

Sources of Private International Law and Thier Interrelation an Application

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Abstract

The main objective of this scientific study is to analyze the issue of sources of private international law in the conditions of the Slovak Republic, which, despite being a national branch of law, is greatly influenced by globalization and international legal integration. It is the above mentioned reasons that make the sources of private international law no longer only at the national level, but transnational sources are coming to the fore. The fact that private international law is currently experiencing such a confluence of several sources of law makes it absolutely necessary to define the interrelationship between these sources. Several scientific methods of investigation have been used for the elaboration of our scientific study, such as, in particular, analysis, synthesis, comparison or historical interpretation. Our research has confirmed the primacy of international treaties as well as European law over national sources of law.

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1. Introduction

Private international law, like other branches of law, is based on certain material and formal sources of law. While it is a national branch of law, it is also influenced by various unification and harmonisation efforts at the supranational level.³ However, this branch of law is not limited to the borders of the Slovak Republic, but it is private international law that deals with relations with a foreign element. For this reason, it is also regulated to a large extent by supranational legislation.⁴

As private international law has its domestic sources, but is also regulated by European Union sources and international treaties as sources of international law, it is necessary to examine the interrelationship of these sources. Since it is precisely the interrelation of the different sources that is not often discussed in the scholarly literature, we attempt to fill the existing gap with this scholarly study.

The main objective of this scientific study is to analyze the issue of sources of private international law, which, despite being a national branch of law, is greatly influenced by globalization and international legal integration. It is for the above reasons that the sources of private international law are no longer only at the national level, but transnational sources are coming to the fore. The fact that private international law is currently experiencing such a confluence of several sources of law makes it absolutely necessary to define the interrelationship between these sources.

The study is divided into several separate units, while several scientific methods of research were used in its writing, such as the method of analysis, synthesis, induction, comparison or deduction. In short, our research methodology draws on a diverse range of up-to-date sources, including scientific literature, legislative documents and court decisions. This comprehensive

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³ Shcherbanyuk, O. and Bzova, L. 2024. „Rule of Law and Human Rights: Analysis of International Standards and Case Law”. *Perspectives of Law and Public Administration*, 13(1), pp. 25- 32.

⁴ Funta, R. and Ondria, P. 2021. „Data Protection in Law Enforcement and Judicial Cooperation in Criminal Matters”. *TalTech Journal of European Studies*, 11(2), pp. 148-166, doi: 10.2478/bjes-2021-0019.

approach ensures a comprehensive examination and achievement of the main objective of our research study.

Using the descriptive method, we describe the sources of private international law in the introduction. It is also necessary to deal with such legal-theoretical foundations, which then provide a starting point for the design of the following sections. Subsequently, the study analyses the issues of each source at different levels. Systematically, the individual sources are divided according to their interrelation. This is why we start with the law of the European Union, then the international sources and finally the national sources of law. As part of the analysis of the sources of European Union law, we will describe the primary, secondary and tertiary sources and outline their application relationship. We then turn our attention to sources of international law, in particular international treaties, and provide some examples of such international treaties. We conclude this general section by analysing domestic sources of private international law. We pay particular attention to the analysis of the Private International Law and Procedure Act as the basic formal source of this branch of law.⁵

In the practical part, we consider the interrelationship of the different sources. We examine the individual relationships independently, delineate the differences, determine the priority of a particular source over another source, and finally create a hierarchy of the individual sources.

2. Sources of private international law in general

Unlike public international law, private international law is a national branch of the Slovak legal order. Private international law regulates civil, family, labour, commercial and other similar relations with an international element.⁶

Like any separate branch of the legal order, private international law draws on a variety of sources that ultimately regulate the conduct of individual actors. Legal theory recognizes material and formal sources of law. The material sources of law explain where law came from in society. They are all the social, cultural, economic and other facts that gave rise to the sources.⁷ An example of a material source is a situation where, for example, a number of citizens of the Slovak Republic wanted to marry a national of a foreign country and this procedure was not regulated. For this reason, there arose a need in society to regulate these relations by means of the norms of private international law, which are to be found in Act No 97/1963 Coll. of the National Assembly of the Czechoslovak Socialist Republic on Private International Law and Procedure (*'the Private International Law and Procedure Act'*), which has been in force for more than sixty years. This Act is already a formal source of law. In this connection, we consider it necessary to point out that in this scientific study we are examining only formal sources of law.

