

German Article on the Principle of Mutual Recognition

A very interesting article on the principle of mutual recognition by *Heinz-Peter Mansel* (Cologne) has been published in the latest volume of the German legal journal *Rabels Zeitschrift* (70 *RabelsZ* (2006), 651 et seq.): "Mutual Recognition as Basic Principle of the European Area of Justice" ("Anerkennung als Grundprinzip des Europäischen Rechtsraums").

Mansel gives first a short review on the European area of freedom, security and justice before differentiating the two forms of recognition as understood by the European Commission: The (procedural) recognition of judgments and the "recognition" of legal statuses and documents by means of choice of law rules. Subsequently he gives a definition of and an overview on the principle of mutual recognition as well as its effects and its (possible) scope of application. Further, he attends to the developments in European primary legislation and in particular to the ECJ's decisions in "Avello" and "Niebüll" (see concerning this case also our older posts which you can find here) and asks whether the findings of the ECJ concerning names might be applied also with regard to other questions relating to the personal status. This is followed by an analysis of possible developments at the level of European secondary legislation *de lege ferenda*. He concludes - *inter alia* - that the principle of mutual recognition could only be realised to a certain extent. He argues in particular that it could only complement, but not substitute the communitarisation of choice of law rules. He regards the proposal for a regulation introducing a "European certificate of inheritance" as a successful model for a possible rule on recognition *de lege ferenda* since it combines the communitarisation of choice of law rules with rules on recognition as well as uniform law.