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Modern approaches to understanding the sources of private international law

Boboqulov Elbek
Tashkent State University of Law
Faculty of private law
Email: elbekboboqulov4@gmail.com
Phone number: +998905180901

Abstract: International private relations are one of the relations that arise in the course of globalization and the development of relations between individuals and legal entities between states in every field. Of course, the sources of this right play an important role in the regulation of each relationship. This article talks about the sources of international private law that are important for the internal and external scales of states. In addition, the concept of international private law is given in detail in this article, which serves for a better understanding of the article. We will also consider modern approaches to understanding the sources of international private law and the interpretation of sources in the sources of national and foreign law from the point of view of various scholars.

Key words: private international law, conventions, international agreements, agreement, customary norms.

First of all, before we dwell on the sources of international private law and the methods of understanding them, let us dwell on the concept of private international law in more detail in order to better understand the general content. Private international law is a separate branch of the network of international law. The network of international law is usually divided into the network of private international law and international public law. Private international law includes relationships that take place in the international context, that is, complicated by the foreign element, regulated by civil and civil procedural law, as well as labor and family relations. The relationship in this framework has a special procedure for establishing, changing and canceling it, as well as for resolving it in the event of a dispute. In the Civil Code of the Republic of Uzbekistan, relations of this type are classified as relations regulated by international private law norms, that is, relations complicated by a foreign element. Of course, the scope of legal relations cannot be limited to a certain region, therefore private international law and its sources play an important role in regulating relations related to them. In the legal literature, there are different views on the connection between private international law and international law. According to Argentine scientist Morens Quintana, private international law is a part of international law. A. Mamatkulov does not recognize private international law as a separate branch, he claims that the connection between private international law and international public law can deepen.

A legal relationship complicated by a foreign element is complicated by the interplay of various related factors in private international law. In this case, the complication occurs through the mixing of the subject and object of the legal relationship and the legal fact factors. Complexity through subtext occurs when legal entities and individuals of different states enter into legal relations. As an example, we can mention that citizens of two different countries get married in another country. Complexity through object is represented by property and personal non-property rights arising in another country. As an example of this, we can mention the inheritance of property located in the territory of another country to a citizen of another country. In this case, the citizen who has been left with an inheritance has the property right to the property located in another country. Complexity through legal facts occurs when a legal fact that creates a legal

relationship occurs in the territory of another country. As an example, we can say that a traffic accident occurs in the territory of another country with a car registered in another country. The primary and only basis for private international law and international law are the sources of law represented by international treaties.

Results and discussions

Now let's talk directly about the sources of private international law. Sources of private international law are important both on the internal and external scales of the state. Such a division is determined by the characteristics of relations regulated by the sources of international private law. As an example, internal laws of states and laws of foreign states (international agreements, conventions) are applied to the regulation of property, family, and labor relations arising in international private law. The application of internal and external state laws is necessarily carried out with the participation of conflicting norms, that is, by their application. Other state legal systems are based on the president of the court, but in Uzbekistan, as in other countries, the use of court precedents is not allowed and they are not recognized as a source of law. International private law, regardless of whether it is a conflict of law, is formed from the legal norms of the Republic of Uzbekistan, not foreign law. It follows that international private law of the Republic of Uzbekistan, like other spheres of internal state law, is national, that is, the law of the state of Uzbekistan. The Uzbek court may apply foreign law in accordance with the conflict of laws rule, but such application is carried out in accordance with the law of the domestic state. In different departments, institutions or specific fields of private international law, the volume of internal state and contractual conflict norms is not the same. In the field of civil-legal relations that arise with the participation of citizens (for example, in relations arising from marriage and family, material-legal inheritance or damage), more internal conflict norms are used, in the field of economic-legal relations (economic, trade, scientific -technical fields), on the contrary, more contractual conflict norms are found.

Among the sources of international law, unified norms, that is, integrated norms, occupy a special place. Norms of this type consist of norms of material-legal or procedural-legal nature agreed and adopted by two or more countries.