Private international law as a branch of law is regulated not only by national norms, but also by EU and international norms, thus creating a confluence of several formal sources of law. This confluence, insofar as it has a complementary effect, which means that the different sources complement each other, is desirable because it fills gaps in the law. On the other hand, however, it is also necessary to consider situations in which the different sources contradict each other. This situation is no longer desirable, but if it does arise, the private international law system must clearly set out the rules as to which source to use when.⁸

2.1. Sources of European Union law in the field of private international law

As Funta and Schulz point out, in 2004 the Slovak Republic became a member state of the European Union and this legal fact was of great significance also from the perspective of private

⁵ Majercáková, D and Mittelman, A. 2016. „The constitutional protection of water as irreplaceable component of environment and all living ecosystems in the conditions of the Slovak Republic“, 16th International Multidisciplinary Scientific Geoconference (SGEM 2016), Ecology, Economics, Education And Legislation Conference Proceedings, Vol. I, pp.995-1000.

⁶ Provision of § 1 of Act No. 97/1963 Coll. on Private International Law and Procedure, as amended.

⁷ Fábry B., Kasínek R. and Turčan M. 2017. *Theory of law*. 1st ed. Bratislava: Comenius University in Bratislava, pp. 213-216.

⁸ Popa Tache, C.E., Săraru, C.S. 2024. „Evaluating today's multi-dependencies in digital transformation, corporate governance and public international law triad.“ *Cogent Social Sciences*, 10(1), 2370945.

international law. It meant that all legislation had to be gradually approximated to European law, which recognises three levels of sources, namely primary, secondary and tertiary.⁹ Each of these sources has a different normative force. European rules in the field of private international law focus in particular on the jurisdiction of courts, the determination of applicable law and the regulation of the free movement of individual judgments.¹⁰

Primary law of the European Union. As Pauknerová states, the sources of primary law include mainly the founding treaties and all international treaties that have amended these founding treaties. This includes the Treaty on the Functioning of the European Union and the Treaty on European Union. The founding treaties concern private international law, in particular Article 81 of the Treaty on the Functioning of the European Union, which regulates judicial cooperation in civil matters. In addition to this article, the Treaty on the Functioning of the European Union contains a number of legal principles which are also absolutely essential for the functioning of the European Union's legal system.¹¹

Secondary European Union law. According to Article 288 of the Treaty on the Functioning of the European Union, secondary law always arises from primary law. Primary law empowers the various institutions to issue acts of secondary law. Acts of secondary law include regulations, directives, decisions, recommendations and opinions.

Under Article 81 of the Treaty on the Functioning of the European Union, the Council of the European Union and the European Parliament may adopt measures to improve mutual recognition and enforcement of judicial and extrajudicial decisions, cross-border service of judicial and extrajudicial documents, compatibility of conflict-of-law rules and rules determining jurisdiction, cooperation in securing evidence, etc.¹²

According to Siman and Slašťan, there are a large number of acts of secondary law - mainly regulations. Through these acts, the European Union seeks to simplify the application of the various rules of private international law. A distinction is made between conflict-of-law acts, secondary law acts and procedural secondary law acts, according to the area of law they regulate.¹³

Tertiary law of the European Union. Tertiary law of the European Union - this is more of a historical concept. Primary law does not even admit tertiary law anymore. In the past, it was not possible to adopt binding acts such as decisions or directives, which resulted in individual states concluding treaties with each other in an attempt to achieve the objectives of the European Community.¹⁴ However, a number of international treaties have been adopted on the basis of tertiary law. The Treaty establishing the European Community provided for this type of treaty in Article 293, but the Treaty of Lisbon no longer incorporates this source.¹⁵

2.2. Sources of international law in the field of private international law

We agree with Klůčka's view that of the sources of international law we are most interested in international treaties for the purposes of this scholarly study.¹⁶ The basic prerequisites for an international treaty, as an agreement between two or more entities, to be considered a source of private international law are that it must fulfil the following requirements: the Slovak Republic must be bound by the treaty and, at the same time, the treaty must regulate matters falling within the subject matter of private international law.

