

III International Seminar on Private International Law

The III International Seminar on Private International Law, coordinated by Professors José Carlos Fernández Rozas and Pedro de Miguel Asensio, took place at the Faculty of Law, Universidad Complutense de Madrid, on the 5th and 6th February. The Seminar, entitled “Self-regulation and unification of international contract law”, was divided into five sessions dedicated to offering a different perspective on the leitmotif of the encounter. Each session involved a general introduction, followed by communications from researchers and professionals of law. The seminar was rich in contents, and also a good opportunity for the meeting and discussion of academics and lawyers from different parts of Spain, as well as from European and Latin American countries.

As was only to be expected, the recent Rome I Regulation was the main topic of the first session. The general introduction was given by the Spanish representative in the negotiations, Professor Garcimartín Alferez, who highlighted the main features of the text and explained the reasons that led to them. His intervention was followed by five papers on specific aspects of the new instrument. First, Professor Asin Cabrera, from La Laguna, focused on International maritime labour contracts, and in particular on the difficulties in determining the law applicable to them with the criteria laid down by art. 8 of the Rome I Regulation. Professor Gardeñes Santiago, from Barcelona (Universidad Autonoma), also referred to Art. 8 of the Regulation, this time from a general point of view, regretting the missed opportunity to change the orientation of the article: that is, correcting its logic of proximity in order to transform it into a rule with substantive guidance. After him, Rosa Miquel Sala, from Bayreuth, presented art. 7, which incorporates insurance contracts into the Regulation. Alberto Muñoz Fernandez, from the University of Navarra, reflected on legal representation as a phenomenon partially excluded from the Regulation. Finally, Paula Paradela Areán, from Santiago de Compostela, summarized the Spanish courts practice on the Rome Convention throughout its 15 years of life.

The second session, entitled “Substantive Unification and international trade: universal dimension”, was held on Thursday afternoon. Professor Sánchez

Lorenzo, from Granada, took charge of the general introduction. He was followed by Professor M.J. Bonell, from La Sapienza (Italy), who focused on the UNIDROIT principles and their possible contribution to a global law of contracts. Professor Garau Juaneda, from the University of Palma de Mallorca, exposed the problems of the retention of title in today's international trade. Professor Espiniella González, from the University of Oviedo, explained the dual role of the place of delivery in international contracts: for the determination of the applicable law, and as a criterion of international jurisdiction. Speaking from his own experience in international arbitration, Alfredo de Jesús O. referred to the arbitrator's role as an agent to promote international self-regulation. Professor Otero García, from the Complutense University of Madrid, referred to standards in international trade regulation, highlighting the efforts undertaken by stakeholders in their harmonization. Professor Carmen Vaquero from Valladolid talked about the legal treatment of the delay to comply with obligations. The session ended with the intervention of Professor Boutin, from Panama, with an entertaining account of the history of the freedom of choice of the applicable law in Latin American countries.

The first session on Friday morning dealt with international unification from a European perspective. The general introduction, given by Professor Pedro de Miguel, discussed the need for standardization at the European level in parallel to the UNIDROIT Principles; his presentation brought up points like the scope of standardization and how it could be carried out. Professor Leible, of Bayreuth, addressed the question of whether the common frame of reference can be chosen by the parties to a contract as applicable law: a question that raised an interesting debate between Professor Leible and Professor M.J. Bonell. Marta Requejo Isidro, from Santiago de Compostela, made reference to the relationship between the harmonization of consumer protection through Directives, and art. 3.4 of the Rome I Regulation. Professor D. Pina, from Lisbon, then alluded to the influence of competition rules on private contracts, and finally, Cristian Oró from Barcelona (Universidad Autónoma) reflected on art. 9 of the Rome I Regulation and its implications for competition rules as mandatory provisions.

The fourth session, on the new trends on international contracts, also took place on Friday morning. The general introduction this time was presented by Professor Forner Delaygua (University of Barcelona). He was followed by A. Boggiano, from Buenos Aires, who recalled the traditional dispute centered on the choice of lex

mercatoria as the law applicable to an international contract. Professor Juan José Álvarez Rubio from the University of País Vasco spoke about international maritime transport in the Rome I Regulation, indicating the continuity with respect to the Rome Convention, and highlighting divergences from the UN Draft of 2007. Professor Nicolás Zambrana Tévar, from University of Navarra, presented some of the main issues that determine the character of the indirect holding system; the exposition paid special attention to the transaction mechanism of financial instruments. José Heriberto García Peña, from the Instituto Tecnológico de Monterrey, closed the meeting with a paper centered on the difficulties in determining the law applicable to on-line contracts, especially in the absence of choice of law.

The final session, held on Friday afternoon, focused on Latin America, with the attendance of Professor Lionel Perez Nieto, from the UNAM of Mexico, who explained the evolution of international uniform (conventional) law in Latin American countries, differentiating the experience of Mexico and Venezuela from that of the other States. Professor Roberto Davalos, from Havana, made an entertaining description of the cultural and legal features of China, emphasizing those that, from his experience, make it difficult to contract with partners from this Asian country. Hernán Muriel Ciceri, from Sergio Arboleda University in Bogota, offered a comparison between the Rome I Regulation and the Convention of Mexico of 1994. Finally, Iñigo Iruretagoiena Aguirrezabalaga (University of País Vasco) referred to investment arbitration, underlining the characteristics that make it different from the paradigm of contractual arbitration.

The seminar was brought to a close by Professor Ms Elisa Pérez Vera, now a member of the Spanish Constitutional Court. All the presentations and papers will soon be published in the *Anuario Español de Derecho Internacional Privado*.

Many thanks to Paula Paradelo Areán and Vesela Andreeva Andreeva.