UDC 368.029; 316.42:34

CERIF: S 130

DOI: 10.51204/Anali_PFBU_26205A

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PRINCIPLES OF REINSURANCE CONTRACT LAW – BETWEEN TRADITION AND LEGAL CERTAINTY IN A CHANGING GLOBAL ORDER

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Reinsurance contracts have evolved significantly, transitioning from trust-based 'gentlemen's agreements' to complex legal instruments featuring heightened risk exposure. This transformation is a consequence of the global expansion of the reinsurance market, the influx of new participants, and the increasing significance of reinsurance for financial stability. Reinsurance, however, continues to be unregulated at the national level and is predominantly governed by negotiated terms and established customs. This 'pick-and-mix' contractual approach now generates considerable legal uncertainty, particularly in cross-border transactions.

To address these challenges, this paper examines the development of the Principles of Reinsurance Contract Law (PRICL), a non-binding soft law framework intended to enhance legal certainty. The PRICL drafters focused on prevailing customs systematization and offering clear contractual guidelines, while maintaining party autonomy through this opt-in mechanism. The paper concludes by analysing the legal avenues for PRICL contract incorporation, bearing in mind the constraints imposed by international private law.

Key words: *Reinsurance. – PRICL. – Soft law. – Arbitration. – Opt-in instrument.*

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1. INTRODUCTION*

Historically, reinsurance contracts have been characterized as 'gentlemen's agreements', grounded in mutual trust between parties of equal standing (Heiss 2018, 92).[1] The process of concluding a reinsurance contract typically involves two phases: the initial assumption of risk to cover, which is marked by urgency and efficiency, and the subsequent formal conclusion of the contract, which entails the exchange of extensive documentation.[2] Both phases are conducted under considerable uncertainty, requiring a robust foundation of trust. During these phases, contractual provisions are often amended and supplemented. In previous decades, the practice of refining contractual clauses post-agreement did not present significant challenges, as the parties were generally familiar with one another and accustomed to this approach. Ambiguities were commonly resolved by invoking the principle of good faith and established market practices, even in potentially litigious situations. As noted by Gerathewohl (1976, 458), reinsurance contracts are performed on the basis of higher level of good faith, that also requires taking into account the interest of one another in the case of a dispute. This reliance on contractual solidarity and cooperation provided both parties with a sense of assurance.

Since the late twentieth century, the entry of new market participants into the reinsurance sector has led to a decreased willingness to accept ex post determination of contractual content and a lower tolerance for legal uncertainty in high-value transactions. Additionally, the increasing significance of reinsurance for the stability and sustainability of insurance markets, especially amid more frequent global and catastrophic risks,[3] has rendered traditional practices impractical. In the context of the global

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* This work results from research conducted within the project "Law and Sustainable Development Goals: Part One," carried out in 2026 at the Institute of Comparative Law with financial support from the Ministry of Science, Technological Development and Innovation (Contract No. 451-03-33/2026-03/200049).

1 In a 1990 ruling, the appellate court of the State of New York refers to reinsurance law: 'as a field in which differences have often been settled by handshakes and umpires' (N.Y. App. Div., 75 N.Y.2d 295, Sumitomo Mar. v. Cologne Co).

2 The conclusion of reinsurance contracts is typically more time-consuming than that of other agreements. It is not uncommon for contracts effective from 1 January to be formally executed only several months later, sometimes even after a year.

3 Available data indicate that, over the past decade, reinsurance premiums have increased by as much as 84% (Atlantic Magazine 2025). The OECD also recognizes reinsurance as an instrument for enhancing risk management and mitigating economic disruptions following catastrophic events (OECD 2018).

reinsurance market, it is now considered unacceptable for an institution intended to facilitate risk dispersion and timely claims payment – to become a source of tension and conflict.

Traditional approaches to the formation and continuation of reinsurance contracts, developed largely without reliance on a coherent and codified body of hard law rules, have become a significant source of instability in the modern reinsurance market. Reinsurance agreements, whose contents vary from case to case according to the customs and professional practices selected by the contracting parties, have proven to be an outdated and unsustainable model, frequently giving rise to disputes.

Given the inherently international character of reinsurance transactions, the resolution of such disputes inevitably involves the application of the governing law. This, however, creates a considerable degree of legal uncertainty, as substantial differences among legal systems persist in the interpretation and understanding of the fundamental principles of reinsurance law. As a result, the reinsured party, having sought protection through reinsurance, is often confronted with the reinsurer's refusal to perform its contractual obligations, thereby undermining the efficient functioning of the contemporary reinsurance market. It has therefore become evident that market participants require a more uniform framework of reinsurance contract law, capable of ensuring greater legal certainty and predictability in the legal treatment of reinsurance agreements.

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2. THE LACK OF REINSURANCE CONTRACT REGULATION

The aforementioned issues relating to the conclusion and performance of reinsurance contracts are primarily a consequence of the fact that, although the first reinsurance contract dates back to the fourteenth century (Gerathewohl 1976, 697), reinsurance contract law has not received the same level of attention as insurance contract law.[4] In each case, contracting parties negotiate the terms of reinsurance contracts, as their specific nature

[4] Through comparative legal research, it has been established that specific regulations governing reinsurance contract law exist in Bermuda, England, and the State of New York.

The same largely applies to the institutional (status) aspect of the law in the field of reinsurance, with reinsurers operating almost entirely outside the jurisdiction of supervisory authorities. Reinsurance has been, and remains, a business characterized by self-regulation. This did not pose a significant problem, given the limited number of participants in the reinsurance market, who are familiar with the

renders them unsuitable for the standard terms and conditions of a single party. Instead, international reinsurance markets have developed catalogues of model formulations and clauses from which parties may select provisions for inclusion in their contracts.[5] This 'pick-and-mix' system of contractual regulation remained viable for a long time due to the general principles of reinsurance contract law and the mutual familiarity of the relatively small number of market participants.

Even in jurisdictions with regulatory frameworks for reinsurance, certain aspects remain unregulated, therefore creating legal uncertainty. This, in turn, may result in numerous and costly disputes, often caused by the parties' choice of a governing law that they are insufficiently familiar with, or by uncertainty about the practical consequences of that choice. Also, in most comparative legal systems, rules governing direct insurance are not applicable to reinsurance, despite certain similarities (Noussia 2013, 415–431).

Moreover, reinsurance contract law is not only largely unregulated by national legislation but is also, to some extent, insufficiently understood even by the direct market participants. This is a contract concluded between professionals who have no need to advertise or engage with non-professionals outside their specialized sphere.

These factors demonstrate that the traditional gentlemen's agreement model, which features minimal contractual provisions, is inadequate for the contemporary reinsurance market. The challenge extends beyond pure reliance on general, non-binding principles; evolving market demands and increased regulatory oversight in the (re)insurance sector now impose additional requirements. The European Union's heightened focus on reinsurance undertakings reflects a broader recognition of the sector's societal role. The increased frequency of catastrophic events and recent financial crises have exposed the vulnerability of even large insurance companies and banks. This has underscored that reinsurance and retrocession arrangements are not only mechanisms for risk distribution for insurers[6] but that they also play a critical role in solvency assessment,

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conditions of doing business. In this respect, Serbia is no exception: it was only with the adoption of the Insurance Law in 2004 that reinsurer operations were brought within a statutory framework, influenced by European reinsurance regulations.

