing of a claim and the presence of a dispute in the proceedings of a foreign court are determined in accordance with foreign procedural law: "If the action was brought on the same grounds and with the same parties, but in another state, the Dominican courts will not consider the case, even if it is initiated in a court of the Republic" (Article 25 of the Law on PIL of the Dominican Republic);

7) the legislation and judicial practice of some states (Germany, France) contain norms on the application of foreign law in terms of the provision by foreigners of property security for legal expenses; The institution of judicial pledge involves conflict of laws regulation and may be subject to foreign law law (Article 61.2 of the Croatian PIL Law of 2017);

8) The subject and ground of the claim are determined by the law of the

essence of the relationship: "The subject and ground of a civil claim in cases complicated by a foreign element are determined by the law regulating the essence of the disputed legal relations. On the basis of the same law, the procedural status of the parties is also determined" (Article 458 of the Civil Procedure Code of Moldova); 9) the formal legal force of a foreign judgment and the effect of a foreign court decision that has entered into force are established on the basis of foreign procedural law . When affixing an exequatur (exequatur is permission to execute a foreign court decision), the question of whether this court decision has entered into force in its homeland is resolved. The issue of exequatur can only be resolved on the basis of foreign procedural law.

Modern acts of codification of PIL/IHL in different countries demonstrate a steady trend towards the consolidation of a wide range of rules prescribing the application of foreign procedural law . In some cases, the Czech legislator has provided for the application of Czech procedural law as a cumulative

connecting factor: "The service of documents made by a foreign authority on behalf of the judicial authority of the Czech Republic, as well as the evidence examined by it, are valid even if they do not comply with the provisions of foreign law, but comply with the norms of Czech law" (§ 107 of the PIL Act of the Czech Republic).

The legislation of Romania (Book VII "International Civil Procedure" of the Civil Procedure Code of 2010) enshrines quite a lot of procedural conflict of laws rules (Section II of Book VII). The general connecting factor is Romanian law (*lex fori*): "In international civil proceedings, Romanian procedural law shall apply, unless expressly provided otherwise" (Article 1088). The application of foreign procedural law is established in special rules — exceptions from the general rule. The qualification of legal categories as procedural or substantive is made in accordance with Romanian law, provided that these categories are present in Romanian law (Article 1089).

At the same time, a wide range of cases has been established when a Romanian judge is obliged to apply foreign procedural law. The procedural capacity of each party is regulated by its national law (Article 1083). The procedural status of the parties, the subject and grounds of the claim are established in accordance with the law that regulates legal relations before the trial (Article 1090). The formalities of registration and disclosure, their consequences and the authorized competent bodies shall be determined by the law of the place of registration or disclosure. In the field of real estate, the law of the location of real estate is applied (Article 1092).

The means of proving the existence of a transaction and the evidentiary value of the document confirming it are determined by the law chosen by the parties or the law of the place of the transaction. Proof of facts is carried out in accordance with the law of the place where they arose or the law of the place of the transaction. Proof of civil status and the evidentiary value of acts of civil status are regulated by

the law of the place where the written evidence was drawn up. regulation of other means of evidence. It is applied in cases where proof by means of witness testimony and (or) circumstantial evidence is allowed, even if these means of proof are not allowed under foreign law. The presentation of evidence is also carried out in accordance with the Romanian law (Art. 1091).

Russian legislation enshrines a procedural imperative – Russian law applies to international civil disputes: Part 3 of Article 398 of the Civil Procedure Code of the Russian Federation establishes that proceedings in cases involving foreign persons are carried out in accordance with this Code and other federal laws, unless an international treaty of the Russian Federation provides otherwise (Part 1 of Article 253 of the Arbitration Procedure Code of the Russian Federation). If international treaties of the Russian Federation establish rules of civil proceedings other than those provided for by national law, then the rules of the international treaty shall apply (Part 2

of Article 1 of the Civil Procedure Code of the Russian Federation, Part 3 of Article 3 of the Arbitration Procedure Code of the Russian Federation). Thus, in accordance with the direct expression of the will of the Russian legislator and the general constitutional principle of the supremacy of international law, the procedure for proceedings in Russian courts may be determined by a foreign law, if any international treaty of the Russian Federation enshrines such a provision .