⁹ Funta, R. and Schultz, A. 2023. „The Interpretation of Article 101 (3) of the TFEU by the European Commission”, *Prawo i Wiedza*, 47, pp. 651-670, doi: 10.36128/PRIW.V147.808

¹⁰ Šmihula, D. 2012. *Introduction to the theory of private international law*. 1st ed. Bratislava: Epos, pp. 143-144.

¹¹ Pauknerová, M., *European private international law*. 1st ed. Praha: C.H.Beck, 2008. 409 p.

¹² Săraru, C.S. 2023. „A cross-country examination: administrative litigation in China and Romania.” *Access to Justice in Eastern Europe*, 6(3), pp. 232-248, doi: 10.33327/AJEE-18-6.3-a000313.

¹³ Siman M. and Slašťan, M. 2012. *European Union law (institutional system and legal order of the Union with case law)*. 1st ed. Bratislava: Euroiuris, p. 243.

¹⁴ Králiková, K. and Funta, R. 2022. „Obligation of the European Commission to review national civil court judgements?” *Juridical Tribune - Tribuna Juridica*. 12(2), 215-226.

¹⁵ Article 293 of the Treaty establishing the European Community.

¹⁶ Klůčka, H. 2011. *Public international law*. 2nd ed. Bratislava: Iura Edition, pp.105-108.

Individual contracts are classified on the basis of a number of criteria. We shall mention the criterion of the place of adoption, and according to this criterion we divide treaties into those of the Council of Europe, the United Nations, the Hague Conference and others.¹⁷ One of the most important multilateral treaties is the United Nations Convention on Contracts for the International Sale of Goods. This convention regulates sales contracts between entities that have places of business in the territory of two different states.¹⁸

According to Rozehnal, other acts of an international legal nature which can be considered as sources of private international law include, for example, the Convention on the Limitation Period in the International Sale of Goods, the Convention on Civil Procedure, the Convention on Facilitation of Access to Judicial Authorities Abroad, and the like. As can be seen from the above, international treaties regulate mainly questions of conflict of laws and the determination of international jurisdiction.¹⁹

2.3. National sources of private international law

As noted above, private international law is a domestic branch of the legal order and thus the primary sources will be domestic in nature. The object of private international law is to regulate various relations (civil, family, commercial, labour and other) with a foreign element. As Nováčková et al. further state, it is already evident from the subject matter of private international law that it is an interdisciplinary branch of law and thus national sources will be numerous.²⁰ It should be mentioned, however, that not all sources of private international law, at the same time, are primarily intended to regulate the legal relations that are the subject of private international law. For example, Act No. 513/1991 Coll., the Commercial Code, as amended, is considered a specific source of private international law because it primarily regulates relations arising in the course of business activities.²¹

Štefanková et al. divide the sources into basic and special. Basic sources are those that are intended expressly only to regulate legal relations that are the subject of private international law. Among the basic sources we rank currently only the Law on Private and Procedural International Law. The special sources are those which, although they also regulate private international law, are primarily specialised in regulating relations of a purely domestic nature.²²

In relation to private international law, the Constitution of the Slovak Republic has a specific position, which sets out the fundamental legal principles on which the entire legal order of the Slovak Republic is based. These legal principles necessarily affect private international law and therefore the Constitution of the Slovak Republic is also classified as a national source of this branch of law. According to Cibulka et al. the Constitution of the Slovak Republic establishes principles that cannot be replaced by foreign legislation.²³ These are principles which may, for example, be subject to the public policy reservation under Section 36 of the Private International Law Act. Mezeiová is of the opinion that if there is discrimination against women for any reason, these provisions of foreign law will not be applicable.²⁴

The basic formal source of law, the content of which is the focus of our inquiry, is the aforementioned Private International Law and Procedure Act. This Act entered into force on 1 April 1964 and is therefore a law which was adopted at the time of the Czechoslovak Socialist Republic.