5 Examples of standard clauses can be found in publicly available industry repositories, such as the International Underwriting Association Clauses library and the Lloyd's Wordings Repository.

6 In other words, reinsurance is today fully regarded as a loss stabilizer that ultimately benefits the market as a whole, transcending the principle of the 'relativity of contracts' inherent to an individual economic transaction between a specific

directly influencing insurers' reserve requirements (Cerini 2020, 4). Under Directive 2009/138/EC (Solvency II),[7] for instance, reinsurance contracts are recognized as instruments for managing insurers' exposure to insolvency-related risks (Mayo, Heinen 2013, 22; Tošić 2023, 494–495). As a result, reinsurance strategies and coverage are now subject to both quantitative and qualitative regulation, necessitating that contracting parties and supervisory authorities possess comprehensive knowledge of contract content (Solvency II, Art. 29).

The absence of clear statutory provisions governing this contract poses serious challenges for the functioning of these two interconnected and interdependent markets. From the perspective of Solvency II, a lack of transparency of the content of reinsurance contracts – or, more precisely, the presence of contractual rules cloaked in opacity – constitutes a significant operational risk. This is particularly important, given that uncertainty about reinsurance coverage may lead supervisory authorities to impose surcharges or capital add-ons to ensure compliance with Solvency II requirements (Wandt, Gal 2016, 2).

The enhanced supervision under Solvency II has imposed additional requirements for legally secure and economically sustainable reinsurance coverage. The necessity for legal certainty and clarity in contractual provisions and the underlying legal principles has become increasingly evident. Reinsurance contracts not only protect insurers in their business operations but also have significant implications for the ultimate policyholders, despite the absence of a direct contractual relationship between insurance and reinsurance.[8] The focus of both national and European legislators on consumer protection certainly imposes certain tasks for reinsurers.

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insurance company and its reinsurer. While insurance is a private instrument often used by legislators and policymakers to achieve public objectives, the very existence of the insurance market is based on the existence of a well-functioning reinsurance market.

7 Directive 2009/138/EC on the taking-up and pursuit of the business of Insurance and Reinsurance, OJ L 335 of 17/12/2009.

8 Indeed, under European Union legislation, insurance companies seeking authorization to commence operations are required to submit a program of activities to supervisory authorities, which includes a comprehensive risk management framework incorporating reinsurance strategies and coverage arrangements. Furthermore, the Solvency II regime has strengthened the significance of reinsurance within the financial assessment of an insurer's stability, while specific technical provisions continue to be determined at the national level.

3. SOURCES OF LEGAL UNCERTAINTY IN MODERN REINSURANCE MARKET

Generally speaking, and from a comparative law perspective, the contractual dimension of reinsurance legislation is underdeveloped and excluded from the scope of insurance contract law.[9] Furthermore, in certain jurisdictions, the state exercises less control and supervision over the reinsurance sector compared to the insurance sector (Heiss 2018, 97). [10]

Despite reinsurance sometimes being defined as the 'insurance of insurance', substantial differences between these legal transactions preclude the analogous application of rules governing insurance contracts, for several reasons. First, a reinsurance contract is a typical B2B agreement concluded between *commercial entities of equal or comparable economic strength*. The parties possess a similar level of expertise, are well-versed in insurance practice, and are capable of regulating their contractual relationship independently, without reliance on statutory intervention. The contract does not involve a weaker party and therefore does not require the application of protective legal norms. Second, this framework *enables the full realization of the principle of freedom of contract* in this field. Insurers and reinsurers generally prefer to regulate all essential aspects of their relationship contractually.[11] Third, there is a *relative absence of judicial practice* that could serve as a source of legislative insight into issues arising in the conclusion of reinsurance contracts, largely due to the frequent inclusion of arbitration clauses.[12] Fourth, the specific nature of reinsurance as an activity,

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[9] Serbian legislation does not differ in this respect. The Law on Contract and Torts explicitly excludes reinsurance from its scope, alongside marine and credit insurance. This law thus proceeds from the assumption that its provisions in the section, which *ratione materiae* regulates insurance contracts, will not apply to so-called large risks. This reflects a legislative distinction between large-risk (commercial) insurance and consumer insurance, which proved to be a prudent approach of the then socialist legislator (Petrović Tomić, Glintić 2024, 227–230; Glintić 2020, 59–60).

[10] This model is typical of continental European systems, whereas the Anglo-Saxon approach differs, particularly under English law, though Serbia does not fully follow that model.

[11] In contrast to reinsurance, where contractual freedom remains largely unrestricted, direct insurance is subject to significant limitations. Accordingly, it is more accurate to speak of guided or restricted freedom of contract in insurance law (Petrović Tomić 2020, 100–125).

[12] In theory, several reasons are highlighted for the use of arbitration in reinsurance: 1) the international character of arbitration and the difficulties faced by the parties if they do not choose the governing law and competent court, leaving this instead to be determined under the rules of private international law; 2) the

often insufficiently understood even by legislators, has led to the emergence of highly specialized contractual clauses, such as 'back-to-back' coverage clauses or 'follow-the-fortune' and 'follow-the-settlement' clauses.

A separate question is whether the provisions of insurance contract law are applicable by analogy to issues that may arise as contentious in reinsurance contracts. It seems that the answer should, in principle, be negative, with the exception relating to the application of provisions that define core insurance concepts, such as risk or insurance premium, which cannot have a different meaning for the purposes of the validity of a reinsurance contract. In practice, general contract law plays a significant residual role in reinsurance.

The nature of relationships and market conditions in reinsurance does not warrant the type of state intervention typical in insurance contract law; such intervention could, in fact, negatively impact the reinsurance market. In the absence of statutory provisions and direct state involvement, the reinsurance market exhibits *deregulation*, resulting from the multiplicity of non-statutory legal sources governing this contract. The content of reinsurance contract law is thus determined on a case-by-case basis, drawing from established commercial customs, general contract law principles, and professional rules unique to reinsurance. As a result, contracting parties have only limited control over the legal trajectory of their agreements (Hoffman 1997, 74).

The influence of custom within the reinsurance market is such that it functions not only as a formal source of law but also as a supplementary interpretative tool in cases where contractual provisions are ambiguous or unclear. The application of widely accepted and well-known customs helps avoid interpretations that would contradict the parties' intentions.[13] Thus, while reinsurance continues to play a crucial role in enhancing financial security and stability within insurance markets, it operates within a flexible framework, subject to only a limited number of mandatory national provisions. The balance of rights and duties between professional parties is based more on reputation and fairness than on detailed legal rules. Notably,

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multitude of technical terms contained in reinsurance contracts, which can be properly understood and applied only by persons familiar with them, practically meaning arbitrators specialized in reinsurance; 3) the influence of customs and professional rules of the reinsurance industry as sources of law. Parties therefore prefer that their reinsurance disputes to be resolved through the application of trade usages and, more generally, soft law (Turgné 2007, 379–386).