At the same time, Russian legislation establishes the possibility of applying the rules of foreign procedural law: the civil procedural legal capacity and legal capacity of foreign citizens and stateless persons are determined by their personal law (Part 1 of Article 399 of the Civil Procedure Code of the Russian Federation); the procedural legal capacity of a foreign or international organization is determined by its personal law (Part 1 of Article 400 of the Civil Procedure Code of the Russian Federation); waiver of legal immunity

of an international organization must be made in accordance with the procedure provided for by the rules of the international organization (Part 2 of Article 401

Civil Procedure Code of the Russian Federation, Parts 1, 2 of Article 251 of the Arbitration Procedure Code of the Russian Federation); It is presumed that the filing of a claim and the presence of a dispute in the proceedings of a foreign court are determined in accordance with foreign procedural law (Part 1 of Article 406 Civil Procedure Code of the Russian Federation, Part 1 of Article 252 of the Arbitration Procedure Code of the Russian Federation); It is presumed that the accession the decision of a foreign court is legally determined in accordance with foreign procedural law (Clause 2 of Part 2 of Article 411 of the Civil Procedure Code of the Russian Federation, Clause 1 of Part 1 of Article 244, Part 2 of Article 252 of the Arbitration Procedure Code of the Russian Federation).

It seems that the domestic legislator should consolidate a wider range of cases of application of foreign

procedural rules. Correspondence between substantive and procedural rules in cases related to a foreign legal order cannot be achieved only on the basis of the application of the procedural law of the country of the court. However, it should be borne in mind that under the current law enforcement practice, it is hardly possible to require Russian judges to conduct a trial in foreign courts. procedural forms. Such a requirement will complicate and slow down the process, give rise to a large number of problems: contradiction to public order (interrogation under torture, restriction of the procedural capacity of a married woman), the need to establish the content of foreign procedural law, its application and interpretation. In addition, "the implementation by the court of procedural actions that are not characteristic of it is always fraught with the risk of unprofessionalism." Effective and correct application of foreign procedural forms is currently possible between states of similar legal mentality (Western Europe, Latin America), which maintain long-

term and stable relations with each other.

The rules on international jurisdiction in their structure (as well as the rules on the delimitation of jurisdictions contained in international agreements on the avoidance of double taxation) are similar to the conflict of laws rules of PIL. The signs of the establishment of international civil procedural jurisdiction have an obvious similarity with connecting factors: the nationality of both parties or one party to the case (*forum patriae*); the place of residence of the defendant (*actor sequitur forum rei*); the place of residence (for legal entities) persons – location) of any party to the case (*forum domicilii*); the personal presence of the defendant or the presence of his property in the territory of this state (*actor sequitur forum domicilii*); the location of the disputed thing (*forum rei sitae*); the place of the act (*forum loci actus*); the place of performance of the obligation (*forum loci solutionis*); the place where the tort was committed (*forum loci delicti commissi*); agreement of the parties (*forum voluntatis*).

The similarity between the conflict of laws rules of PIL and the rules on the delimitation of jurisdictions is not accidental, since the choice of the competent legal order is directly mediated by the resolution of issues of international jurisdiction: the court is guided by its conflict of laws rules that determine the applicable substantive law. At the same time, the Russian literature emphasizes that the procedural rules on international jurisdiction and connecting factors, despite their external similarity, are different legal categories that are closely related to each other, and there is a need to consider them together. The rules of international jurisdiction could not be qualified as procedural conflict-of-laws rules, since they were a matter of judicial competence and not of the choice of procedural law of a State .