¹⁷ Štefanková, N. et al. 2011. *Private international law*. 1st ed. Praha: C.H.Beck, p. 83-85

¹⁸ *United Nations Convention on Contracts for the International Sale of Goods*

¹⁹ Rozehnalová, N. 2010. *Obligations from contracts and their legal regime*. 1st ed. Brno: Masaryk University.

²⁰ Nováčková D, Paškrťová L, Vnuková J. 2023. Cross-Border Provision of Services: a Case Study in the Slovak Republic. *Administrative Sciences*, 13(2):54, doi:10.3390/admsci13020054.

²¹ Peracek, T; Noskova, M and Mucha, B. 2017. „Selected issues of slovak business environment.“ 24th International Scientific Conference on Economic and Social Development - Managerial Issues in Modern Business. Economic and Social Development (ESD), pp. 254-259.

²² Štefanková, N. et al. 2011. *Private international law*. 1st ed. Praha: C.H.Beck, pp. 57-59.

²³ Cibulka, L. et al. *Constitutional law (constitutional system of the Slovak Republic)*. 1st ed. Bratislava: Comenius University in Bratislava, 2014. 407 p.

²⁴ Mezeiová, L. 2018. *The Institute of Public Order Reservation in Private International Law*. In: Proceedings of the International Scientific Conference Bratislava Legal Forum 2018, p. 71.

The law is still valid and in force. Of course, the law is not in its original wording, but it has been amended twenty times in order to adapt it to the current standards of private international law.

Probably the most significant amendment was the amendment by Act No. 589/2003 Coll., amending Act No. 97/1963 Coll. on Private International Law and Procedure, as amended, and amending and supplementing certain acts, often referred to as the „Euronovel“. As the name implies, this amendment to the Private International Law Act was directly related to the accession of the Slovak Republic to the European Union. It was a very extensive amendment, but an example of what was changed is Section 24 of the Private International Law Act, which in its original wording provided that relations between parents and children, including upbringing and maintenance, are governed by the legal rules of the legal order in which the child has nationality. In the amended version, the nationality of the child was no longer relevant, but the habitual residence of the child became the conflict of laws criterion.²⁵

We have the basic purpose of the said Act expressed in Section 1 of the Private International Law. The main purpose of this Act is therefore to lay down the law which will govern individual private law relations with an international element. The Private International Law Act also addresses the issue of the legal status of foreigners and the procedure of the Slovak judicial authorities when dealing with problems with a foreign element.

In terms of structure, the law is divided into two parts. The first part is called „Conflict of Laws and Status of Aliens Provisions“. The second part of the Act already deals with the issue of international procedural law. The Private International Law Act is thus the basic law in the field of private international law and procedure. Of course, it should be borne in mind that in the imaginary hierarchy of legal norms it is at the very lowest position (hierarchically, the rules of the European Union and international treaties are superior), this follows directly from the Private International Law Act²⁶, as well as from the Constitution of the Slovak Republic²⁷ and from the case law of the Court of Justice of the European Union.²⁸

Special sources of private international law include those legal rules that are not primarily intended to regulate private international law. Given the limited scope of this scholarly study, we will focus on the most significant of these and provide specific examples.

As a first example, we refer to Act No. 513/1991 Coll., the Commercial Code, which in § 729 et seq. addresses the issue of obligations in international trade. However, the application of the aforementioned sections occurs only in situations where at least one of the parties has its registered office in the territory of another state and the conflict of laws rules lead to the determination of Slovak law.²⁹

Another of this category of sources is Act No. 36/2005 Coll. on the Family, as amended. The Family Act contains a number of mandatory provisions on the basis of which the public policy exception could be invoked in a potential dispute, which should not in any case lead to the application of a foreign legal order.

