Foreword

Private international law (PIL) has long cultivated a self-image of disciplined modesty. It presents itself as technique: a set of coordinating rules identifying jurisdiction, applicable law, and the recognition and enforcement of foreign judgments, while remaining ostensibly indifferent to the substantive merits of competing legal orders. This self-understanding has always been partly accurate and partly aspirational. The classical ambition of PIL is not to eliminate difference but to manage it by facilitating cross-border commerce and family relations without imposing uniformity. Yet the environment in which PIL operates has changed. Migration, global supply chains, strategic litigation, digitalisation, climate-related harms, regulatory competition, and renewed geopolitical antagonisms increasingly challenge the traditional role of PIL, and call for a renewed assessment of its functions in a globalised and polarised world.

This volume of *Scandinavian Studies in Law* originates in the Nordic Group of Private International Law's (NGPIL) biennial conference held in Stockholm in June 2025 on the theme "The Politicisation of Private International Law." The conference was originally scheduled for 2020, following the previous Oslo conference in 2018. However, the Covid-19 pandemic led to repeated postponements, and when the NGPIL finally convened in 2025, the theme had acquired a new and unforeseen relevance. During the intervening years, global crises followed one another in rapid succession—pandemic, war in Europe and abroad, sanctions regimes, heightened migration and economic disruption—each leaving discernible traces in PIL. What began as a somewhat theoretical topic has gained new practical relevance.

In this volume, scholars from the Nordic countries[1] reflect on the politicisation of PIL from their respective countries, fields of interest and perspectives. While the articles reflect a rich diversity of subject matters, six overarching themes relating to different aspects of the politicisation of PIL emerge. The contributions have therefore been organised into six sections corresponding to these themes.

The first section reflects more generally on the role of *Values, Politics, and Governance* in PIL. *Bogdan* challenges the notion that conflict rules lack social values, by demonstrating with examples from international, European and Swedish PIL, that conflict rules reflect both substantive values (e.g., gender equality) and PIL values (e.g., proximity, foreseeability and the avoidance of

[1] Unfortunately, we were unable to secure a contributor for Iceland.

limping relationships). Competing values however naturally give rise to politics. Drawing on his experience at the Hague Conference on Private International Law, *Hellner* observes that while the politicisation of PIL is legitimate in a democratic and inclusive world, it makes it more difficult to agree on new conventions addressing global challenges. Rounding off the section, *Liukkunen* focuses on method rather than substance, and argues that PIL can play a role in transnational governance by offering methodological techniques for structuring normative plurality and allocating effects across jurisdictions.

Section two collects contributions focusing on *Geopolitics and the Role of Private International Law Exceptions*. As described by *Fogt*, national values tend to undermine the fundamental PIL principle of harmony of results. *Chernykh and Nesvik* continue the discussion, but analyse in particular the relevance of *ordre public* and reciprocity in relation to the economic sanctions regimes that have come to shape and divide not only PIL, but also international business, economics and politics. In the third article of this section, *Linton* deals with overriding mandatory norms. Being also exceptional and serving national interests over PIL interests, Linton advocates a cautious application of national overriding mandatory norms. Another example of geopolitics and PIL is *Arnt Nielsen's* contribution on blocking statutes. Blocking statutes are explicitly enacted to block decisions and legislation in other states. As Arnt Nielsen shows through a comparison of the US and the EU Blocking Regulation, such acts can be formulated differently and have different effects.

In section three, *The Expanding Role of Private International Law*, the authors discuss new regulatory challenges that PIL faces today. Rejecting the artificial divide between public and private international law, *Svantesson* outlines eight reform proposals for PIL in the specific context of cyberspace, while *Lundstedt* questions whether cross-border enforcement of intangible cultural heritage protection should really depend on a formal distinction between private rights and public regulatory measures. *Klinteskog* discusses the politicisation of PIL through climate change litigation to demonstrate the conflict between particularist and universalist conceptions of law and politics, and *Salminen* argues in favour of reconceptualizing concepts such as contract and legal form in the context of global value chains. However, in the context of international insolvency law, *Warberg* shows that the principle of separate legal entities and divergent national insolvency traditions are deeply embedded, with the result that the practical effectiveness of harmonizing the PIL aspects of international insolvency law remains limited.

