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The concept of private international law and its relationship with private law

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**Abstract:**

The article is divided into 5 sections.

Section I presents the views of Polish authors as to whether a set of norms called private international law is part of private (civil) law or international law (law of nations). Currently, the position of linking private international law with private law prevails in Polish science.

In section II, the author presents the position of representatives of Polish science as to which norms belong to private international law. There is consensus that there are norms determining which country's law should be applied in private law cases i.e. norms indicating the law applicable to such cases. This presupposes a distinction between these norms and norms that directly regulate such matters. Many authors include other norms within the scope of private international law, which other authors treat as belonging to areas related to, but separate from, private international private law. This concerns, in particular, the norms regulating the institution of citizenship, the legal position of foreigners, proceedings in civil cases of an international nature, and norms of civil law harmonized internationally.

Section III is devoted to determining which issues have been regulated in the provisions of three statutes in force in Poland (of 1926, 1965 and 2011) bearing the same title (private international law) as well as in the provisions relating to this issue in international agreements and European Union regulations. However, the analysis of the scope of these acts does not allow for an unambiguous determination of the scope of private international law.

In the next section (IV), the author indicates that the rationale for the validity of private international law is the fact that in individual countries civil law norms having a different content are in force. Against this background, the question arises as to which of these states'

laws should be applied in a particular case. In the sphere of private law, it is permissible for a court or other body to apply the law in force in another country. The author briefly discusses the technique of indicating the applicable law by means of a conflict of law rule. He emphasizes that the motive justifying the order to apply the law of a foreign country may be either a link between the case under consideration and a given law or the will of the person or persons concerned expressed in an appropriate manner. It also mentions restrictions on the application of foreign law. It goes on to consider what other norms, in addition to norms indicating the applicable law, can be incorporated into private international law.

These considerations end with the conclusion that private international law includes:

- conflict of law rules indicating the applicable law,
- norms governing domestic jurisdiction and the effectiveness of foreign judgments,
- norms determining the confluence of such norms expressed in different acts or in force at different times,
- norms defining the situations covered by internationally unified substantive norms, i.e. norms delimiting the scope of application concerning the same issues of norms of national origin and norms of international origin.