Also, Act No. 191/1950 Coll. on Bills of Exchange and Cheques, as amended, contains provisions relating to international law of bills of exchange and international law of cheques.³⁰ The last of the most important formal sources of law is Act No. 311/2001 Coll., the Labour Code, which in its provisions addresses the issue of performance of work abroad or performance of work by foreigners in the territory of the Slovak Republic.³¹ However, as Bajžíková et al. point out, the position of the Labour Code in this issue is not absolute, there are several legal regulations, especially

²⁵ Act No. 589/2003 Coll. amending Act No. 97/1963 Coll. on Private International Law and Procedure, as amended, and amending and supplementing certain acts.

²⁶ Article 2 of Act No. 97/1963 Coll. on Private International Law, as amended.

²⁷ Article 7(2) of Constitutional Act No. 460/1992 Coll., the Constitution of the Slovak Republic, as amended.

²⁸ Judgment of the Court of Justice of the European Union of 15 July 1964 in Case C-6/64 Flaminio Costa v. E.N.E.L.

²⁹ Milosovicová, P.; Mittelman, A.; Mucha, B. and Peráček, T. 2018. „The Particularities of Entrepreneurship According To the Trade Licensing Act in the Conditions of the Slovak Republic“. 31st International-Business-Information-Management-Association Conference. Innovation Management and Education Excellence Through Vision 2020, Vols. I –XI, pp.2736-2745.

³⁰ Mucha, B., Brestovanská, P. 2020. „Bill of Exchange and Its Application Problems in Slovak Republic“, *Springer Proceedings in Business and Economics*, pp. 225-236.

³¹ Štefanková et al. 2011. *Private international law*. 1st ed. Praha: C.H.Beck, 2011. pp. 58-59.

at the European level because one of the main pillars of European economic integration is the free movement of employees.³²

3. The interrelationship of the application of the various sources of private international law

As we noted at the beginning of this scholarly study, there is a confluence of three types of sources in private international law. This may raise a number of questions to which we need to find an answer and explain how private international law resolves possible conflicts between these sources, which sources take precedence over others, what principles govern the application of the sources, and we also want to point out the application problems that arise in the use of these sources.³³ In general, in relation to domestic law, the rule of the primacy of international treaties and European Union law applies, which is the reason why we are looking at the relationship between international treaties and European Union law.

3.1. Mutual application of European Union legal acts and international treaties

We do not analyse primary and tertiary European Union law in this section, mainly because the sources of primary and tertiary European Union law are international treaties. What is essential to analyse, however, is the relationship between the secondary law of the European Union and international treaties. The European Union, with its supranational character, has the power to issue legally binding acts. In the following section we therefore examine precisely the possible conflict between acts of secondary law and international treaties.

It is most appropriate to use the example of the Brussels I and Brussels IIa Regulations to delineate the application relationship between these two sources of private international law.

The Brussels I Regulation is an act of secondary law and in its Article 68 it establishes its primacy of application over the Brussels Convention. Likewise, Article 69 provides that this Regulation supersedes international treaties (note that it does not abrogate those treaties) which deal with the same subject matter. Article 71 of the Brussels I Regulation provides that the Regulation shall not affect conventions to which the Member States are parties and which deal with specific matters.³⁴

Article 59 of Brussels IIa provides that this Regulation shall replace international treaties in force at the time of the entry into force of this Regulation which govern matters covered by the Brussels IIa Regulation.³⁵

It is fairly clear from the above that regulations take precedence over a number of international treaties. However, the mere primacy of regulations does not mean that the regulations abrogate the international treaties in question. It is there that a certain complementary approach can be seen, because the cases to which the regulations cannot be applied are those to which the international treaties must be applied.

