

Kinsch on Choice of Law and the Prohibition of Discrimination

Patrick Kinsch, who is a visiting professor at the University of Luxembourg and the Secretary General of the European Group for Private International Law, has posted Choice of Law and the Prohibition of Discrimination under the European Convention on Human Rights on SSRN. The abstract reads:

This article deals with the relevance, or irrelevance, of the principle of non-discrimination to that part of private international law that deals with choice of law. Non-discrimination potentially goes to the very core of conflict of laws rules as they are traditionally conceived – that, at least, is the idea at the basis of several academic schools of thought. The empirical reality of case law (of the European Court of Human Rights, or the equally authoritative pronouncements of national courts on similar provisions in national constitutions) is to a large extent different. And it is possible to adopt a compromise solution: the general principle of equality before the law may be tolerant towards multilateral conflict rules, but the position will be different where specific rules of non-discrimination are at stake, or where the rules of private international law concerned have a substantive content.

The paper is forthcoming in the *Nederlands Internationaal Privaatrecht*.