Fourth Issue of 2009's Revue Critique de Droit International Privé

The last issue of the *Revue critique de droit international privé* was just released. It contains two articles and several casenotes.



The first article is authored by Caroline Kleiner, who teaches at the Faculty of Law of Geneva University. It is a study of Interest in Private International Law (*Les intérêts de somme d'argent en droit international privé, ou l'imbroglio entre la procédure et le fond*). The English abstract reads:

> *Private international law has considerable difficulty with the way in which the French Civil Code deals with interests generated by debts which are enforceable by way of payment of a sum of money. It requires distinguishing between moratory and judicial interests. Moratory interests attach to the substantive relationship between creditor and debtor and are designed to compensate the loss resulting from the temporary unavailability of the sum owed, when payment is late; the existence and period of such interests are governed by the law applicable to the obligation whose performance has been delayed; on the other hand, since its rate depends on a decision of monetary authorities, it must be fixed by the law of the currency in which it is so determined. Judicially created interests are part of procedure and represent the pretium temporis which justifies the recourse to a court in view of the assessment and enforcement of a debt of damages. Hence, in proceedings before a given court, it will be the law of that court governing its functioning which will also govern judicial interests, whatever uncertainty there may be on this point in scholarly writings and in the case-law. In proceedings for recognition and enforcement of foreign judgments, when such interests have been imposed by the foreign court, whatever he applicable law, they remained intangible in the recognizing state at least until enforcement has been ordered, after which they may be relayed by any judicial interest, which the recognizing court may attach to its own judgment. When the foreign court has not provided*

> *for any judicial interests, this does not prevent the recognizing court from imposing interests as from the time of its own judgment, on the debt it has declared enforceable.*

I am the author of the second article, which discusses the Recognition in France of English Default Judgments (*La reconnaissance en France des jugements par défaut anglais – A propos de l'affaire* Gambazzi-Stolzenberg). The article is divided in two parts. The first presents the *Gambazzi-Stolzenberg* case. It begins by discussing the various decisions rendered by the supreme courts of New York, France and Switzerland. It then offers comments of the decision of the European Court of Justice. The second parts focuses more specifically on the issue of the recognition in France of English default judgments, and discusses in particular the public policy issue that such judgments raise because they do not give reasons.

Articles of the *Revue Critique* can be downloaded here.