However, the question of whether such a regulation is capable of replacing an international treaty concluded between a Member State of the European Union and a State which is not a member of the European Union must also be answered. In this case, the practice of application clearly favours an interpretation which, in this particular case, favours the international treaty.³⁶ Thus, if a situation arises where a certain area of private international law is governed by both an international treaty and

³² Bajzikova, L., Novackova, D., Bajzik, P. 2018. *Eliminating Barriers and New Challenges in the European Labour Market*. Springer Proceedings in Business and Economics, pp. 159-168, doi: 10.1007/978-3-319-70377-0_11.

³³ Leontiev, L. 2024. „Conceptualising Extraterritoriality. Public International Law and Private International Law Considerations”. *Global Jurist*, 24(2), pp. 119-155, doi: 10.1515/gj-2023-0128.

³⁴ Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

³⁵ Council Regulation (EC) No. 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No. 1347/2000.

³⁶ Lacko, P. *Brussels I Regulation, commentary*. 1st ed. Bratislava: Wolters Kluwer, 2016. pp. 287-302.

a regulation of the European Union and one of the contracting parties is a State which is not a member of the European Union, the international treaty must be applied in preference.

3.2. Inter-applicational relationship between national and European Union sources

The interrelation of the above sources is in principle the same as the interrelation of the laws of any branch of law with the sources of European law. This relationship is governed by two basic principles. These are the principle of direct effect and the principle of priority.³⁷

The principle of direct effect states that the various legal rules created by the European Union can affect the legal position of individual subjects directly, without the need to incorporate these rules into our national law. This has the effect that individual actors can also invoke these norms directly against Member States. If the European Union authorities change this standard, it automatically changes the position of the individual entities, and there is no need to translate this change into national law. Direct effect is associated with regulations. Unlike a directive, these do not need transposition.³⁸

The second of these principles is the principle of the priority of European Union law over national law.³⁹ This principle is also defined in the Constitution of the Slovak Republic, but it has also been judged by the Court of Justice of the European Union on several occasions. The Court of Justice first dealt with this principle in the *Costa v. Enel* case, where it ruled unequivocally that European Union law is an independent legal order which takes precedence over national law.⁴⁰ This view was subsequently confirmed in the *Simmenthal* decision. In the context of Slovak domestic law, this issue is defined in Article 7(2) of the Constitution of the Slovak Republic, according to which the legally binding acts of the European Communities and the European Union shall take precedence over the laws of the Slovak Republic. This means that if the Private International Law Act contradicts in certain provisions a regulation of the European Union, the European law shall prevail and those provisions which contradict shall not be applied.⁴¹

3.3. Inter-relationship between national sources and international treaties

The last issue analysed is the relationship between national sources of private international law and international treaties as sources of private international law. In this case, as in the case of the European Union sources, we can speak of the primacy of international law in application.⁴²

This state of affairs is again documented by the case law of the Permanent Court of International Justice, international treaties and the Constitution of the Slovak Republic itself. The Permanent Court of International Justice dealt with the question of the primacy of an international treaty (Convention) as early as 31 July 1930, where, in its advisory opinion, it clearly established the primacy of an international treaty over domestic law. However, the Permanent Court determined that the most important question was that concerning the preference for the application of the provisions of national law or of the Convention in the event of a conflict between them. In the first place, it is a generally accepted principle of international law that, in a relationship between parties to an international convention, the provisions of national law cannot override their obligations under the convention.⁴³

Similarly, Article 27 of the Vienna Convention on the Law of Treaties, which does not allow the invocation of provisions of national law as a ground for non-performance of an international

³⁷ Karas V. and Králik, A. 2012. *European Union law*. 1st ed. Praha: C.H.Beck, 2012.

³⁸ Pavelek, O. and Adamová, H. 2022. „Court of Justice of the European Union on Non-material Damage”. *Casopis pro Právni Vědu a Praxi*, 30 (3), pp. 547–571, doi: 10.5817/CPVP2022-3-3-3.

³⁹ Štefanková N. et al. 2011. *Private international law*. 1st ed. Praha: C.H.Beck, 2011. pp. 60-64.