13 Arbitral practice in reinsurance indicates that the choice of governing law may implicitly allow tribunals to apply principles of equity or commercial good faith practice where strict application of the law would produce an unjust result and violation of the parties' interest. This has been particularly emphasized in Anglo-Saxon case law (Turgné 2007, 384–386).

in reinsurance practice, there persists an understanding that parties are not strictly bound by rigid legal norms, but rather that they interpret their agreement as an 'honourable duty', in accordance with established market customs (Gerathewohl 1976, 594). This is particularly evident in the presence of arbitration clauses that require arbitrators to decide disputes based on commercial practices and the parties' intentions, rather than on strict application of positive law (Witthoff 2020, 58).

Nevertheless, excessive reliance on custom and *lex mercatoria* effectively sidelines legislators, resulting in inefficiencies, unfair competition, and increased operational risks. In the absence of written legal sources governing reinsurance, disputes may easily arise between contracting parties regarding the interpretation of the circumstances of a specific case (Thomas 1992, 1548–1597), with outcomes heavily dependent on the parties' respective approaches and intentions.[14] For this reason, parties often seek to avoid formal disputes and instead pursue commercial solutions through amicable settlements, typically grounded in long-term business relationships.

These developments underscore an increasing demand among reinsurance professionals for greater legal certainty (Kuitunen 2020, 47–50). The ongoing influx of new market participants and the evolution of contracting and negotiation models necessitate the creation of clear rules that accurately reflect the unique features of reinsurance contracts (Heiss 2018, 95). The central issue is whether legal certainty can be attained without compromising commercial pragmatism (Witthoff 2020, 58).

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4. DEVELOPMENT OF THE PRINCIPLES OF REINSURANCE CONTRACT LAW

In the twenty-first century, catastrophic and global risks have reached unprecedented levels,[15] exerting significant pressure on the global reinsurance market, regardless of the adequacy of the legal framework. The

[14] Customs and practices are particularly relevant for interpreting reinsurance contracts, especially in cases of ambiguity. Historically, in markets such as Lloyd's, emphasis was placed more on trust and long-term relationships than on precise drafting. The principle of utmost good faith developed from this, which reduces transaction costs and balances the parties' interests, as the reinsurer relies on the fact that the insurer is closer to the risk and would therefore avoid additional costs of assessment and investigation (Witthoff 2020, 60).

[15] Further discussion of key risk factors is available in industry analyses (Allianz Commercial 2026).

frequency of disputes has increased, often in the absence of clear contractual foundations for their resolution, leading to a rise in both amicable and judicial proceedings. Combined with substantial financial pressures on reinsurers, this situation has prompted some to enter *run-off*, a state of operational dormancy restricted to fulfilling obligations from existing contracts. This development reduces their active participation in the global insurance market and intensifies the need for enhanced legal certainty in reinsurance relationships.

The culmination of global environmental and catastrophic risks, together with a shift in the business mentality within the reinsurance sector, which is no longer satisfied by the traditional 'deal now, detail later' approach, necessitated a response from both the professional and academic communities aimed at offering harmonized rules of reinsurance contract law. The idea of harmonized reinsurance law is nearly a century old,[16] but it was revitalized approximately a decade ago at the initiative of representatives of the reinsurance industry (Heiss 2025, 223). One of the most significant outcomes of these efforts is the development of the Principles of Reinsurance Contract Law (PRICL), prepared by the Project Group on Reinsurance Contract Law, led by Helmut Heiss and Manfred Wandt, in cooperation with the International Institute for the Unification of Private Law (UNIDROIT), as a part of UNIDROIT 2017–2019 Work Programme.[17] The PRICL Project Group comprises leading scholars and researchers in insurance and reinsurance law from around the world, as well as practitioners from major insurance and reinsurance companies,[18] thereby signalling clearly that the PRICL do not favour any particular contracting party. After several years of drafting, the finalized PRICL were launched at Lloyd's Old Library in London on 3 November 2025 (Heiss, Wandt 2025).

The principal aim of PRICL is to promote legal certainty in reinsurance (Arnold-Dwyer 2026, 29). This is achieved by offering a coherent, clear, and balanced non-binding codification of rules widely accepted in international reinsurance practice. Beyond this central objective, the PRICL are anticipated to reduce transaction costs and dispute-related expenses arising from the fragmented legal landscape, while also providing broader systemic benefits.

[16] Efforts to harmonize reinsurance law were launched as early as the 1930s under UNIDROIT but were interrupted by the Second World War (Pilotti 1948, 49).

[17] For more on the timeline of the of the PRICL Project, see UNIDROIT 2025.

[18] Just to name a few: Swiss Re, Munich Re, Hannover Re, AXA, Zurich, AIG, Generali Insurance.

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Scholars joined efforts with two principal objectives: to clarify and systematize globally recognized practices and customs associated with reinsurance contracts, and to propose an optional legal instrument governing reinsurance contract.

Systematization of customs: Customs in the reinsurance sector are highly diverse and use varying terminology. As Gerathewohl (1976, 488) points out, the same custom may have a completely different meaning in different markets and is entirely dependent on the conceptual framework within which it is applied. This diversity stems from the fact that national legal systems often serve as interpretative frameworks, even in the context of international customs. The application of different legal rules to identical factual circumstances inevitably creates legal uncertainty, leading to divergent outcomes (Heiss 2020, 6–7). To address this issue, the PRICL include a specific provision stipulating that only those customs expressly agreed upon by the parties, as well as practices established between them are applicable (Article 1.1.4(1)). Traditionally, customs and professional rules have been implicitly assumed as sources of reinsurance contract law. The PRICL depart from this approach, with the clear intention of prioritizing the written provisions of an optional instrument grounded in academic consensus, rather than unwritten customs whose content may be uncertain. Accordingly, binding force is attributed only to those customs explicitly referenced in the contract and to practices established between the specific parties. Parties remain free to invoke any custom, regardless of its consistency with the PRICL, thereby reinforcing legal certainty as a core objective (Heiss, Wandt 2025, 11). Furthermore, with regard to customs not referenced in the contract (either directly or indirectly), the PRICL Introduction expressly provides that only those customs that are well-known and regularly observed in the international reinsurance trade may be considered in contractual interpretation. This demonstrates the ambition of the PRICL's drafters to establish it as a form of *restatement* of reinsurance contract law, offering an alternative to the prior practice of implicit reliance on customs and professional norms.

The opt-in mechanism: Funded jointly by the Swiss SNF, the Austrian FWF, and the German DFG, the PRICL project aimed not merely to reformulate and consolidate existing customs, but also to transform them into an opt-in legal regime governing reinsurance contract, binding only upon contractual incorporation. The provisions of the PRICL are not intended to be mandatory, thereby allowing contracting parties to deviate from them and adapt the framework to their specific needs. This further emphasizes the non-state character of the PRICL. As an optional soft-law instrument, the PRICL

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provide a practical legal framework, enhances legal certainty, and maintains neutrality between the parties. Moreover, their dispositive nature allows for partial application or application with modifications.

4.1. Content of the PRICL

The PRICL propose specific rules in those areas where reinsurance practitioners, in cooperation with the academic community, have identified the greatest need for legal certainty. As a starting point, the PRICL provide a definition of the reinsurance contract (Art. 1.2.1) as a contract 'under which one party, the reinsurer, in consideration of a premium, promises another party, the reinsured, cover against the risk of exposure to insurance or reinsurance claims'.