Some Russian authors note the possibility of recognizing procedural conflict of laws rules, but emphasize that the procedural conflict of "conflict of jurisdictions" implies a different interpretation of the concept of "conflict" than in the conflict of

laws regulation in the system of PIL rules . In this case, the choice will be made not between norms or laws, but between legal orders (jurisdictions) as a whole, as a result of which the election of a judicial or other jurisdictional body within the framework of the relevant legal order will also lead to recourse to the procedural law of this state . This doctrinal conclusion is confirmed in the Russian law enforcement practice: "... [the defendants] did not challenge the jurisdiction of the UK court ... thereby agreeing to the competence of the English court to consider this issue in accordance with English procedural law. In such a situation, the defendant's subsequent disagreement with the amount of legal costs calculated under English law may also be considered as an abuse of rights, since by agreeing to the jurisdiction of the court, the party assumes the risks of applying the relevant procedural law and should not waive them in the event of an unfavorable outcome of the case. In addition, the very entry of an entrepreneur into a foreign market assumes the risks of proceedings in a

foreign jurisdiction and, accordingly, implies that the rules of legal proceedings and calculation of costs will be carried out by the law of the state of the place of consideration of the dispute, and not by the law of the state affiliation of the entrepreneur.

The resolution of the issue of jurisdiction inevitably entails the application of the procedural law of the country of the forum (and, accordingly, the possibilities of applying the procedural rules of another legal order established in it). The rules of international jurisdiction indirectly predetermine the choice of the applicable procedural law, i.e., the procedural conflict of laws issue is resolved in a latent manner. In foreign literature, it is emphasized that just as in PIL there is a conflict of legal orders (*conflit de lois*), so in IHL there can be a conflict of judicial competences of several states (*conflit de juridictions*). In both cases, it is not a question of giving instructions abroad, but of delimitation of one's own sphere of law enforcement or jurisdiction. Already in the first half of the 20th century, the German

doctrine expressed the point of view that the rules for determining the sphere of legislative and judicial power of the state (the competence of the legislator and the jurisdiction of the courts) are unilateral conflict of laws rules.

When establishing jurisdiction, the court applies its procedural law, but also takes into account foreign procedural rules, for example: 1) if a claim is filed with the court, in respect of which the court of another state has exclusive jurisdiction, then the first court must decide to recuse itself due to lack of jurisdiction (Article 27 of the EU Regulation "On Jurisdiction, Recognition and Enforcement of Foreign Judgments" (hereinafter referred to as the "Jurisdiction", "Recognition and Enforcement of Foreign Judgments").

Brussels I bis)); (2) If the parties have concluded an agreement on the choice of court, the question of the nullity of such an agreement in a court of another State must be considered in accordance with the law of the country of the court chosen by the parties to the agreement (preamble

paragraph 20 Brussels I bis). These provisions of European law show that the resolution of issues of international jurisdiction in many cases involves an implicit (hidden) reference to foreign procedural law and taking into account its provisions (in particular, the rules on exclusive jurisdiction). At the same time, the procedural rules not only of the EU member states, but also of third countries are taken into account (paragraph 24 of the preamble).

The following provisions are enshrined in Brussels bis: "The possibility of hearing the case by the court at the place of the defendant's domicile must always be available, with the exception of ... cases where the subject matter of the dispute or the principle of autonomy of the will of the parties allows the use of another connecting factor ... The decision on the nullity of the agreement on the choice of court... must be carried out in accordance with the law of the EU Member State whose court or courts have been chosen by the parties to the agreement (including its choice of law rules)" (preamble paragraphs 15, 20).

These provisions of the Rules demonstrate that the European legislator equates the rules on the delimitation of international jurisdiction with connecting factors. He also considers the procedural rules on the validity of prorogation agreements to be "rules for choosing the applicable law", i.e. conflict of laws rules. This approach is of interest and reflects the trend towards the establishment of a legal concept of "procedural conflict of laws". At present, it seems quite correct to conclude that the rules on resolving conflicts of jurisdictions are procedural conflict of laws rules.