⁴⁰ Judgment of the Court of Justice of the European Union of 15 July 1964 in Case C-6/64 *Flaminio Costa v. E.N.E.L.*

⁴¹ Constitutional Act No. 460/1992 Coll., the Constitution of the Slovak Republic, as amended.

⁴² Balog, B. *International treaties in the constitutional system of the Slovak Republic*. In: Days of Law: the Conference Proceedings. 1st ed. Brno: Masaryk University, 2009.

⁴³ The Greco-Bulgarian „Communities“, Publications of The Permanent Court of International Justice, Series B.-No. 7, July 31st, 1930.

treaty, also documents this situation.⁴⁴

Continuing in the hierarchy of legal acts that establish the primacy of international law, we gradually arrive at the Constitution of the Slovak Republic, which provides in Article 7(5) that "international treaties, the implementation of which does not require a law, and international treaties that directly create rights or obligations of natural persons or legal persons and which have been ratified and promulgated in the manner prescribed by law, shall take precedence over laws."

The last piece of legislation that confirms the above-mentioned rule of the primacy of international law is the Private International Law and Procedure Act. This Act provides in its § 2 that the provisions of this Act shall apply only unless otherwise provided by an international treaty by which the Slovak Republic is bound or by a law enacted to implement an international treaty. On the basis of the above, we are of the opinion that there is no doubt that international law takes precedence over domestic law.

4. Discussion and conclusion

As mentioned in the introduction, private international law is a national branch of law that is subject to a number of supranational regulations. Whether due to the Slovak Republic's membership in the European Union or due to the ever increasing international cooperation, this sector is considerably harmonised and unified. It follows that the sources of private international law also exist at national, EU and international level. The sources of private international law are not regulated in a single document, which is why this issue needs even greater attention.

The fact that this issue is not regulated in just one document makes it necessary to address the possible clash of several sources through different principles and principles. For this reason, the main objective of this scientific study has been set as a detailed examination of the various formal sources of private international law, followed by an analysis of the expected clash of these sources.

In the first chapter, we characterized the sources of private international law in general terms. In this section, we have discussed both substantive and formal sources, pointing out the differences between them. We then explained these differences through various examples. The theoretical foundations have provided us with a foundation in writing the following sections and thus we see the main contribution of this section as providing some background for further writing of this scholarly study.

In the second part we have already moved to the analysis of individual sources. We have systematically divided the sources hierarchically and primarily focused on the sources of European law because of their importance. In the analysis of the sources of European Union law, we have described the primary, secondary and tertiary sources and outlined their application relationship. We then looked at the sources of private international law in the field of international law and explained the significance of international treaties with reference to specific examples. In the last part of this chapter dealing with domestic formal sources of law, we analyzed both basic but also specific sources of private international law which clarified the applicative relationship of the two types. A special section is devoted to the Private International Law and Procedure Act as a basic source of private international law.

Finally, we would like to clearly define the mutual application relationship of the individual sources.

It is absolutely clear that international treaties, sources of European law, take precedence over national sources of law in the conditions of the Slovak Republic. This state of affairs is reflected in a number of documents, legislation and case-law and therefore, in our opinion, there is no need to even discuss the interrelation of these formal sources of law. It is, however, necessary to consider the relationship between the international treaty as a source of private international law and European Union law. If an international treaty is concluded by the European Union, then, according to several theorists, this treaty becomes a source of European law (somewhere between primary and secondary

⁴⁴ Vienna Convention on the Law of Treaties.

sources).

More problematic, however, is the question of priority in the case of the conclusion of an international treaty by a Member State. If a Member State concludes an international treaty with a country that is not a Member State of the European Union, the international treaty will take precedence over European regulations and other secondary law. This is mainly because European Union secondary law does not bind third countries.

If an international treaty is concluded between the Member States of the European Union on issues whose similar issues are regulated by secondary law, we consider it necessary to state that the secondary law of the European Union applies in priority in this case. We agree with Korn's view that this secondary law will only have primacy of application without affecting the validity of the international treaty.⁴⁵

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