

# Fourth issue of 2012's Journal du Droit International

The fourth issue of French *Journal du droit international* (Clunet) for 2012 was just released. It contains two articles addressing issues of private international law and several casenotes. A full table of content is accessible [here](#).

In the first article, Walid Ben Hamida, who lectures at Evry University, discusses the application of the UNIDROIT Principles in arbitration proceedings involving states or international organizations (*Les principes d'UNIDROIT et l'arbitrage transnational : L'expansion des principes d'UNIDROIT aux arbitrages opposant des États ou des organisations internationales à des personnes privées*).

*Originally destined to international commercial contracts, UNIDROIT principles are now experiencing a remarkable growth in transnational relationships. Due to their neutrality, universality and quality, they have been well received by the arbitrators and the parties in many arbitrations opposing private parties to States or international organizations. In this article, the author makes an inventory of the references to UNIDROIT principles in transnational arbitral jurisprudence and analyzes the reasons of their application. He analyses both traditional transnational arbitration based on classical arbitration clauses and unilateral transnational arbitration resulting from the acceptance by the private party of an offer of arbitration expressed by a State or by an international organization.*

In the second article, Olivier Dubos, who is a professor of public law at the University of Bordeaux, explores the issues raised by the different interpretations of Article 33 of the

Montreal Convention adopted by French and American courts (*Juridictions américaines et juridictions françaises face à l'article 33 de la Convention de Montréal : un dialogue de sourds ?*).

*Article 33 of the Montréal Convention « for the Unification of certain rules for International Carriage by air », gives the victims of an air transport accident an « option » to bring their action for damages before different fora that the aforementioned article designates. The French Supreme Court (Cour de cassation) recently considered that this freedom of option took on an imperative character and accordingly considers that the French jurisdictions are not available if the plaintiff first chose a jurisdiction of another State (the USA in the latter case). On the other hand, for some American jurisdictions, article 33 can be combined with the theory of « 'forum non conveniens » which allows them to refuse to adjudicate a claim grounded on the Montreal convention. However, such an interpretation of article 33 does not win unanimous support amongst American judges. The victims who, in accordance with article 33, have chosen to take their case before the American jurisdiction could find themselves in a deadlock...*