In connection with the development of legislation allowing the application of foreign civil procedural rules, the question arises: how to terminologically distinguish the conflict of laws rules in IHL (procedural conflict of laws rules) from the conflict of laws rules of PIL? The rules for determining competent jurisdiction (procedural conflict of laws rules) and the rules for choosing the applicable substantive law (PIL conflict of laws rules) are different

legal categories. Perhaps a special term is required – "substantive conflict of laws rule", i.e. a conflict of laws rule that prescribes the application of a rule of substantive rather than procedural law. In

addition, there is a need to develop a definition of the concept of "procedural conflict of laws rule", to establish its possible volumes and linkages.

1. Chapter : Understanding Conflict of Laws.

Conflict of laws, also known as private international law, emerges in civil procedural activities when legal issues involve parties, laws, or jurisdictions that span multiple states or countries. The primary objective of this area of law is to determine which jurisdiction's legal principles should guide the resolution of a dispute. This chapter outlines the core principles governing conflict of laws, including jurisdiction, choice of law, and the recognition and enforcement of judgments.

I. Jurisdiction

Jurisdiction fundamentally refers to the authority bestowed upon a court to hear a case and to make legally binding decisions. Several critical factors can influence a court's jurisdiction:

- **Domicile of the Parties:** The legal residence of each party can establish a court's authority, often referred to as personal jurisdiction.

- **Location of the Transaction:** When a dispute arises out of a transaction, the place where it occurred may be pertinent in determining jurisdiction.
- **Nature of the Dispute:** The subject matter of the case can also dictate which court has jurisdiction, often categorized as subject-matter jurisdiction.

Before a court can proceed to resolve a case, it must first ascertain whether it has adequate jurisdiction. This

preliminary step is essential, as a lack of jurisdiction can result in dismissal

or lack of enforceability of any judgments made.

II. Choice of Law.

Choice of law principles maneuver through the complexities involved when a legal dispute crosses jurisdictional boundaries. This concept refers to the rules that guide courts in determining which jurisdiction's laws should govern the legal issue at hand. Various frameworks and doctrines have been developed to address this issue:

- Restatement (Second) of Conflict of Laws: This influential guideline posits various factors that courts should consider, including the place of the injury, the location of the defendant's residence, and the place where the

relationship between the parties is centered.

- Hague Conference on Private International Law: As an international organization, it helps to create conventions that establish choice of law rules in various areas, such as family law, commercial law, and more.

Deciding on the applicable law is critical as it can substantially affect the outcomes of cases which traverse different legal systems.

III. Recognition and Enforcement of Judgments.

Once a judgment is rendered in one jurisdiction, the subsequent steps involve recognizing and enforcing that judgment in different jurisdictions. Different countries and states have divergent protocols for

how foreign judgments are treated, often influenced by the principles of:

- Comity: This refers to the mutual respect and legal reciprocity between sovereign states, allowing for the recognition of foreign judgments as long as they comply with certain standards.

- Reciprocity: States often require a mutual agreement; they will recognize and enforce judgments from another jurisdiction only if the latter will do the same for them.

An example of a legal framework addressing these concerns is the Foreign Judgments (Reciprocal Enforcement) Act 1933 in the UK, which provides a systematic approach to the recognition and enforcement of foreign judgments, facilitating

smoother legal interactions across borders.

In summary, the principles of jurisdiction, choice of law, and recognition and enforcement of judgments are foundational to understanding how conflicts of laws are managed in a globally interconnected legal landscape. These principles guide legal practitioners in navigating complex international legal disputes effectively

2. Chapter: The Role of International Conventions.

International conventions are pivotal in establishing uniform conflict of laws rules across jurisdictions, acting as essential tools in civil procedural activity. Their primary aim is to reduce discrepancies among varying legal systems, fostering enhanced cooperation and predictability in international transactions.