International treaties as a source of private international law:

Currently, the role of international treaties in private international law is increasing. The reason is that the norms embodied in international agreements are used more in private international law than in the domestic legislation of states. An international agreement means an equal and voluntary agreement of the Republic of Uzbekistan with one or more states, international organizations or other subjects of international law on rights and obligations in the field of international relations. International contracts exist under different names in international private law, they can be in the form of agreement, convention, protocol, memorandum, declaration and notes. As a rule, they are drawn up in writing. Unlike public international law, international private law has legal sources that make up its content, and they are composed of domestic state legislation and legal documents that regulate certain relations at the international level. There are special legal documents in Uzbekistan, namely "On foreign economic activities of the Republic of Uzbekistan" adopted in 2000 and "On international agreements of the Republic of Uzbekistan" in 1995. legal documents refer to relations regulated by international public law and international private law norms. In Uzbekistan, international agreements are concluded in accordance with the generally recognized principles and norms of international law, the Constitution, the law on international agreements, and the provisions of the agreement itself.

International economic agreements

International agreements dedicated to solving economic issues are of particular importance. International economic agreements are legal agreements that regulate economic relations between

countries and international companies. These agreements mainly cover issues such as goods, services, capital flow, investment and technology exchange. Agreements perform tasks such as strengthening economic cooperation between countries, reducing trade barriers and protecting investments. In private international law, we can find several types of international economic contracts. On May 6, 1994, the agreement "On the general conditions and procedure for supporting the development of production cooperation of enterprises and industries of the countries that are members of the Commonwealth of Independent States" was ratified in Ashgabat.

Trade agreements - bilateral or multilateral trade agreements (for example, WTO - World Trade Organization agreements) aimed at reducing trade barriers between countries, creating preferences for imports and exports. Such agreements include tariffs and quotas, and regulate competition in the international market. On April 15, 1994, the Commonwealth of Independent States approved the Agreement on the Establishment of Free Trade Zones and its protocol. . Also the 1995 Hague Convention and the 1986 Hague Convention on the Law Applicable to International Trade.

Investment agreements are drawn up to improve the investment environment and protect foreign investments. This includes, for example, bilateral investment treaties. These agreements include a mechanism to protect the rights of foreign investors, guarantee the possibility of returning their capital, and resolve disputes through international arbitration. Due to the attention to attracting foreign investments after independence, on June 14, 1991, the Law "On Foreign Investments in the Republic of Uzbekistan" was adopted, and by December 25, 2019, this law the law was adopted in a new version under the name of the Law "On Investment and Investment Activities".

Technology and License Agreements – International companies or countries establish technology exchange and usage rights. For example, international patent and copyright licensing agreements allow countries to import new technologies and provide a legal framework to protect their innovations.

Services-related agreements - these agreements are related to the international services market (for example, transport, banking, insurance services) and focus on service standards, consumer protection and facilitation of services.

Conventions on the protection of cultural and natural heritage as a source of private international law

International conventions on the protection of cultural and natural heritage are legal agreements between countries aimed at protecting historical, cultural and natural objects and preserving them for generations. Through these conventions, countries recognize their heritage internationally and undertake to protect it. The UNESCO World Heritage Convention, adopted in 1972, aims to protect cultural and natural heritage at the international level. The main goal of the Convention is to preserve historical and natural objects from the danger of extinction and to pass them on to future generations. All countries are obliged to register and protect cultural and natural objects on their territory. As an example, if Egypt joins the convention as a member state, and it undertakes the obligation to list and protect cultural and natural objects in its territory. Convention for the Safeguarding of the Intangible Cultural Heritage (2003). Intangible cultural heritage includes the cultural wealth of mankind based on knowledge, customs and traditions. This convention aims to protect elements such as language, art, folklore, and festivals. States are obliged to take the necessary measures to preserve the intangible cultural heritage in their territory and pass it on to future generations.

