

Brand on Rome I and Party Autonomy

Ronald Brand, who is a professor at the University of Pittsburgh School of Law, has posted Rome I's Rules on Party Autonomy for Choice of Law: A U.S. Perspective on SSRN.

This chapter was presented at a conference in Dublin on the (then) new Rome I Regulation of the European Union in the fall of 2009. It contrasts the Rome I rules on party autonomy with those in the United States. In particular, it considers the rules in the Rome I Regulation that ostensibly protect consumers by discouraging party agreement on a pre-dispute basis to the law governing a consumer contract. These rules are compared with the absence of private international law restrictions on choice of forum and choice of law in the United States, even in consumer contracts. The result in Europe is the "protection" of the right of the consumer to his or her home law, but often with the resulting reduction of consumer choice and increase of consumer cost. In the United States, cases have instead provided more of an economic analysis, often tying a consumer to the merchant's choice of law (and choice of forum), but resulting in increased access to goods and services at what is generally a lower cost. Both systems "protect" consumers, they just choose to protect different consumer interests.