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The first issue of 2011 of the Dutch journal on Private International Law, *Nederlands Internationaal Privaatrecht*, which was published in April of this year (apologies for the late posting), was a special issue on Human Rights and Private International Law.

It includes the following interesting contributions:

Laurens Kiestra, Article 1 ECHR and private international law, p. 3-7. The conclusion reads:

In this paper, the role of Article 1 ECHR, which defines the scope of the instrument, with regard to private international law has been discussed. When a court of one of the Contracting Parties either applies a foreign law or recognizes a foreign judgment originating from a third State, there is no reason not to apply the ECHR to such cases. Even though such a third State has never signed the ECHR, it would ultimately be the court of one of the Contracting Parties whose application of a foreign law or recognition of a foreign judgment violating one of the rights guaranteed in the ECHR that would breach the ECHR. This follows from the Court's case law concerning the extraterritorial effects of the ECHR which has been confirmed by the little case law that specifically deals with private international law. Even in circumstances in which there is only a negligible connection with the Contracting Party, the situation does not change appreciably. Such situations still come within the jurisdiction of the Contracting Party and the ECHR is thus applicable to such cases. This does not mean that there cannot be any consideration of specific private international law issues, but only that such concerns should be dealt with within the system of the ECHR. Therefore, one

could question whether the public policy exception resulting in the non-application of the ECHR, because of the relative character of the exception, is permissible in light of Article 1 ECHR.

Michael Stürner, Extraterritorial application of the ECHR via private international law? A comment from a German perspective, p. 8-12. The conclusion reads:

In Article 1 the ECHR binds Contracting States to the observance of its provisions. Authorities of each such State must duly respect and foster Convention rights, implying that the entire legal order of that State must comply with Convention standards. Consequently, the ECHR influences private international law along with other branches of such legal systems. Its rules and provisions must equally avoid contradicting Convention rights. Within such legal orders, the ECHR applies to national and transnational cases alike. As soon as there is jurisdictional competence in the Contracting State's courts, a judge acts as part of the State organs bound by the Convention. The operation of choice-of-law rules as applied by national courts and the ensuing results must be in accordance with Convention standards, just as much as the operation of any other national law of such State. If the consequence of the application of foreign law is a violation of the Convention, the forum judge has to see to it that this violation is avoided or corrected. This can be achieved via the public policy exception which is, in its turn, heavily influenced, inter alia, by ECHR standards. However, such an alteration of the resulting application of foreign law referred to through the rules of private international law does not in itself entail an extraterritorial application of the ECHR. There is, as concluded above, no obligation upon a State under public international law to install or apply choice-of-law rules at all; thus there can be no violation of generally accepted principles of international law through a State's application of a public policy exception emerging from

its own legal system, including (in the case of the ECHR) its own obligations assumed under public international law.

Ioanna Thoma, The ECHR and the *ordre public* exception in private international law, p. 13-18. Here is an abstract from the introduction:

The purpose of this paper is to crystallize whether the ECHR claims an autonomous and direct application superseding the theoretical premises and technical construction of the conflicts rule itself or whether there is an intertwining interplay between the Convention's ordre public européen and the ordre public exception clause as understood in private international law. First, some examples from domestic case law will demonstrate the methodological approach taken vis-à-vis the interaction between the ECHR and the exception clause of ordre public). Second, further examples from the case law of the ECHR will highlight the position taken by the ECtHR on this question. On the basis of this bottom up and top-down approach our observations and conclusions will be presented.

Patrick Kinsch, Choice-of-law rules and the prohibition of discrimination under the ECHR, p. 19-24. The abstract included on SSRN reads:

This article deals with the relevance, or irrelevance, of the principle of non-discrimination to that part of private international law that deals with choice of law. Non-discrimination potentially goes to the very core of conflict of laws rules as they are traditionally conceived – that, at least, is the idea at the basis of several academic schools of thought. The empirical reality of case law (of the European Court of Human Rights, or the equally authoritative pronouncements of national courts on similar provisions in national constitutions) is to a large extent different. And it is possible to adopt a compromise solution: the general principle of equality before the law may be tolerant towards

multilateral conflict rules, but the position will be different where specific rules of non-discrimination are at stake, or where the rules of private international law concerned have a substantive content.