Domestic legislation of states as a source of international law

As mentioned above, the sources of international private law are regulated by international agreements, conventions and other recognized legal documents, as well as by internal legislation

of the states. Although the law on private international law has not been adopted in Uzbekistan, as in other countries, these relations are regulated by the conflict norms in Section 6 of the Civil Code. But there is a gap in some directions. For example, laws on the legal status of foreign citizens and immunity of the state and its property have not been adopted. Also, the improvement of international private law norms regarding the regulation of labor relations in Uzbekistan remains an urgent issue. The rules of private international law are reflected in the following documents.

A number of provisions of the General Law of the Republic of Uzbekistan - the Constitution refer to international private law norms. For example, articles on recognition of universally recognized international principles and norms of law, norms of international law on human rights and their supremacy.

The law to be applied to civil-legal relations complicated by foreign elements is determined by the Civil Code of the Republic of Uzbekistan and other internal state legislative documents.

Each country has its own private international legal system, which is mainly determined by domestic legislation. The provisions of international private law in domestic legislation are binding for all citizens and legal entities in the country. For this reason, domestic laws are considered as the main source for resolving international legal disputes. Domestic legislation of states includes conflict of laws rules in the field of private international law. These rules determine which country's law applies in the event of international legal disputes. For example, if a person living in one country enters into a contract with a person in another country and disputes arise, the domestic conflict of law rules determine which country's law applies. Domestic legislation allows a state to regulate international relations in accordance with its national interests. In this way, countries contribute to the development of international economic and commercial relations with their internal rules. For example, foreign investors may be given special tax breaks or special benefits.

Importance of custom as a source of private international law

In the absence of legal norms for the regulation of certain international private or public relations, customary rules are applied to them. However, it is required that the application of such customary norms does not contradict the norms, rules, and international agreements stipulated in the generally recognized sources of international law. In order to use customary norms in the regulation of international private relations, this customary norm must have been widely and constantly used and recognized by the international community. Only the customary norms that meet these requirements are recognized as a source of private international law both practically and theoretically. The nature of international custom is expressed in Article 38 of the status of the United Nations International Court of Justice. In this document, which is an integral part of the UN Charter, international custom is described as a rule that has been tested in practice and is generally recognized as a rule of law.

Customs adopted in international judicial practice are applied by the international arbitration court in practice, if its application is specified in the contract, and the dispute arose out of the contract, if the application of the custom in relation to the relevant conflicting legal relationship is directly provided for in the legal norm. if the application of customs is based on an international agreement concluded by the countries that are parties to the dispute. The custom of lex mercatoria is one of the long accepted norms in commercial law. It mainly includes trade rules and practices formed between traders. Merchants mutually accept these customs in trade relations and use them to resolve disputes. Today, international arbitration courts can use customs based on lex mercatoria to resolve disputes. In trade contracts, rules such as payment methods, delivery of goods and compensation for damaged goods are applied as lex mercatoria customs.

Let's take a look at some modern ways to understand these resources and use and develop them.

Development of conflict of laws rules in a uniform format. In private international law, conflict of law rules determine what legal system is used to resolve legal disputes between states. The modern approach involves the harmonization of these rules. In this approach, countries facilitate international trade and commercial relations by harmonizing their laws. For example, the "Rome" regulations adopted in the European Union introduce uniform conflict of law rules among the members, thereby increasing legal certainty in the resolution of disputes.

Transnational legal theory. Modern transnational legal theory is developing in the field of private international law. This approach focuses on transnational (interstate) rules and principles instead of national rights in regulating interstate relations. Transnational legal theory includes principles of lex mercatoria applicable to international commercial law, particularly international contracts, commercial arbitrations, and international companies.

Enrichment of legislation with arbitration practice. Court and arbitration practices are of great importance in the development of international legal norms. International commercial arbitrations, as well as decisions of international courts, form new principles in the international private law system. For example, international arbitration decisions and decisions of the UN International Court of Justice are accepted as a source of private international law and will be used in the future to resolve similar disputes.

Integrate. In modern private international law, the principles of social responsibility of companies, environmental safety and sustainability are taken into account. These principles are reflected in international contracts of companies and increase social responsibility in international legal relations. For example, multinational corporations accept obligations to respect human rights, reduce environmental damage and adhere to sustainable development in their activities.

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