


First Issue of 2011's Journal du Droit International

The first issue of French *Journal du droit international* (*Clunet*) for 2011 was just released. 

It includes three articles, two of which explore conflict issues.

In the first article, a leading French public international lawyer, Professor Mathias Forteau (Paris Ouest Nanterre University), offers his views on the concept of transnational public policy (*L'ordre public « transnational » ou « réellement international »* . - *L'ordre public international face à l'enchevêtrement croissant du droit international privé et du droit international public*). The English abstract reads:

While private international law and public international law get closer in the contemporary international society, especially due to the widening of the realm of European law, apparently some legal notions still belong exclusively to private international law and their definition and enforcement remain within States' exclusive jurisdiction. This seems to be the case of the « international public policy » exception which aims at protecting national values when domestic judges are requested to apply a foreign law incompatible with these values. Contemporary practice shows however that international public policy is subject to a process of internationalisation which impacts both its sources and the mechanisms through which it is enforced. Such trend is not restricted to transnational law (« transnational public policy »). International public policy is nowadays also regulated by public international law - and may therefore be undergoing a metamorphosis of its meaning and function in a way which is not yet clearly well-defined.

In the second article, professor Benjamin Remy (Poitiers University) discusses the legitimacy of choice of court agreements (*De la profusion à la confusion : réflexions sur les justifications des clauses d'élection de for*). The English abstract reads:

Various justifications are usually summoned to explain the admission of choice

of forum clauses : foreseeability of the judge, neutrality of the judge and the ability to choose a « better » judge. Unfortunately, this profusion leads to confusion when it comes to the definition of the appropriate rules governing such a clause. Firstly, ambiguities arise from the fact that most issues related to the choice of forum clauses are to be given different answers depending on the justification one has focused on. Therefore, the predictability of the rules governing the choice of forum clauses cannot be achieved. Secondly, the plurality of justifications seems to prevent any appreciation of their relevancy. Moreover, authors often use arguments which belong to different rhetorical systems, based on different justifications, leading to conclusions that cannot be reasonably justified.

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