Central to legal practice is Chapter 2 of the PRICL, which governs the obligations of both parties. In addition to the general obligations set out in Section 1, Section 2 addresses the primary insurer's duty to disclose information prior to the conclusion of the contract, requiring a specific approach tailored to reinsurance. Section 3 of Chapter 2 regulates the obligations of both the primary insurer and the reinsurer during the performance of the contract, including premium payment, contractual documentation, disclosure duties, and the reinsurer's right of inspection. Finally, Section 4 of Chapter 2 deals specifically with obligations arising in the context of claims handling and indemnification. Chapter 3 contains provisions on remedies for breach of obligations. The PRICL prioritize the preservation of the contract as a guiding principle, allowing unilateral termination only under strict and qualified conditions. Chapters 4 and 5 address the allocation and aggregation of losses.

Alongside their normative provisions, the PRICL include comments and illustrations designed to support consistent and practical application. To promote uniform interpretation, the PRICL mandate consideration of their international character and underlying objectives, such as fostering good faith and fair dealing in the reinsurance sector and ensuring consistent application of their rules (Art. 1.1.6(1)). Additionally, PRICL stipulates that matters not expressly addressed are to be governed by the UNIDROIT Principles of International Commercial Contracts (Art. 1.1.2). This reliance enables PRICL to function as an autonomous codification of reinsurance contract law, capable of resolving disputes without recourse to state law.

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4.2. Legal Nature of the PRICL

According to the drafters, the PRICL constitute a uniform, global, non-binding soft law instrument intended to provide the reinsurance industry with a coherent set of contractual rules and to shape reinsurance contract law (Heiss 2020, 1). As emphasized by Heiss (2020, 13) '[t]he PRICL may be classified as soft law as they are designed to have *de facto* rather than a *de lege* impact'. Given their strong commercial orientation, the PRICL may serve as a substantive foundation for the general contract law applicable to reinsurance agreements.[19] Their legitimacy as a soft law instrument derives from its general acceptance, their grounding in a trade code, and their development with the support of the UNIDROIT, which facilitates their dissemination through an intergovernmental framework (Schwarcz 2020, 2477).

The choice of a soft law instrument, rather than a hard law solution, is well justified.[20] Customarily, national statutory sources in the field of reinsurance have not gained practical traction; consequently, a new binding instrument would likely face a similar fate and would not overcome the divergences among national legal systems (Heiss 2018, 105). Likewise, supranational law (e.g. European Union law) is regionally limited and cannot adequately regulate the global reinsurance market. The adoption of an international convention would encounter similar difficulties, as it would require state ratification and would be subject to complex amendment procedures, an impractical solution for a dynamic and highly specialized field (Vogenauer 2015, 8). Reinsurance contract law represents a form of 'living law', continuously evolving and ill-suited to rigid codification through state-based legal sources.

Moreover, the PRICL are conceived as a global soft law instrument not anchored in any particular legal system, but rather as an expression of existing market practices. According to the classification proposed by Jürgen Basedow, the PRICL may be understood as an instance of 'soft unification', given that

[19] These frameworks have been subject to repeated revision in response to changing market conditions.

[20] The PRICL exhibit the defining features of soft law, combining a degree of formalization with an orientation toward influencing behaviour (Terpan 2023, 56).

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they constitute a sector-specific model developed by non-governmental actors, whose principles are not binding on states or private parties unless the latter choose to incorporate them into their reinsurance contracts.[21]

The PRICL represent the first opportunity for a transnational legal framework in reinsurance. As a soft law instrument, they enable parties to autonomously establish the rules governing their relationships, thereby enhancing both legal certainty and conceptual clarity (Witthoff 2020, 63). While their non-binding nature has attracted criticism, the PRICL's adaptability and capacity for evolution through practice are significant advantages. Consequently, the PRICL have strong potential for widespread acceptance within the global reinsurance industry and for advancing the harmonization of contract law.

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4.3. Incorporation of the PRICL into Reinsurance Contracts

Taking into account the legal nature of the PRICL as a form of non-binding soft law, the authors identified two possible ways in which this source of law may become incorporated into a reinsurance contract.

According to Article 1.1.1, the PRICL apply to reinsurance contracts when the parties have expressly agreed to their application. Although uniform legal instruments often encounter resistance, stemming from party reluctance, inertia, or apprehension toward unfamiliar frameworks (Goode 2018), the PRICL are more readily accepted because they are grounded in established market practices.

The PRICL may be incorporated into reinsurance contracts in two principal ways (Art. 1.1.1):

Option 1: The PRICL as the governing law: They PRICL may be chosen as an equivalent to domestic applicable law, effectively replacing the default national law that would otherwise govern the contract in the absence of a choice-of-law clause. This substitution would be comprehensive, extending even to non-derogable provisions from which parties could not contract out under the default law (Čolović 2022, 349). However, they would not displace overriding mandatory rules, whether of national, international, or supranational origin (Art. 1.1.5).

[21] In his posthumously published work *Uniform Law*, Basedow (2024, 169–176) distinguishes between different prototypes of (hard and soft) law, aimed at creating common rules: intergovernmental unification, supranational unification, private unification, soft unification, and hybrid forms.

Option 2: The PRICL as contractual terms: Alternatively, the PRICL may be incorporated as contractual provisions.[22] In this scenario, the reinsurance contract remains governed by the national law chosen by the parties (or the applicable default law in the absence of choice), while the PRICL operate as a set of contractual clauses. They fill gaps left by the applicable law and replaces default (non-mandatory) rules, but not mandatory provisions. In such cases, the scope of the PRICL is more limited, as the contract will be interpreted in accordance with the chosen legal system's interpretative principles. This effectively subordinates the PRICL to the selected governing law, ensuring that at least one state's public policy considerations remain present through the applicable law (Mills 2019, 496–499).

The PRICL do not rely on the implementation into national legal systems but instead on their opt-in nature, allowing parties to select them either as the applicable law or as contractual terms. Their binding force is therefore contingent upon the mutual agreement of the contracting parties, while their enforcement depends on contractual mechanisms and remedies available under the *lex fori* or applicable arbitration rules (Arnold-Dwyer 2026, 12).

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5. PRICL – A RELIABLE PATH TO LEGAL CERTAINTY?

Since the choice of the PRICL does not constitute a choice of law in the strict sense within the meaning of Articles 3 and 7 of the Rome I Regulation,[23] it is necessary to examine the extent to which this form of non-state law is capable of providing the degree of legal certainty increasingly demanded by participants in the contemporary reinsurance market. Owing to their legal nature, the PRICL are more appropriately understood as a mechanism for modifying the content of the applicable national law with respect to matters governed by the PRICL, an approach that corresponds to the predominantly non-mandatory character of reinsurance contract rules in domestic legal systems (Wandt, Gal 2016). At the same time, the limitations imposed by the rules of private international law define the framework within which the PRICL may operate, thereby necessitating a more detailed analysis of their scope and practical effects.

[22] Recital 13 of the Rome I Regulation clarifies that this Regulation does not prevent the contracting parties from incorporating into their contract provisions of non-state law or an international convention.

[23] Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I), OJ L 177.

