

Conference on Party Autonomy in the Conflict of Laws

On 26 September 2011, the Center for Transnational Litigation and Commercial Law at New York University Law School will host a talk by Professor Jürgen Basedow, Director of the Max Planck Institute for Comparative and International Private Law and Professor of Law at the University of Hamburg, on “A Theory of Party Autonomy in the Conflict of Laws”.

A century ago, authors on both sides of the Atlantic would reject the parties' ability to choose the law applicable to a contract. Such choice was considered to be a legislative act reserved to the state. The private persons were perceived as being governed by the law, not as determining the governing law. A hundred years later party autonomy is almost generally acknowledged as the primary method of finding the law applicable to a contract. And it is progressively recognized in further areas of the law, too: for torts, matrimonial property regimes, divorce, maintenance etc. Yet, the theoretical foundation for this fundamental change remains elusive. How is it then possible to convince the lawmakers of those countries that have not yet implemented party autonomy? A theory of party autonomy has to explain the consistency of our own law in order to convince others. Departing from a comparative survey over party autonomy in modern legislation, Professor Basedow will deal with the main objections against the freedom to elect the applicable law. He will then outline a theoretical approach that is essentially based on the origin of state and law as described by the political philosophy of the Enlightenment and that is reflected by the modern developments of human rights.

The event will take place at NYU Law School in Room 214, Furman Hall 900, 245 Sullivan Street, New York, NY 10012, 6.15-8.00 pm.

H/T: Déborah Lipszyc