

**M. Khrapitskaya**

*IV-th year student*

*specialty «Law»*

*Supervisor: Cand. of Jurid. Sc., Ass. Prof. Ye. Streltsova*

## **THE EU REGULATIONS AS A SOURCE OF PRIVATE INTERNATIONAL LAW**

In today's world, as the majority of states have been participating in integration processes, there inevitably arise conflict of laws situations when it comes to dispute resolutions involving private participants of different countries. This leads to a legal problem, in the doctrine of private international law named a choice of applicable law, specifically the question is: which country's law is to be applied when particular relations are simultaneously connected with different national legal systems [1, p. 50]. As it is known, legal systems and private law of different countries differ on many issues therefore the process of choosing applicable substantive law may pose certain difficulties. This may to some extent be eliminated by conflict of laws rules, albeit not always the desired outcome may be reached. Therefore the international community, both at the global and regional levels, had always been in search of new ways of solving the choice of law problems, eventually having realized effectiveness of the unification of law for these purposes.

In this study we will make an attempt to look at the European Union (hereinafter – EU) sources of private international law, given the European vector of the development of Ukraine, with emphasis on the unifying effect of the EU Regulations in the area of private international law and their effectiveness in terms of the achievement of legal certainty.

Within the existing legislative framework of the EU the Regulations of the European Parliament and of the Council (hereinafter – the EU Regulations) hold a special place due to their specific legal nature: as soon as they enter into force they apply automatically and uniformly to all EU countries (hereinafter – the Member States), as well as are binding in all the components in their entirety [2, p. 22]. The importance of the direct effect of regulations is that there is no need for them to be transposed into national law.

It should be noted that the process of convergence of the legal systems of the Member States in general was conditioned by the creation of a single European market and the necessity to eliminate the barriers that hindered its development [3, p. 39]. Therefore the unification of the EU private international law through the Regulations embraces areas that are most closely related to the single market: contractual and non-contractual obligations, family matters and maintenance obligations, legal separations and divorces; civil procedure. Such instruments as the Regulation on the law applicable to contractual obligations (No. 593/2008 of 17 June 2008, «Rome I»), the Regulation on the law applicable to non-contractual obligations (No. 864/2007 of 11 July 2007 «Rome II»), the Regulation implementing enhanced co-operation in the area of the law applicable to divorce and legal separation (No. 1259/2010 of 20 December 2010 «Rome III»), the Regulation on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (No. 1215/2012 of 20 December 2012 «Recast Brussels Regulation») etc., may serve as an illustration of the coverage of the fairly wide scope of issues by the Regulations. Hence, these instruments distribute jurisdiction between the EU Member States, provide certainty on the applicable law to cross-border legal relationships and guarantee the recognition and enforcement of foreign judgments within the EU [4].

However, not all the issues are covered by the Regulations. This concerns, for example, contractual relations in the area of company law and trusts, agency relations; the infringement of personality rights; in the category of family law – the recognition of marriages, non-marital registered partnerships etc. [5].

In addition to the Regulations other instruments of the EU legal framework as well include private international law provisions. The rules on the basics of the status of individuals and legal entities, labor relations within the European legal field are unified to a greater extent by directives. Some of the areas are governed by international conventions, which the Member States are parties to. In this regard it is worth mentioning a number of Hague Conventions on child abduction; on child protection; on maintenance obligations, etc.

The co-existence of these instruments sometimes leads to duplications of rules, to the conflict of laws situations that may make the application of these instruments more difficult. There are some different approaches to solve this problem, though the analysis thereof is beyond the scope of the study at hand.

In summary, it should be noted that the legal nature of the EU Regulations has made it a highly effective means of unification of private international law within the European Union countries, which also has indirect effect on non-EU countries as its permanent partners, and, in particular, on Ukraine. However, a clear disadvantage of the regulations, as the study has revealed, is its fragmented nature, which significantly complicates the legal regulation of relations with the EU Member States. This fact has led to the long-standing existence of proposals for the adoption within

the EU certain codified mandatory acts, but any completed project has not been submitted so far.

### *References*

1. Міжнародне приватне право : навч. посібник / за ред. В. М. Гайворонського, В. П. Жушмана. Київ : Юрінком Інтер, 2007. 368 с.
2. Право Європейського союзу : підручник / за ред. О. К. Вишнякова. Одеса : Фенікс, 2013. 883 с.
3. Акіменко Ю. Ю. Приватне право Європейського Союзу: проблемні аспекти виокремлення. *Актуальні проблеми захисту права власності* : матер. кругл. столу. Одеса, 2016. С. 37–39.
4. Чевичалова Ж. В. Уніфікація колізійних норм у праві Європейського союзу. URL: <http://dspace.nlu.edu.ua/bitstream/123456789/6062/1/CHevuchalova.pdf> (дата звернення: 01.03.2020).
5. A European Framework for Private International Law : Current Gaps and Future Perspectives : Study / Xandra Kramer, Michiel de Rooij, Vesna Lazić, Richard Blauwhoff, Lisette Frohn. European Union, 2012. URL: [http://www.europarl.europa.eu/RegData/etudes/STUD/2012/462487/IPOL-JURI\\_ET\(2012\)462487\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2012/462487/IPOL-JURI_ET(2012)462487_EN.pdf) (дата звернення: 01.03.2020).