I. The Hague Convention on Choice of Court Agreements.

Adopted in 2005, the Hague Convention on Choice of Court Agreements serves a critical function in regulating international jurisdiction and choice of law in civil and commercial matters. This convention strengthens the enforceability of exclusive choice of court agreements,

mandating courts to honor such agreements. By doing so, it promotes predictability and stability in international commercial transactions, providing businesses with greater confidence when engaging in cross-border dealings

II. The Rome I and Rome II Regulations.

Within the European Union, the Rome I Regulation governs contractual obligations, setting forth the framework for determining the applicable law in contractual disputes. Conversely, the Rome II Regulation addresses non-contractual obligations, offering clarity on tort law across EU member states. Both regulations are

instrumental in harmonizing conflict of laws within the EU, thereby facilitating more coherent legal processes and reducing potential conflicts in cross-border disputes.

III. The United Nations Convention on Contracts for the International Sale of Goods (CISG).

Adopted in 1980, the United Nations Convention on Contracts for the International Sale of Goods (CISG) represents a significant international instrument aimed at creating a uniform legal framework for international sales transactions. The CISG covers critical components such as contract formation, the obligations of both buyers and sellers, and the

remedies available in case of breach. By ensuring predictable and reliable legal outcomes in international trade, the CISG mitigates the risks of disputes and supports smoother cross-border transactions. Its broad adoption, with over 90 member states, highlights its substantial influence in harmonizing sales law across diverse legal jurisdictions.

IV. The Convention on the Law Applicable to Contractual Obligations (Rome Convention).

The Rome Convention, implemented in 1980, served as a foundational instrument governing contractual

obligations within the European community before being replaced by the Rome I Regulation. Despite the

transition, the principles established by the Rome Convention remain relevant and influential in contemporary EU conflict of laws discourse. It prioritized the parties' choice of law and laid down a

framework for determining applicable law when no explicit choice is made, reflecting its enduring legacy in the evolution of private international law principles.

V. The Private International Law Principles.

Many international conventions are also designed to establish essential private international law principles that regulate cross-border legal relationships. Fundamental principles include the protection of weaker parties, the necessity for good faith in international dealings, and the promotion of fairness in legal proceedings. Initiatives by the Hague Conference on Private International

Law have led to several treaties aimed at safeguarding children, establishing legal recognition of international adoptions, and providing protections for victims of domestic violence. Collectively, these conventions contribute to a more comprehensive and protective legal framework, fostering a coherent application of private international law.

VI. Future Directions and Challenges.

Despite the progress achieved through various international conventions in harmonizing conflict of laws, several challenges persist. These include the ongoing existence of divergent national laws, the integration of emerging digital technologies into legal transactions, and the pressing need to address complex issues arising

from globalization, such as climate change and public health crises. Looking ahead, sustained cooperation and innovation among states, legal practitioners, and international organizations will be vital to refining conflict resolution mechanisms and ensuring that international

conventions adapt to an ever-evolving legal landscape.

3. Chapter: Domestic Conflict of Laws Rules.

Different jurisdictions have developed their domestic conflict of laws rules that reflect their legal traditions and policy choices. Understanding these differences is crucial in navigating the complexities of cross-border legal issues and ensuring that justice is served in a manner consistent with the legal frameworks of the respective jurisdictions

I. United States.

In the United States, the approach to conflict of laws is markedly decentralized, with each state having the autonomy to establish its own rules. This results in a patchwork of varying legal standards and principles across the nation. However, the Restatement (Second) of Conflict of Laws, published by the American Law Institute, serves as a guiding

framework that many states reference in their legal determinations. This framework establishes key principles such as the "significant relationship" test and "governmental interest" analysis, which help courts ascertain the applicable law in multi-jurisdictional cases.

The significant relationship test involves evaluating the connections

between the parties and the states involved in the dispute to identify which jurisdiction has the most substantial interest in resolving the issue. The governmental interest analysis, on the other hand, focuses on whether the laws of a particular state

would be applied to further the public policies and interests of that state. The decentralized nature of this system reflects the values of federalism inherent in the U.S. legal landscape but also creates challenges in terms of consistency and predictability.