5.1. PRICL Limits Before the National Courts

Under most systems of private international law, parties may choose the law of a particular state as the governing law, but not non-state law. For instance, Recital 13 of the Rome I Regulation provides that parties may incorporate non-state rules into their contract, but such incorporation does not constitute a valid choice of governing law. Instead, the chosen state law continues to govern the contract, and its mandatory provisions prevail over conflicting non-state rules (Heiss 2016, 490–576).

An apparent exception is found in the Hague Principles on Choice of Law in International Commercial Contracts, which seem to allow parties to select non-state law as the governing law (Michaels 2014, 44). Article 3 provides that the chosen law may consist of 'rules of law that are generally accepted on an international, supranational or regional level as a neutral and balanced set of rules'. However, a closer reading reveals that such a choice is effective only to the extent permitted by the law of the forum (*lex fori*). Since many legal systems do not recognize such choices, this formulation ultimately operates as a limitation rather than a full endorsement.

Consequently, courts in most jurisdictions will not accept the PRICL as the governing law of a reinsurance contract. For disputes resolved before national courts, the PRICL will have practical relevance only under Option 2, i.e. where their provisions are incorporated into the contract, subject to the applicable national law and its mandatory rules.[24] Given the predominantly international nature of reinsurance contracts, the applicable law is typically determined under the Rome I. Under Article 3, parties are free to choose the governing law, provided that their choice is clearly expressed or demonstrated with reasonable certainty.[25] In the absence of such a choice, the default law is determined under Article 4(1), which sets out standard rules for specific types of contracts.[26] The courts may also consider Article

[24] Given the limited number of mandatory rules in reinsurance law, incorporating instruments such as the PRICL can have significant practical implications.

[25] In accordance with Article 7 of the Rome I Regulation, which contains mandatory provisions on the choice of law in insurance contracts, these rules do not apply to reinsurance contracts. However, case law diverges on whether the law governing the underlying insurance contract affects the reinsurance contract (Arnold-Dwyer 2026, 5).

[26] Since reinsurance can be regarded as a contract for the provision of financial services, under Article 4(1) of the Rome I Regulation the governing law should, in principle, be the law of the country where the service provider has its habitual residence. Pursuant to Article 4(2), the default governing law is the law of the country in which the party required to affect the characteristic performance has its

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4(3), which provides that where it is clear from all the circumstances that the contract is manifestly more closely connected with a country other than that of the habitual residence of the reinsurer, the law of that other country shall apply. In the absence of a choice of law, alternatives may include the law of the country where the risk is located or the law governing the underlying insurance contract.

In light of the limitations arising from the rules of private international law, it should be emphasized that the PRICL are unlikely to make a significant contribution to legal certainty in disputes arising out of reinsurance contracts adjudicated before national courts. In such cases, reinsurance agreements remain confined within the traditional framework of national law, which, as previously demonstrated, proves inadequate and insufficient in the field of reinsurance contract law. Accordingly, it may be concluded that, in reinsurance contracts containing a foreign element and subject to the jurisdiction of national courts, the practical reach of the PRICL remains rather limited. Consequently, their ability to ensure more predictable and legally certain outcomes in such disputes is significantly constrained. Neither formal nor substantive aspect of legal certainty can be met in judicial proceedings since the randomness accompanies decision making process that is based on rules that are not substantially right (Raitio 2023, 397) due to a lack of legal norms on the matter and different approaches to their interpretation.

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habitual residence at the time of the conclusion of the contract, i.e. in this context, the seat of the reinsurer. Under Article 19(1) of the Rome I Regulation, the reinsurer is deemed to have its habitual residence at the place of its central administration, which is considered the place where it has its seat, unless the contract was concluded through a branch, agency, or other establishment, in which case the law of the country where that establishment is located will apply.

However, the 'characteristic performance' approach in Article 4(2), which determines the governing law by reference to the habitual residence of the reinsurer, is by no means self-evident when the actual obligation to pay money by the reinsured (payment of the premium) is counterbalanced by the reinsurer's obligation to pay contingent sums (indemnity payments in the event of an insured loss). The application of Article 4(2) may also give rise to practical difficulties where a risk is reinsured by multiple reinsurers, potentially resulting in the multiplicity of governing laws and marginalizing the key process of risk placement by brokers in a particular reinsurance market connected to a specific domestic law (Merkin 2009, 74–75)

5.2 PRICL Effect in Arbitration Proceedings

Reinsurance contracts typically include arbitration clauses, creating substantial scope for selecting the PRICL as the governing law. Unlike court proceedings, arbitral rules generally permit the choice of non-state law, as instruments such as the Rome I do not apply to arbitration. The acceptance of party autonomy in this regard stems from the contractual nature of arbitral authority, which is inherently bound by the parties' agreement concerning the governing substantive law. It is widely accepted, and confirmed by arbitral practice, that arbitral tribunals will give effect to the parties' choice of non-state law governing the merits of the dispute (Blackaby *et al*. 2009, 3.212–3.215).

Article 28(1) of the UNCITRAL Model Law on International Commercial Arbitration explicitly provides that 'the arbitral tribunal shall decide the dispute in accordance with such rules of law as are chosen by the parties as applicable to the substance of the dispute'.[27] The significance of this Model Law should not be underestimated, as it has influenced numerous legislative reforms worldwide.[28] Through such a choice, parties may exclude not only national rules specific to reinsurance but also general principles governing contract formation, remedies, damages, interest, and limitation periods, thereby allowing the application of the PRICL. To facilitate this, the PRICL are accompanied by a set of model clauses enabling parties to designate it as the governing law. When combined with an arbitration agreement, the PRICL may effectively function as the applicable legal framework for the contract. In such cases, no national law, including its mandatory provisions, will govern the contract (Heiss 2018, 111), except for overriding mandatory rules of national, international, or supranational origin (Art. 1.1.5).

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[27] Paragraph 39 of the Explanatory Note by the UNCITRAL Secretariat to the 1985 Model Law (as amended in 2006) further clarifies that the use of the term 'rules of law', rather than 'law', broadens the range of choices available to the parties in determining the applicable law. For example, the parties may choose rules of law developed at the international level but not yet incorporated into national legal systems (UNICTRAL 2008).

[28] In Germany, for example, the solution from the UNCITRAL Model Law on International Commercial Arbitration has been adopted without modification, in § 1051(1) of the German Code of Civil Procedure. Similarly, the UNIDROIT has prepared model clauses to facilitate the application of the UNIDROIT Principles of International Commercial Contracts. In fact, legislation based on or influenced by the Model Law is now in force in 93 states, across a total of 126 jurisdictions (UNCITRAL n.d).

Beyond this inherent limitation, there is ongoing debate regarding the extent to which arbitral tribunals are obliged to apply mandatory rules as a matter of legal duty, or merely as a pragmatic measure to avoid challenges to the award or difficulties in enforcement (Kleinheisterkamp 2018, 903). Arbitrators are not bound by the conditions governing the application of overriding mandatory provisions under Article 9 of Rome I, but they are limited to applying the law or rules chosen by the parties.

