

Table of Contents

The Authors	3
List of Abbreviations	13
General Introduction	17
§1. HISTORICAL DEVELOPMENT	17
§2. INTERNATIONAL AND SUPRANATIONAL LEGAL FRAMEWORK	21
§3. NATURE AND SCOPE	22
§4. CHARACTERISTICS OF CZECH PIL	24
§5. DOMESTIC AUTHORITIES INVOLVED, INTERPRETATION AND APPLICATION OF PIL	25
Part I. General Principles (Choice of Law Technique)	27
Chapter 1. Sources of PIL	27
§1. PUBLIC INTERNATIONAL LAW	27
§2. SUPRANATIONAL LAW	32
§3. NATIONAL LAW	32
§4. CASE LAW	33
§5. DOCTRINE	34
§6. CUSTOMARY LAW	34
Chapter 2. Determination of the Applicable Law	36
§1. CONFLICT OF LAW RULES	36
I. Types of Conflict of Law Rules	36
II. Connecting Factors	37
	5

Table of Contents

III. Time Factors	38
IV. <i>Dépeçage</i>	38
V. Legal Consequences	39
§2. RELEVANT CONTACT AND EVASION OF THE LAW	39
§3. CHOICE OF LAW	40
§4. OBJECTIVE CONNECTING FACTOR	43
I. Principle of the Closest Connection	43
II. Nationality	44
III. Residence	47
A. Domicile	48
B. Habitual Residence (<i>obvyklý pobyt</i>)	48
C. Temporary Residence (<i>přechodný pobyt</i>)	51
IV. Law of the Incorporation and the Registered Office (Seat) of Legal Persons	51
V. <i>Lex loci delicti</i>	52
VI. <i>Lex Rei (Cartae) Sitae</i>	54
§5. CHANGES IN THE CONNECTING FACTORS; CHANGES IN THE LEX CAUSAE	57
§6. COMBINATION OF CONNECTING FACTORS	60
Chapter 3. Basic Terms	63
§1. CHARACTERIZATION (CLASSIFICATION)	63
§2. PRELIMINARY QUESTION	65
§3. SUBSTANCE AND PROCEDURE	66
§4. <i>RENOI</i>	67
§5. GENERAL CHOICE OF LAW RULE/SPECIAL CHOICE OF LAW RULE	68
§6. ASSIMILATION	70
§7. ORDRE PUBLIC (PUBLIC POLICY)	71
§8. OVERRIDING MANDATORY RULES	73
§9. EVASION OF THE LAW	77
§10. REFERENCE TO THE LAW OF STATES WITH MULTIPLE LEGAL ORDERS	78

Part II. Conflict of Law Rules	81
Chapter 1. Persons	81
§1. NATURAL PERSONS	81
I. Name	84
II. Nationality/Habitual Residence/Domicile	84
III. Stateless Persons and Refugees	85
IV. Transsexuals	86
§2. LEGAL PERSONS	86
I. Incorporated Organizations	86
II. Liability	87
III. Cross-Border Transformation	87
Chapter 2. Obligations	89
§1. CONTRACTUAL OBLIGATIONS	89
I. Party Autonomy	89
II. Form	90
III. Validity and Formation	91
IV. Performance	92
V. Breach of Contractual Obligations (Including Damages)	92
VI. Rescission	92
VII. Representation	93
VIII. Interpretation	94
IX. Third Parties and Multiparty Agreements	95
X. Assignment and Subrogation	95
§2. PARTICULAR CONTRACTS	96
I. Sales Contract	96
II. Service Contract	97
III. Consumer Contracts	97
IV. Employment Contracts	98
V. Contracts of Carriage	100
A. Carriage of Persons and Carriage of Goods	100
VI. Insurance Contract	102
VII. IP Contracts	103
A. License Agreement	103
B. Trademark Agreement	104
VIII. Hybrid Contracts	104
A. Leasing	104
B. Factoring	105
C. Franchise	105
D. Publishing Contract	106
IX. Negotiable Instruments	106

