German Article on Rome I

An interesting article by *Boris Schinkels* (University of Heidelberg) has been published recently in the European Community Private Law Review (GPR 2007, 106 et seq.):

Die (Un-)Zulässigkeit einer kollisionsrechtlichen Wahl der UNIDROIT Principles nach Rom I: Wirklich nur eine Frage der Rechtspolitik?

The English summary reads as follows:

> *Article 3 (2) of the Proposal for a Regulation of the European Parliament and the Council on the law applicable to contractual obligations (Rome I), COM(2005) 650 final, stipulates the autonomy of the parties to choose sets of "rules" as applicable "law" of the contract that do not necessarily form part of the valid law of a state. Yet, current political reluctance towards this extension of party autonomy to non-state rules will presumably result in the deletion of this part of the provision in the legislative process towards the Rome I-Regulation. This contribution especially analyses the assumption that chosen law could be applied "as such", on which traditional reservation in choice-of-law methodology against the eligibility of non-state law like the UNIDROIT Principles as the substantive "law" of the contract are based. It can be shown that this assumption results from an erroneous concept of "validity" of law. Hence, the traditionalist view not only ignores the general guarantee of freedom for any individual, but also the principle of equal treatment of equal situation as warranted by the EC Treaty with precedence over secondary law such as regulations on choice of law.*

Highly recommended.