II. United Kingdom.

Similarly, the United Kingdom employs a decentralized approach to conflict of laws, with principles rooted in common law traditions. The Private International Law Act 1995 represents a significant step toward codifying and modernizing conflict of laws rules, particularly in relation to jurisdiction and the recognition of foreign judgments. Subsequent legal reforms, including those implemented through the Brussels Regulation, further illustrate the evolving nature

of conflict of laws in England and Wales.

The UK's conflict of laws framework seeks to balance the interests of English law with the realities of cross-border interactions. Issues such as jurisdictional disputes and the applicable law in tort, contract, and family matters are addressed through established common law principles, yet courts must remain open to contemporary challenges presented by globalization and the interconnectedness of legal systems.

III. European Union.

The European Union (EU) has developed a more centralized framework for conflict of laws, which aims to harmonize the rules applicable

to cross-border legal disputes among its member states. The cornerstone of this framework is Regulation (EC) No 593/2008 on the law applicable to

contractual obligations (Rome I), and Regulation (EC) No 864/2007 on the law applicable to non-contractual obligations (Rome II). These regulations provide clear rules governing the choice of law in civil and commercial matters, thus enhancing legal certainty and predictability for individuals and businesses operating across borders within the EU.

Rome I allows parties to choose the governing law applicable to their contracts, thus giving them the flexibility to select a legal framework that best suits their needs. In the absence of a valid choice of law, the regulation establishes default rules

based on the nature of the contract and the parties' connections to different jurisdictions. Similarly, Rome II addresses issues related to torts, laying out rules that determine which law applies based on the elements of the tort and the locations involved.

The EU's approach also emphasizes the importance of mutual recognition, ensuring that judgments made in one member state are generally recognized and enforceable in others. This principle not only reinforces cooperation among member states but also enhances the effectiveness of the legal system in addressing cross-border disputes.

IV. Canada.

Canada adopts a more nuanced but still decentralized approach to conflict of laws, reflecting its unique federal structure and the coexistence of various legal traditions, particularly common law in most provinces and civil law in Quebec. The Canadian legal system largely relies on the principles articulated in the Canadian

Civil Code and common law doctrines, such as the doctrines of forum non conveniens and the most significant relationship test.

Provincial courts often look to established case law when determining applicable law in conflicts. The Supreme Court of Canada has addressed issues of

jurisdiction, applicable law, and the recognition of foreign judgments in several landmark decisions. One notable case is the Van Breda decision, where the Court established a framework for determining jurisdiction based on the presence of a real and substantial connection between the subject matter of the litigation and the jurisdiction being invoked.

V. Australia.

Australia's conflict of laws framework is characterized by a combination of state-based and federal principles, with significant reliance on common law. The Australian Law Reform Commission has produced reports that provide recommendations for addressing conflicts of law, emphasizing the need for clarity and uniformity in legal rules.

A key feature of the Australian approach is the principle of "forum non conveniens," which allows a court to decline jurisdiction if it believes that another court may be a more

Canada's multi-jurisdictional legal landscape means that the approach to conflict of laws can vary significantly between provinces. However, its legal community remains engaged in ongoing dialogue aimed at achieving greater consistency and clarity, particularly in light of increasing globalization.

appropriate venue for the trial of the case. Additionally, the choice of law in Australia is guided by the common law principles, which take into account the relevant connections to the parties, the location of events, and the nature of the legal issues presented.

In recent years, Australia has made strides in codifying certain aspects of its conflict of laws rules, particularly regarding procedural issues. However, the ongoing challenges posed by globalization, international trade, and technology continue to encourage

legal scholars and practitioners in Australia to seek further reforms for a more cohesive conflict of laws framework.

4. Chapter: Challenges and Considerations.

The application of conflict of laws rules in civil procedural activity poses various challenges that can significantly impact litigants and legal practitioners. These challenges must be carefully navigated to ensure effective resolution of disputes.

