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Issue 14. 3 of the Journal of Private International Law has just been released. It contains the following articles:

Maria Caterina Baruffi, A child-friendly area of freedom, security and justice: work in progress in international child abduction cases, pp. 385-420

> *The protection of children's rights constitutes the subject matter of various private international law instruments within both the international and the EU frameworks. The paper focuses on their relevant provisions regarding child abduction, which pose a number of problematic issues as to their interpretation and practical application. Against the existing background, future legislative developments are assessed with a view to proposing a provisional evaluation as to their effectiveness and actual improvement.*

Charlotte Mol & Thalia Kruger, International child abduction and the best interests of the child: an analysis of judicial reasoning in two jurisdictions, pp. 421-454

> *The Hague Child Abduction Convention aims to secure the speedy return of abducted children. Judges can use a limited number of grounds for refusal. They may not make an in-depth assessment of the merits of any custody issue. The Convention on the Rights of the Child provides that the best interests of the child shall be a primary consideration in all actions concerning children. This article analyses the use that judges make in their decisions on the concept of "the best interests of the child". For this purpose it scrutinizes the case law on international child abduction of the Netherlands*

and England and Wales. By using software designed for qualitative research, the authors are able to make an objective and systematic analysis. This article confirms the hypothesis that the concept of the best interests of the child is often used without substance, and sometimes only to endorse conclusions that would have possibly been reached in any event.

Hayk Kupelyants, Recognition and enforcement of foreign judgments in the absence of the debtor and his assets within the jurisdiction: reversing the burden of proof, pp. 455-475

The article examines the recognition and enforcement of foreign judgments in the absence of the defendant and his assets within the jurisdiction. While at first sight a seemingly futile tactic, it opens a whole array of potential benefits to the judgment creditor. Under English law, to enforce a foreign judgment in the absence of the debtor and his assets, the judgment creditor needs to establish a reasonable prospect of legitimate benefit arising from the enforcement. The article challenges this view and argues that the position in English law is needlessly onerous: the burden should be on the judgment debtor to establish that the enforcement of the foreign judgment is an abuse of process. The paper also draws analogies to other legal regimes, both in the UK and outside.

Aleksandrs Fillers, Implications of Article 81(1) TFEU's recognition clause for EU conflict of laws rules, pp. 476-499

The last decades have been marked by the extensive Europeanisation of conflict of laws rules. Traditionally, national conflict of laws rules in Continental Europe were aimed at determining the closest connection between the legal relation and the putatively applicable law. This universal objective was often combined with more local objectives: the achievement of certain substantive policies of the forum

through conflictual mechanisms. The Europeanisation of conflict of laws rules poses a legitimate question: do EU conflict of laws rules pursue identical or similar policies as national conflict of laws rules? The issue may be approached using different methods. One approach is inductive – the analysis of conflict of laws rules found in EU secondary law and their comparison with national conflict of laws rules. Another approach is deductive – the analysis of the Treaty basis for EU conflict of laws rules, in order to identify whether this constitutional framework prescribes certain policies that may be different from those used in national conflict of laws rules. This contribution is devoted to the second method and analyses whether the recognition clause found in Article 81 TFEU has any meaningful influence on the nature and scope of EU conflict of law rules.

Mukarrum Ahmed, The nature and enforcement of choice of law agreements, pp. 500-531

This article seeks to examine the fundamental juridical nature, classification and enforcement of choice of law agreements in international commercial contracts. At the outset, it will be observed that the predominance of jurisdictional disputes in international civil and commercial litigation has pushed choice of law issues to the periphery. The inherent dialectic between the substantive law paradigm and the internationalist paradigm of party autonomy will be harnessed to provide us with the necessary analytical framework to examine the various conceptions of such agreements and aid us in determining the most appropriate classification of a choice of law agreement. A more integrated and sophisticated understanding of the emerging transnationalist paradigm of party autonomy will guide us towards a conception of choice of law agreements as contracts, albeit contracts that do not give rise to promises inter partes. This coherent understanding of both the law of contract and choice of law has significant ramifications for

the enforcement of choice of law agreements.

Diletta Danieli, Mixed contracts under the Brussels Ia Regulation: searching for a "jurisdictional identity", pp. 532-548

This paper addresses the debated application of the jurisdictional regime in contractual matters provided in the Brussels Ia Regulation to cases involving mixed contracts, which comprise elements of a sale of goods, as well as a provision of services, and are not expressly regulated by that legal instrument. The starting point of the assessment is a recent Italian Supreme Court ruling, which is further compared with the relevant CJEU and national case law. Then, some broader considerations are proposed with regard to the actual desirability of specific provisions concerning these types of contracts within the Brussels system.

Torsten Bjørn Larsen, The extent of jurisdiction under the forum delicti rule in European trademark litigation, pp. 549-561

This contribution compares the extent of jurisdiction of two different forum delicti rules namely that under Article 7(2) of the Brussels Ia Regulation, which applies in national trademark litigation, with that under Article 125(5) of the EU Trade Mark Regulation, which applies in EU trade mark litigation. The former has been interpreted to cover both the place of acting and the place of effect and it seems likely that both places have limited jurisdiction. The latter covers only the place of acting which also seems likely to have limited jurisdiction.