With respect to issues falling outside the scope of the PRICL (so-called external gaps), which cannot be resolved through the UNIDROIT Principles of International Commercial Contracts, arbitral tribunals may resort to the otherwise governing law. It should also be noted that arbitrators in reinsurance disputes are often industry practitioners rather than legal professionals, leading to a perception that tribunals may decide cases based on considerations of fairness and market practice (Arnold-Dwyer 2026, 19). However, this does not necessarily conflict with PRICL, which itself recognizes the role of established customs and practices between the parties or within the reinsurance market (Art. 1.1.4 (1) and (2)). Moreover, parties may include an 'equity clause', empowering the tribunal to depart from strict legal rules, raising the question of the extent to which tribunals may deviate from the PRICL themselves.

What is the significance of the possibilities outlined above for incorporating the PRICL as the governing law in reinsurance contracts containing an arbitration clause? Their importance lies primarily in the fact that reinsurers have a strong interest in promoting arbitration as a mechanism for dispute resolution in order to avoid the jurisdiction of state courts and the application of domestic law. In this way, they seek to avoid the adverse effects of judicial and legislative unpredictability, phenomena that inevitably accompany the resolution of reinsurance disputes before national courts. That being said, it is evident that most of the disputes from reinsurance contracts will end up in front of arbitrators, leaving contracting parties the possibility to choose the PRICL as the governing law for their contract, giving them a certainty about both the content of their contract and possible outcome of their dispute.

6. THE ALEATORY NATURE OF REINSURANCE DISPUTES – AN OPPORTUNITY FOR THE PRICL

Advocacy for the PRICL is most readily understood through the concept of *judicial aleatoricism.* In essence, this refers to the uncertainty surrounding both the outcome and duration of judicial proceedings concerning

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reinsurance disputes. Within those areas of the regulatory framework that are not governed by mandatory rules, reinsurers have developed a distinct body of norms through professional associations and established industry practice. Consequently, recourse to state courts entails a considerable risk that judicial decisions may depart from such practices, thereby adversely affecting the interests of market participants. For these reasons, litigation before national courts generates a level of legal uncertainty, which the reinsurance industry generally seeks to avoid.

Judicial aleatoricism negatively affects the overall perception of reinsurance and undermines the mutual trust that once defined these transactions as gentlemen's agreements (Schulz, Beauchard 2014, 1149). Consequently, reinsurers increasingly turn to alternative dispute resolution (ADR) mechanisms, thereby reducing such uncertainty. As expressed in French legal doctrine, what is required is 'justice tailored to measure' (*justice sur mesure*), meaning a reasonable degree of predictability in outcomes, lower procedural costs, and resolution within a reasonable timeframe, rather than exposure to unpredictable judgments that may adversely affect the interests of the profession. Once a reinsurance dispute reaches the courts, the proceedings effectively become a 'lottery' for the reinsurer. The reason lies in the profound uncertainty surrounding the outcome of judicial proceedings, to the extent that the term *judicial aleatoricism* is entirely justified. Reinsurers, through their legal teams, attempt to manage the risks associated with litigation by estimating the potential costs and duration of proceedings, should alternative dispute resolution mechanisms prove unsuccessful.

However, the factor over which they exercise the least control is precisely the outcome of the litigation itself, despite the fact that their lawyers continuously monitor developments in case law. In addition to fluctuations in judicial practice and the influence of higher courts, effective litigation risk management is further undermined by the conduct of insured parties, who are often guided by extra-legal considerations, such as a pronounced litigation-oriented mentality.

The use of ADR methods provides an additional advantage: avoiding *legislative aleatoricism*. Reinsurers are often dissatisfied with state law and therefore, tend to empower arbitrators to resolve disputes by applying industry practices or forms of *lex mercatoria*.[29] It is also common to agree

[29] The term *lex mercatoria* generally denotes the law of merchants. It refers to a body of principles and rules applied in specific areas of commerce, with which traders operating in those sectors are familiar. *Lex mercatoria* includes the following legal principles: the principle of good faith and fair dealing in the performance of

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on the application of the principles of equity,[30] allowing deviation from national state laws, without undermining the core interests of the insurance profession. Arbitrators are thus entrusted with resolving disputes based on their expertise in insurance practices, principles of good faith, and the underlying purpose of the contract, rather than through purely literal statutory interpretation (Turgné 2007, 99). Of particular importance to reinsurers is the fact that the application of equitable principles does not confer authority to reformulate or interpret contractual clauses contrary to the interests and established practices of the insurance industry. On the contrary, the primary objective is to avoid the application of state law, which is often perceived as rigid and insufficiently responsive to the specific needs and commercial realities of the insurance sector. When combined with the possibility of applying the so-called 'autonomous law of insurers' (contained in codes, recommendations, and acts adopted by professional associations or arbitral institutions affiliated with them), ADR significantly reduces legislative uncertainty. Reinsurance represents a paradigmatic example in this respect.

By agreeing to arbitration or other forms of ADR, parties exclude the jurisdiction of state courts and the application of substantive law derived from *lex fori*.[31]

There is a clear preference among reinsurers to avoid the development of adverse judicial precedents, particularly where such precedents might conflict with established market customs, some of which have been codified

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contracts; the binding force of contracts; the principle of releasing the debtor from the duty to perform due to force majeure; the principle of full damage compensation; and the nullity of contracts due to defects of consent. These are rules that also derive from state law, but their application is more flexible when combined with trade usages and the practices of the insurance industry. For example, the principle of good faith and fair dealing has traditionally played a greater role in the field of insurance and reinsurance than in contract law in general. This is also reflected in dispute resolution practice, which would not necessarily be the case if the dispute were brought before a court (Turgné 2007, 94–103).

30 Arbitration facilitates the application of such principles, as tribunals may decide disputes based on equity rather than strict legal rules. In legal theory, it is rightly emphasized that the purpose of granting such authority to arbitrators is to shift the focus away from the applicable law toward a more detailed and precise determination of the facts (Jovanović 2021, 387).

31 In the commercial context, several significant reasons justify the inclusion of arbitration agreements. Among them is the absence of a universally accepted framework for international jurisdiction in private law disputes, which creates a real risk of litigation before U.S. courts, with the attendant 'Americanisation' of damages awards and increased legal protection costs. ADR thus functions as a safeguard of professional interests (Turgné 2007, 76–81).

within PRICL. In this context, even though certain norms are frequently characterised in practice as international or transnational in nature, their implementation and interpretation continue to be anchored in domestic legal systems, which consequently results in variations in their substantive meaning. When identical international rules are interpreted and applied by legal professionals operating within different jurisdictions and legal traditions, inconsistencies in their practical application are unavoidable (Arnold-Dwyer 2025, 9). By opting-in for the PRICL, the parties to a contract are able to form more predictable expectations in the event of a dispute resolved by arbitral tribunals applying uniform, practice-oriented rules (Basedow 2024, 195). The stability and coherence of the rules contained within the PRICL, regarded as essential values for actors in the reinsurance market, become particularly evident when contrasted with the divergent interpretations of broadly accepted principles across various national legal systems.[32]

7. CONCLUSION

Reinsurance contract law has traditionally evolved outside the framework of comprehensive statutory regulation, relying instead on commercial customs, market practices, and the principle of contractual autonomy. Although such flexibility historically reflected the professional, trust-based character of the reinsurance market, contemporary developments have revealed the structural limitations of this model. In recent decades, reinsurance has increasingly been subject to processes of *juridification,* understood as the growing influence of courts and formal legal sources not only on the resolution of disputes, but also on the drafting and interpretation of contractual provisions themselves. As a consequence, the significance of applicable national legal systems has expanded considerably, resulting in divergent interpretations of identical reinsurance rules by national courts

[32] The effects of applying different rules can be most clearly illustrated by reference to the well-known 'follow-the-settlements' clause. According to German legal scholars, the application of this clause is derived from international reinsurance custom and practice, and may therefore operate even in the absence of an express reference in reinsurance contracts or policy terms. In the United States, judicial approaches are divided on this issue. While some courts treat the application of the 'follow-the-settlements' clause as an implied term of reinsurance contracts, others do not recognise it unless it has been expressly agreed upon by the parties. Finally, in English law, the clause is treated in the same manner as other contractual provisions: it is enforceable only where it has been explicitly incorporated into the contract (Klein 2025, 293–309).

