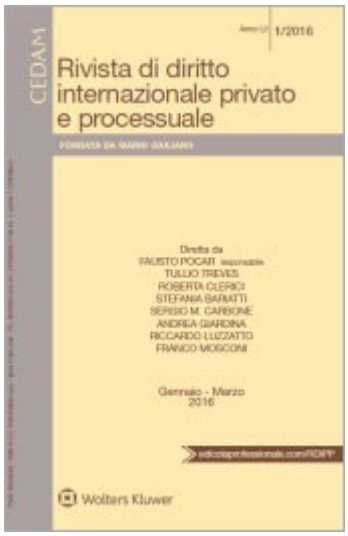
Rivista di diritto internazionale privato e processuale (RDIPP) No 3/2019: Abstracts



The third issue of 2019 of the *Rivista di diritto internazionale privato e processuale* (RDIPP, published by CEDAM) was just released and it features:

Stefania Bariatti, Professor at the University of Milan, **Volontà delle parti e internazionalità del rapporto giuridico: alcuni sviluppi recenti nella giurisprudenza della Corte di giustizia sui regolamenti europei in materia di diritto internazionale privato** (Party Autonomy and Characterization of a Legal Relationship as International: Some Recent Developments in the Jurisprudence of the Court of Justice on the EU Regulations in Private International Law; in Italian)

Two recent cases brought before the Court of Justice of the EU lead to meditate about the admissibility of choice of court clauses in favour of a foreign court and choice of law clauses in favour of a foreign law inserted in purely domestic contracts. In the *Vinyls* case, the Court of Justice has stated that the choice of a foreign law, that is valid according to the Rome I Regulation, is valid also for purposes of Article 16 of Regulation No 2015/848 (European Insolvency Regulation Recast), provided that such choice is not fraudulent or

abusive. This solution, that is in line with the previous case-law of the Court, requires that the parties to a domestic contract carefully check the reasons for choosing a foreign law and it excludes that national provisions of law concerning the voidness or voidability of detrimental acts in case of insolvency qualify as mandatory rules under Article 3(3) of the Rome I Regulation. The second case, that will not be decided by the Court since it was repealed by the national judge, concerns the choice of a foreign forum in a domestic contract subject to the ISDA rules, that are widely used in international business transactions. Some recent judgments of the Court suggest that such choice is apt to qualify a domestic contract as 'international' for purposes of applying the Brussels I recast Regulation and is valid according to its Article 25.

In addition to the foregoing, the following comment is featured:

Martina Mantovani, PhD Candidate at the University of Paris II Pantheon-Assas and Research Fellow at the Max Planck Institute Luxembourg for Procedural Law, **Horizontal Conflicts of Member States' GDPR-Complementing Laws: The Quest for a Viable Conflict-of-Laws Solution** (in English)

This paper offers a comparative overview of the national provisions defining the reach of the laws adopted by Member States on the basis of the opening clauses enshrined in the GDPR. It identifies the lack of coordination among the Member States' complementing laws as a major hindrance to the proper functioning of the internal digital market, due to the paramount problems of over – and under – regulation, and increased potential for forum and law shopping stemming from the existing legislative framework. Against this backdrop, this paper submits that existing national rules of applicability may be deemed contrary to EU law, and should be interpreted, to the extent possible, "in conformity" with the wording and the purpose of the GDPR. In this vein the scheme

and objectives of the GDPR, should be directly applied.