Section four, *New Global Challenges in Family Law*, continues the discussion, but in the context of migration, human rights and new forms of family. In the first contribution, *Jänterä-Jareborg* shows how Nordic PIL has become increasingly politicised in response to migration-linked family practices (such as underage and polygamous marriages), where "human rights protection" is invoked to justify broad non-recognition rules, resulting in limping statuses that negatively affect women and children. *Vaigė* continues this thread

by arguing that *lex forism* and the categorical non-recognition of status in Swedish private international family law are strained by "affective politics," driven by fear, moral urgency, and crisis-driven legislative responses, thereby undermining the egalitarian foundations of PIL. *Mikkola* and *Aarniva* round off the section by arguing that *ordre public* should be invoked only exceptionally in Finnish PIL, namely where the recognition of foreign polygamous or underage marriages would clearly violate fundamental principles such as the protection of minors and human rights.

The fifth section of this volume contains contributions dealing with the *Politics of Institutional and Procedural Mechanisms*. This section starts with a contribution written by the former Danish Advocate General at the Court of Justice of the European Union *Saugmandsgaard Øe* together with *Wittrup Laursen* and *Rennemo-Korsholm*, on the importance of judicial dialogue between the CJEU and Member State courts in ensuring the correct application of Article 7(1) and 7(2) of the Brussels I bis Regulation, an area in which Member States have adopted markedly divergent approaches. In the subsequent article, *Maunsbach* continues on the role of the Brussels I bis Regulation, but now for intellectual property law and particularly for the relatively recently established Unified Patent Court. Thereafter, three contributions discuss the role for arbitration and private international law. *Steensgaard* first sets the scene with the interplay between the Brussels I bis Regulation and arbitration. Thereafter *Sinander* and *Suhonen* discuss in separate articles issues of arbitration and PIL in Sweden respectively in Finland. Sinander criticizes the Swedish legislator's attempt to make Sweden an attractive seat for arbitration without paying enough respect to the role of EU PIL and Suhonen discusses the proposed changes in the Finnish arbitration act.

The final and sixth section focuses on *The Continued Relevance of Regional, Bilateral and National Solutions*. *Chernykh* opens the discussion by discussing the recent revival of an old reciprocal recognition and enforcement treaty between Norway and the UK after the EU blocked the UK's accession to the Lugano Convention, illustrating how the geopolitics of public international law affects PIL. *Konow* situates the Nordic conventions within their historical context and contrasts them with the more fragmented architecture of EU instruments. Despite the complexity created by the differentiated participation of the Nordic states in the EU, she predicts that the Nordic conventions will likely remain in place due to a strong Nordic sense of shared identity and cooperation. *Cordero-Moss* addresses Norway's ongoing codification of PIL in the field of corporate social responsibility and proposes solutions that broadly align with EU PIL while safeguarding relevant interests and preserving predictability. Lastly, *Tufte-Kristensen* examines Denmark's restrictive approach to recognising non-European judgments and argues that historically entrenched presumptions of non-recognition may no longer correspond to contemporary transnational realities.

As the contributions to this volume demonstrate, politicisation of PIL is both highly topical and important for the global co-existence of diverse ideological, political and legal orders. It is our belief that the perspectives presented in this volume of *Scandinavian Studies of Law* can ignite and inform discussions on the role that PIL should play in the future.

Stockholm, March 2026

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The series *Scandinavian Studies in Law* is published by a non-profit trust. The first volume was presented in 1957 and to date nearly 1,000 articles have been made available in the series. The overall objective of the series is to present Scandinavian law and legal theory to a wide English-language readership.

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