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and contracting parties alike. Furthermore, the application of different domestic laws across jurisdictions has produced inconsistent legal outcomes, thereby introducing an additional layer of uncertainty into reinsurance transactions. At the same time, contractual drafting in reinsurance has become progressively more complex, with clauses often extending over several pages. This development has gradually deprived contracting parties of meaningful control over the legal framework governing their contractual relationships (Hoffman 1997, 74). The proliferation of highly technical and sophisticated contractual provisions has, in turn, generated substantial interpretative difficulties regarding both their scope and legal effect, ultimately increasing the burden placed upon national courts.

An additional source of uncertainty stems from the traditional characterization of reinsurance contracts as gentlemen's agreements founded upon the principle of utmost good faith, a concept originally intended to prevent disputes within reinsurance relationships. As a result, a genuine litigation culture historically remained less developed in reinsurance than in direct insurance (Hagopian 2001, 266). In this context, arbitration gradually emerged as the preferred mechanism for dispute resolution between reinsurers and reinsured parties, serving not only the interests of the reinsurance industry and its clients, but also those of national courts, which have become increasingly burdened with technically complex disputes in a field with which they are often insufficiently familiar.

Given that international arbitration remains the predominant dispute resolution mechanism in reinsurance practice, and considering that arbitral tribunals generally permit parties to designate non-state rules as the governing law of the contract, the practical significance of the PRICL becomes particularly evident within arbitral proceedings. Arbitration thus provides a unique opportunity for the PRICL to function not merely as contractual terms, but as an autonomous substantive framework governing the reinsurance relationship in its entirety. In contracts containing arbitration clauses, the PRICL therefore possess the capacity to overcome the fragmentation and unpredictability inherent in domestic legal systems and the divergent approaches adopted by national courts.

The quality of the PRICL and their close alignment with established business practice are expected to play a central role in strengthening legal certainty by shielding contracting parties from the influence of differing national and regional approaches to the interpretation of customs and professional practices. In this regard, the PRICL contain a specific provision stipulating that only those customs expressly agreed upon by the parties, together with practices established between them, shall apply (Art. 1.1.4(1)), thereby departing from a long-standing tradition within the reinsurance

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market. The PRICL deliberately prioritize the written provisions of this optional instrument over unwritten customs and usages whose content and scope may remain uncertain, which is supported by broad academic and professional consensus. Consequently, binding force is attributed exclusively to customs expressly incorporated into the contract, as well as to practices established between the specific parties themselves. This allows parties to rely on any custom, irrespective of its consistency with the PRICL (Comment 17). Such an approach reflects the broader objective of establishing legal certainty as one of the core values underlying the PRICL.

Moreover, with regard to customs not expressly referred to in the contract, whether directly or indirectly, the PRICL expressly provide that only those customs 'well known and accepted by reinsurance contracting parties' may be taken into account in contractual interpretation. This clearly indicates that the drafters of the PRICL aim to position this optional instrument as a restatement of reinsurance contract law and, as such, as an alternative to the traditional practice of implicit reliance on reinsurance customs and usages, with the broader ambition of contributing to the development of a common legal culture in modern commercial law (Heiss 2018, 104).

Against this background, the PRICL represent a significant step toward the harmonization and modernization of reinsurance contract law. By systematizing internationally recognized customs and professional practices into a coherent, balanced, and transnational set of rules, the PRICL provide the market with a neutral and practice-oriented legal framework capable of reducing interpretative divergences and transactional uncertainty arising from the coexistence of multiple governing laws, uncodified customs, and inconsistent judicial interpretations. This contributes directly to legal certainty by enabling more foreseeable contractual outcomes, more consistent interpretation of reinsurance clauses, and more predictable arbitral awards, which finally eliminates both judicial and legislative aleatoricism – phenomena that have historically undermined confidence in dispute resolution involving reinsurance contracts.

REFRACTED

REFERENCES

[1] Allianz Commercial. 2026. *Allianz Risk Barometer Identifying the major business risks for 2026*. Munich: Allianz. *https://commercial.allianz.com/news-and-insights/reports/allianz-risk-barometer.html*, last visited April 27, 2026.

[2] Arnold-Dwyer, Franziska. 14/2025. PRICL and English Reinsurance Contract Law. *Faculty of Laws University College London Law Research Paper* 2025: 1–11.

[3] Arnold-Dwyer, Franziska. 2/2026. PRICL and the Long Shadows of Domestic Laws and Linked Contracts: Is Soft Law Effective? *Faculty of Laws University College London Law Research Paper* 2026: 1–35.

[4] Atlantic Magazine. 2025. Global reinsurance market: special renewal 2026. *Atlantic Magazine*, December 26. *https://www.atlas-mag.net/en/articles/global-reinsurance-market*, last visited April 15, 2026.

[5] Basedow, Jürgen. 2024. *Uniform Law*. Tübingen: Mohr Siebeck.

[6] Blackaby, Nigel, Constantine Partasides, Alan Redfern, Martin Hunter. 2009. *Redfern and Hunter on International Arbitration*. 5th ed. Oxford: Oxford University Press.

[7] Cerini, Diana. 1/2020. Duties and remedies in the Principles of International Commercial Contracts (PICC) and the Principles of Reinsurance Contract Law: notes for a comparison. *Uniform Law Review* 25: 21–44.

[8] Čolović, Vladimir. 3/2022. Norme neposredne primene i javni poredak. *Strani pravni život* 66: 349–366.

[9] Gerathewohl, Klaus. 1976. *Rückversicherung, Grundlagen und Praxis*, Band 1. Karlsruhe: Verlag Versicherungswirtshaft.

[10] Glintić, Mirjana. 3/2020. Zaštita prava slabije ugovorne strane u skladu sa Principima ugovornog prava osiguranja. *Strani pravni život* 64: 57–73.

[11] Goode, Roy. 2018. *The Development of Transnational Commercial Law: Policies and Problems*. Oxford: Oxford University Press.

[12] Hagopian, Mikaël. 2/2001. Quo vadis réassurance?. *Revista General de Derecho Administrativo*: 253–267.

RETRACTED

[13] Heiss, Helmut. 2016. Article 7: Insurance Contracts. 490–576 in *European Commentaries on Private International Law: Rome I Regulation – Commentary*, vol. 2, edited by Ulrich Magnus and Peter Mankowski. Köln: Otto Schmidt.