Table of Contents

A. Bill of Exchange and heques	106
B. Letters of Credit	108
X. Agency Contracts	108
§3. NON-CONTRACTUAL OBLIGATIONS	109
I. Party Autonomy	110
II. Objective Connection	111
III. Law of Torts	111
A. Lex loci delicti	111
B. Scope of Application	112
C. Damages (Compensation)	112
IV. Unfair Competition	113
V. <i>Negotiorum gestio</i>	113
VI. Unjust Enrichment	114
VII. <i>Culpa in contrahendo</i>	114
VIII. Violations of Privacy and Rights Relating to Personality, Including Defamation	115
Chapter 3. Property	116
§1. <i>LEX REI SITAE</i>	116
§2. MOVABLE PROPERTY	116
I. Collateral	118
II. Goods in Transit	119
III. Cultural Property	119
§3. IMMOVABLE PROPERTY	119
I. Mortgage	120
II. Emissions	120
III. Easements	120
§4. SECURITIES	120
§5. TRUST	122
§6. EXPROPRIATION	123
Chapter 4. Intangible Property Rights	124
§1. RIGHTS OF PERSONALITY	125
I. Applicable Law and Remedies	125
§2. INDUSTRIAL DESIGNS	125

Chapter 5. Family Law	126
§1. STATE LAW: RELIGIOUS LAW	127
§2. MARRIAGE	128
I. Engagement	128
II. Heterosexual Marriage	128
A. Substance and Form	128
III. Same-Sex Marriage	129
IV. Personal Effects of Marriage	129
V. Dissolution	130
A. Annulment	130
B. Divorce	130
C. Legal Separation of Marriage	131
§3. MATRIMONIAL PROPERTY	131
I. Choice of Law Agreement	133
II. Relationship to Succession Law	133
§4. REGISTERED PARTNERSHIP: PARTNERSHIP/CIVIL UNIONS	134
I. Personal Effects	134
II. Dissolution	134
III. Property	135
§5. EXTRA-MARITAL COHABITATION	136
I. Property	136
§6. MAINTENANCE LAW	136
I. Spousal Maintenance	136
II. Partnership Maintenance	138
III. Maintenance of Cohabitees	138
§7. CHILD LAW	138
I. Determination of Parenthood	138
II. Custody and Access Rights	139
III. Guardianship	140
IV. Adoption	141
V. Artificial Insemination, Surrogacy	142
VI. Child Support	143
VII. Child Abduction	144
§8. PROTECTION OF ADULTS	145
Chapter 6. Succession Law	147
§1. <i>LEX SUCCESSIONIS</i>	147

Table of Contents

§2. SCOPE OF APPLICATION	147
§3. TESTAMENTARY DISPOSITION	148
I. Legal Capacity	148
II. Choice of Law	148
III. Compulsory Portion	149
IV. Interpretation	149
V. Last Will	149
A. Formal Validity	149
B. Substantive Validity	150
VI. Legacy	151
A. Formal Validity	151
B. Substantive Validity	151
VII. Testamentary Contract (Agreements As to Succession)	151
A. Formal Validity	151
B. Substantive Validity	152
§4. INHERITANCE AND LIABILITY	152
Part III. Annex: International Civil Procedure	153
Chapter 1. Sources of International Civil Procedure	153
§1. NATIONAL LAW	153
§2. EUROPEAN UNION LAW	153
§3. INTERNATIONAL CONVENTIONS	155
Chapter 2. The Principle of <i>Lex Fori</i>	156
Chapter 3. National Jurisdiction	158
Chapter 4. International Jurisdiction	159
§1. STATUTORY FORUMS	159
§2. CHOICE OF FORUM AGREEMENT	162
§3. PROCEDURAL REQUIREMENTS	163
§4. INTERNATIONAL SERVICE	164
§5. RULES OF EVIDENCE	166
§6. TEMPORARY RELIEF	167

Chapter 5. Acceptability and Enforcement of Foreign Judgments	169
Chapter 6. International Insolvency Law	176
Chapter 7. International Arbitration	179
Selected Bibliography	181
Principal EC/EU Regulations in the field of Private International Law	191
Index	193