I. Complexity and Uncertainty.

One of the primary challenges stems from the complexity and uncertainty introduced by the plurality of legal systems. Litigants often face difficulty determining the proper jurisdiction in which to bring their case, as well as which law will govern the dispute. This uncertainty can lead to prolonged legal battles, as parties may engage in forum shopping or challenge the jurisdiction of the courts. Moreover, the increased costs associated with multiple legal proceedings and the potential need for legal expertise in various jurisdictions can put significant strain on individuals and businesses alike.

II. Sovereignty and Legal Pluralism.

The divergence in legal principles among countries raises fundamental questions regarding sovereignty and legal pluralism. Courts are tasked with the responsibility of navigating these differences while maintaining respect for each jurisdiction's unique legal framework. Striking a balance between upholding national legal

interests and recognizing the legitimacy of foreign laws is essential to ensure fair treatment of all parties involved in a dispute. Additionally, recognizing the diverse perspectives and customs inherent in different legal systems can foster a more equitable approach to resolving conflicts.

III. Evolving International Landscape.

The evolving international landscape, driven by globalization and the increase in cross-border transactions, introduces new challenges to conflict of laws. As businesses and individuals continuously engage in transactions that span multiple jurisdictions, the need for enhanced international cooperation and harmonization of legal standards becomes increasingly vital. This burgeoning need may

prompt countries to revisit and adapt their domestic conflict of laws rules to facilitate smoother resolutions of disputes. In response, initiatives aimed at fostering international agreements and conventions on conflict of laws could play a pivotal role in addressing the complexities inherent in cross-border legal matters and ensuring consistency in legal outcomes.

IV. Technology and Dispute Resolution.

The advent of technology has transformed the landscape of dispute resolution but also introduces particular challenges regarding conflict of laws. With the rise of online transactions and digital communications, parties may find themselves entangled in disputes that

cross multiple jurisdictions almost instantaneously. The anonymous nature of online interactions further complicates the question of which jurisdiction's laws apply. Traditional notions of personal jurisdiction may not apply neatly to digital contexts, leading to potential unpredictability in

outcomes. Additionally, the rapid pace of technological change may outstrip existing legal frameworks,

V. Enforcement of Judgments.

Enforcement of judgments across borders presents a key challenge in the context of conflict of laws. Even if a court in one jurisdiction renders a decision, the ability to enforce that decision in another jurisdiction can be fraught with difficulties. Varying laws concerning recognition and

necessitating ongoing adaptation by legal professionals and courts alike.

enforcement of foreign judgments can create barriers to effective resolution of disputes. Legal practitioners must therefore be well-versed in both domestic and international laws to navigate these complexities and ensure that their clients' rights are upheld across jurisdictions.

VI. Cultural Sensitivity.

The culturally diverse nature of many international disputes necessitates a degree of cultural sensitivity from legal practitioners. Understanding the underlying cultural norms and values that inform legal principles in different jurisdictions can influence the development of conflict of laws rules and their application.

Additionally, practitioners must be aware of the potential for misunderstandings or misinterpretations arising from cultural differences. Building strong intercultural competencies can help in negotiating and resolving disputes with more insight and effectiveness.

VII. Future Directions Looking ahead.

the challenges presented by the application of conflict of laws may prompt significant reforms and innovations in legal practices. Collaborative approaches that encourage dialogue among jurisdictions could pave the way for

more coherent conflict of laws frameworks. Increased efforts toward standardization and reciprocity in the treatment of cross-border legal issues might mitigate uncertainties and streamline dispute resolution. Furthermore, ongoing research and

scholarly discourse on the shaping the future of conflict of laws
implications of emerging technologies in an increasingly interconnected
and global trends will be essential in world.

Conclusion:-

The article provides a comprehensive analysis of the emerging category of procedural conflict-of-laws rules, introduced by the growing practice of employing foreign civil procedural norms in international civil procedure. Historically, private international law and international civil procedure adhered to a strict doctrine that barred the application of foreign procedural law in civil matters. However, a shift began to occur in the latter half of the 20th century, leading to the acceptance of foreign procedural rules under certain conditions.