[14] Heiss, Helmut. 2018. From Contract Certainty to Legal Certainty for Reinsurance Transactions: The Principles of Reinsurance Contract Law (PRICL). *Scandinavian Studies in Law* 64: 91–114.

[15] Heiss, Helmut. 1/2020. The Principles of Reinsurance Contract Law: an optional instrument of transnational reinsurance law. *Uniform Law Review* 25: 4–20.

[16] Heiss, Helmut. 2025. The Principles of Reinsurance Contract Law (PRICL): A Fruit from the Tree of the PICC. 223–244 in *Thirty Years of the UNIDROIT Principles of International Commercial Contracts: Past, Present and Future*. Rome: UNIDROIT.

[17] Heiss, Helmut, Wandt, Manfred (eds.). 2025. *Principles of Reinsurance Contract Law 2025 (PRICL 2025)*. Rome: UNIDROIT.

[18] Hoffman, William. 1997. On the use and abuse of custom and usage in reinsurance contracts. *Tort and Insurance Law Journal* 33: 1–80.

[19] Jovanović, Marko. 2021. Odlučivanje po pravičnosti u novijoj praksi Spoljnotrgovinske/Stalne arbitraže pri Privrednoj komori Srbije. 383–400 in *Liber amicorum u čast profesora Mirka Vasiljevića*, edited by Dušan Popović. Belgrade: Pravni fakultet u Beogradu.

[20] Klein, Stephan. 2025. Folgepflicht und Schicksalsteilung in der Geschäftsbeziehung zwischen Erst- und Rückversicherer – Einschränkungen bei Fehlen eines state-of-the-art Compliance Management Systems. 293–309 in *Versicherungsrecht, Haftungs- und Schadensrecht. Festschrift für Manfred Wandt zum 70. Geburtstag*, edited by Michael Sonnentag, Jens Gal, Peter Reusch. Berlin: Springer.

[21] Kleinheisterkamp, Jan. 4/2018. Overriding Mandatory Laws in International Arbitration. *International and Comparative Law Quarterly* 67: 903–930.

[22] Kuitunen, Lari. 1/2020. Principles of Reinsurance Contract Law Project: enhancing the value of reinsurance cover – viewpoint of an industry practitioner. *Uniform Law Review* 25: 45–56.

[23] Mayo, Oscar, Benedikt Heinen. 32/2013. Reinsurance as a capital management tool under Solvency II. *Actuarios*: 21–25.

RETRACTED

[24] Merkin, Rob. 1/2009. The Rome I Regulation and Reinsurance. *Journal of Private International Law* 5: 69–84.

[25] Michaels, Ralf. 2014. Non-State Law in the Hague Principles on Choice of Law in International Contracts. 43–69 in *Varieties of European Economic Law and Regulation: Liber Amicorum for Hans Micklitz,* edited by Kai Purnhagen, Peter Rott. Berlin: Springer.

[26] Mills, Alex. 2019. *Party Autonomy in Private International Law*. Cambridge: Cambridge University Press.

[27] Noussia, Kyriaki. 2013. *Reinsurance Arbitration*. Berlin: Springer.

[28] OECD. 2018. *The Contribution of Reinsurance Markets to Managing Catastrophe Risk*. Paris: OECD Publishing. *https://www.oecd.org/en/publications/the-contribution-of-reinsurance-markets-to-managing-catastrophe-risk_42497106-en*, last visited May 24, 2026.

[29] Petrović Tomić, Nataša. 1/2020. O ograničenoj I usmerenoj slobodi ugovaranja u ugovornom pravu osiguranja: fenomen „pokoravanja" ugovora o osiguranju. *Annals of the Faculty of Law in Belgrade* 68: 100–125.

[30] Petrović Tomić, Nataša, Glintić, Mirjana. 2/2024. The Hybridization of the Regulatory Framework of Insurance Contract Law: Elements of a New Setting. *Annals of the Faculty of Law in Belgrade*: 223–250.

[31] Pilotti, Massimo. 1948. *Activity of the International Institute for the Unification of Private Law 1926–1946.* Rome: UNIDROIT.

[32] Raitio, Juha. 2023. Legal Certainty. 397–402 in *Encyclopedia of the Philosophy of Law and Social Philosophy*, edited by Mortimer Sellers, Stephan Kirste. Dordrecht: Springer.

[33] Schulz, Romain, Beauchard, Jean. 2014. La procedure. *Traité de droit des assurance, Le contrat d'assurance*, Vol 3. 2nd ed. Paris: L. G. D. J.

[34] Schwarcz, Steven. 2020. Soft Law as Governing Law. *Minnesota Law Review* 104: 2471–2514.

[35] Terpan, Fabian. 2023. The Definition of Soft Law. 43–55 in *Research Handbook on Soft Law*, edited by Mariolina Eliantonio, Ulrika Mörth, Korkea-aho Emilia. Camberley: Edward Elgar.

[36] Thomas, Steven. 1992. Utmost Good Faith in Reinsurance: A Tradition in Need of Adjustment. *Duke Law Journal* 41: 1548–1597.

RETRACTED

[37] Tošić, Iva. 3/2023. Odnos funkcije praćenja usklađenosti poslovanja i pravnog odeljenja osiguravajućeg društva u svetlu odredaba Direktive Solventnost II. *Strani pravni život* 67: 491–505.

[38] Turgné, Franc. 2007. *L'arbitrage en matière d'assurance et de réassurance*. Paris: Economica.

[39] UNCITRAL. 2008. *UNCITRAL Model Law on International Commercial Arbitration 1985 with amendments as adopted in 2006*. Vienna: United Nations.

[40] UNCITRAL. n.d. Status: UNCITRAL Model Law on International Commercial Arbitration (1985), with amendments as adopted in 2006. *https://uncitral.un.org/en/texts/arbitration/modellaw/commercial_arbitration/status*, last visited April 14, 2026.

[41] UNIDROIT. 2025. Item No. 5 on the agenda: Draft Instruments, (d) Principles of Reinsurance Contracts: Authorisation to proceed with publication, C.D. (105) 8. *https://www.unidroit.org/wp-content/uploads/2025/04/C.D.-105-8-Principles-of-Reinsurance-Contracts.pdf*, last visited May 20, 2026.

[42] Vogenauer, Stefan. 2015. Introduction. 1–55 in *Commentary on the UNIDROIT Principles of International Commercial Contracts (PICC)*, edited by Stefan Vogenauer. Oxford: Oxford University Press.

[43] Wandt, Manfred, Jens Gal. 2016. Solvency II's Unexpected Indirect Regulation of the Reinsurance Contract: The Creation of Principles of Reinsurance Contract Law (PRICL) as a Means to Safeguard a Centuries-Old Tradition of Self-Regulation. *ICIR Annual Report*. *https://www.icir.de/fileadmin/user_upload/editors/documents/policy_articles/22_180426_icir_jb_pp_solvency_ii_unexpected.pdf*, last visited May 23, 2026.

[44] Witthoff, Eberhard. 1/2020. Principles of Reinsurance Contract Law: The Reinsurer's Perspective. *Uniform Law Review* 25: 57–66.

Article history:
Received: 30. 4. 2026.
Accepted: 27. 5. 2026.

REJECTED