

Second Issue of 2007's Journal du Droit International

The second issue of the French *Journal du Droit International* for 2007 was released a few days ago. As a journal covering the whole spectrum of international law, it contains articles on topics related to public international law, European Union law and European human rights. For a complete table of content in French, see [here](#).

The Journal also contains a few articles dealing with conflicts issues, all written in French.

The first was written by Gian Paolo Romano and wonders how one can reconcile the choice of the UNIDROIT Principles by contracting parties with mandatory rules (*Le choix des principes UNIDROIT par les cocontractants à l'épreuve des dispositions impératives*). The English abstract reads:

The intensity of the internationally mandatory character of a legal rule varies depending on the strength of the ties existing between the State and the contract. A rule which is mandatory with respect to a given contract may be no longer mandatory with respect to another contract. To the extent that it aims to protect the contracting parties, such rule then gives up its internationally mandatory character thereby becoming either "internationally dispositive", if the State from which it emanates is the one whose law would be applicable in the absence of choice, or, if not, "internationally available" to the parties, who may freely let themselves be governed by it. If the rule is, with respect to a particular contract, internationally dispositive or available to the parties within the proposed definition, it can hardly be maintained that the State has an interest in

applying it to such a contract notwithstanding the choice of the UNIDROIT Principles by the parties. While questioning the practical importance of the dichotomy “substantive – conflict autonomy”, the present study allows itself to venture into the realm, still little explored, of the internationally dispositive scope of application of a mandatory rule.

The second article is authored by Philippe Singer and Jean-Charles Engel, who are members of the staff of the [European Court of Justice](#) (for Mr Singer) or the [Court of First Instance](#) (for Mr Engel). Its title is the Importance of Comparative Research for Community Justice (*L'importance de la recherche comparative pour la justice communautaire*). The English abstract reads:

More than a passage required in certain cases by the Treaties or the expression of a concern to avoid a denial of justice, recourse to comparative law constitutes for the Community judge a real step in deciding a case. If this importance attached to comparative research in Community justice is well-known, its concrete realization and its formalization are perhaps a little less so. The “research notes” requested by the “research and documentation” Service testify, however, to the institutionalization of this method in the heart of the Community Court.

The third article was written by Francois Melin, who lectures at Amiens Faculty of Law. It deals with the applicable law to set off in European insolvency proceedings (*La loi applicable à la compensation dans les procédures communautaires d'insolvabilité*). The English abstract reads:

The role of set off in case of insolvency is particularly important. The EC Regulation on insolvency proceedings alludes therefore to it in two provisions. Article 4.2.d indicates that the law of the State of the opening of the proceedings shall determine the conditions under which set

off may be involved. Article 6 states that the opening of insolvency proceedings shall not affect the right of creditors to demand the set off of their claims against the claims of the debtor, where such set off is permitted by the law applicable to the insolvent debtor's claim. The difficulty consists in establishing the relationship between these two provisions.

Articles of the *Journal* cannot be downloaded.