The article delineates the evolution of this concept, tracking significant shifts in judicial practice and legal doctrine. It emphasizes the distinction between procedural conflict-of-laws rules, which govern conflicts of jurisdiction and procedure, and the substantive rules of private international law that direct the application of substantive laws. The author endorses defining procedural conflict-

of-laws rules as binding principles that permit the application of foreign civil procedural law, arguing against the notion that the law of the forum should prevail solely as a procedural imperative.

Through various legal examples and the mention of national and international legal instruments, the article illustrates the necessity of accommodating foreign procedural rules to ensure justice and fairness in cases involving cross-border disputes. The author advocates for a modern understanding of conflict-of-laws rules that recognizes the relevance and importance of procedural connections, particularly the formal rules governing legal proceedings that may have substantive implications.

Personal Conclusion on Rules of Conflict of Laws in Civil Procedural Activity:

The rules of conflict of laws in the realm of civil procedural activity constitute a crucial aspect of private international law. The ability to navigate these rules is vital for legal practitioners, especially as globalization continues to expand and complicate legal interactions across borders. My personal view aligns with the article's assertion that an adaptable and forward-thinking approach to procedural law can enhance fairness and predictability in international civil disputes.

Recognizing foreign procedural law as a legitimate and necessary consideration creates a more inclusive legal framework that respects the heterogeneous nature of substantive legal relations. By implementing procedural conflict-of-laws rules judiciously, courts may yield outcomes that more accurately reflect the

circumstances and nuances of individual cases, allowing for legal processes that align better with the substantive rights of involved parties.

The challenge lies in balancing the need for a consistent procedural framework with the realities of differing legal traditions and cultural contexts. Legal systems should prioritize cooperation and harmonization of procedures to adapt to the challenges presented by globalization, such as technological advances and international commerce. As legal practitioners, our responsibility is to advocate for and uphold fair legal practices that promote justice, powered by a strong understanding of both domestic and international procedural rules. Such an approach not only enhances legal certainty among parties but also serves the broader goal of maintaining public confidence in the justice system.

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1. Books and Articles

- "Private International Law" by Arthur Taylor von Mehren and Donald T. Trautman: This book provides an extensive examination of private international law, including conflict of laws principles and frameworks.
- "Conflict of Laws: Cases and Materials" by Mary Kay Kane: A comprehensive resource that includes cases, statutes, and analysis related to the conflict of laws.
- "Conflict of Laws in a Nutshell" by Daniel J. Melton: This is a concise overview that provides a clear introduction to conflict of laws principles.

2. International Conventions and Instruments

- The Hague Convention on Choice of Court Agreements (2005): Full text available at [Hague Conference](#).
- The United Nations Convention on Contracts for the International Sale of Goods (CISG): Full text available at [UNCITRAL](#).
- Rome I and II Regulations: Texts available on the [EUR-Lex website](#).

3. Legal Journals and Articles

- "International Journal of Private Law": This journal publishes articles on private international law and conflict of laws.
- "The American Journal of Comparative Law": Articles from various jurisdictions regarding conflict of laws issues can be found here.
- "Harvard International Law Journal": This has numerous articles discussing the evolution of international law, including conflict of laws.

4. Online Resources

- World Trade Organization (WTO): Offers resources regarding international trade law that can intersect with conflict of laws.
- International Law Association (ILA): Provides updates, papers, and resources regarding international law and conventions that address conflict of laws.
- The Hague Conference on Private International Law: This website provides information on conventions and resources related to private international law.

5. Legal Databases

- Westlaw and LexisNexis: Provide access to case law, statutes, and legal analysis concerning conflict of laws.
- Justia and Google Scholar: Useful for accessing free legal articles, case law, and insights regarding the conflict of laws.

6. Government and Legal Organization Websites

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