


Publication: Forum Shopping in the European Judicial Area

A new addition to the Hart Publishing private international law catalogue for 2008 is ***Forum Shopping in the European Judicial Area***, a collection of essays by English and French scholars, edited by Pascal de Vareilles-Sommières (Université Paris 1 Panthéon Sorbonne). Here's the blurb: 

One of the issues left untouched by the Brussels Convention of 27 September 1968 (and by the Brussels-1 Regulation replacing it) concerns the leeway left to domestic courts when applying European rules on international jurisdiction in civil and commercial matters. For instance, is the court under a duty of strict compliance with the jurisdiction rule as it is drafted? Would such a duty go so far as to require the court to abide by the jurisdiction rule, even though it is being used by one of the litigants to achieve an unfair result, for example to delay adjudication on the merits? Under what conditions may the Court decline jurisdiction on account of any unsuitable forum shopping, thus ruling out the European provision on jurisdiction?

Recent litigation in the ECJ has yielded rather, even excessively, restrictive answers, ruling out any discretion by domestic courts to remedy any inconvenience arising from the strict application of the European provisions, if such discretion were provided for by the lex fori (the Gasser case, the Turner case, and the Owusu case). This series of rulings from the ECJ raises several questions. Most observers have questioned the appropriateness of prescribing a blind application of European rules on jurisdiction by domestic courts, relying on the legal traditions of EC Member States usually providing for corrective mechanisms – such as ‘forum non conveniens’ in English Law and ‘exception de fraude’ in French Law – in cases when a party abusively triggers the jurisdiction of a court in order to obtain an unjust advantage, thus practising unacceptable forum shopping.

The time has now come for an analysis, under both Community and comparative law, of the ramifications of the recent Gasser/Turner/Owusu cases. Readers will find in this book a collection of studies by some of the leading English and French experts today, analysing the ins and outs of jurisdiction and

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