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Abstract:

This paper discusses actio pauliana from a private international law perspective. Its aim is to determine which law governs the creditor’s right to avoid fraudulent transactions between the debtor and a third party. The methodology employed in this paper is based on the assessment of possible solutions as to the law applicable to actio pauliana. The legal framework of these solutions encompasses Rome I Regulation, Rome II Regulation and the Polish Private International Law Act. The analysis is preceded by references to international insolvency law and comparative remarks. The article leads to the following conclusions. For the purpose of classification in private international law, actio pauliana constitutes a separate and autonomous legal institution. The provisions currently in force contain no explicit rule regulating this issue, but the gap is to be filled with a norm adopting the closest connection as a connecting factor. Consequently, actio pauliana is governed by the law applicable to the effects of a fraudulent transaction.