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Abstract:

This paper discusses certain issues of Polish transitional law in the field of private substantive law. The reference point for this article's considerations are the recent works of Krzysztof Mularski dedicated to this subject. There is no doubt that the main sources of private transitional law derive from article 3 of the Civil Code and the Provisions Introducing the Civil Code. On the other hand, while K. Mularski believes that conflicts of laws in time arising out of statutes other than the Civil Code can be solved by applying directly the Provisions Introducing the Civil Code, the traditional view is that such conflicts are solved by rules derived from these Provisions by analogy. This traditional view seems correct as the wording of the Provisions Introducing the Civil Code unambiguously indicates that these were meant to govern only transitional issues generated by the Civil Code. This paper further discusses, among other things, the justification and nature of the non-retroactivity principle, as well as basic rules of private transitional law such as those that determine the manner in which a new statute applies in time to a legal relation depending on that relation's nature (category). Both K. Mularski and the author of this paper believe that private transitional law should be codified so as to provide for greater certainty of law. In this context, this article considers desired solutions to be adopted in the future work of codification.