

# Issue 2012.3 Nederlands Internationaal Privaatrecht

The third issue of 2012 of the Dutch journal on Private International Law, *Nederlands Internationaal Privaatrecht* includes three interesting articles based upon contributions to commemorate the 100<sup>th</sup> anniversary of T.M.C. Asser's receipt of the Nobel Peace Prize, as well as articles on Brussels I and internet; conflict of laws, the acquired rights directives and transfer of seagoing vessels; the *Kiobel v Shell* case.

Hans van Loon, The Hague Conference on Private International Law: Asser's vision and an evolving mission, p. 358-361. The abstract reads:

*Tobias Asser, a preeminent Dutch legal scholar comparable to the ranks of Hugo Grotius, received his Nobel Peace Prize 1911 for his ground laying work on the unification of private international law. He foresaw that in a world consisting of a variety of legal systems, international law would acquire a critically important new role: that of ordering the diversity of civil and commercial laws, not by making them all uniform, but by providing uniform rules on the conflicts of laws. Asser's vision, the international forum he envisaged, his methodology and his programme of work continue to flourish through the Hague Conference on Private International Law, an entity for which Asser laid the groundwork and which continues to provide inspiration more than 100 years after Asser received the Nobel Peace Prize for his work.*

Aukje A.H. van Hoek, Managing legal diversity - new challenges for private international law, p. 362-370. The abstract reads:

*In this contribution the author describes how the structural presence of private international law cases in modern society poses new challenges to private international law as a legal discipline. The literature on legal pluralism and multilevel governance is used both to provide a better understanding of the challenges and to point to possible lines of investigation. The key issues are: the difficulty of integrating non-national standard-setting in the choice of law model, the changing content of legitimate expectations and their effect on the choice of law, the need for a systemic adaptation of national legal systems to the growing*

*presence of foreign elements within the legal order and the role of transnational legal infrastructure in the management of legal diversity.*

Alex Mills, Rediscovering the public dimension of private international law, p. 371-373. The abstract reads:

*This article, which considers aspects of T.M.C. Asser's legacy in private international law, was presented as part of the Commemorative Conference celebrating the 100th anniversary of his receipt of the Nobel Peace Prize, held on 9th December 2011 at the Peace Palace in The Hague, the Netherlands. The article begins by discussing the history of private international law, presenting and contextualising Asser's public international perspective, highlighted by his foundational role in the Hague Conferences on Private International Law. It then turns to analyse the subsequent fragmentation of private international law into discrete national approaches, which have often emphasised private rights. The article then discusses recent changes in private international law in the European Union, Canada and Australia, and characterises them as a revival of a more public perspective, which presents fresh challenges for private international law. It argues that these modern developments should be understood and welcomed as at least a partial rediscovery of the 'public' dimension of private international law, and thus as signposts of a return to Asser's globalist vision.*

K.C. Henckel, Conflict of laws and the Acquired Rights Directive: the cross-border transfer of seagoing vessels, p. 376-389. The abstract reads:

*The exclusion of the maritime sector from six European social directives is currently under review. Among these is the Acquired Rights Directive, a directive which aims to protect employees upon a transfer of undertaking. With a primary focus on the conflict of laws, this article aims to discuss the impact of a possible repeal of a provision which excludes seagoing vessels from the Acquired Rights Directive. It is examined whether this repeal warrants a revision of the conflict of laws rules currently being employed for transfer of undertakings. The application of 'the place from which the vessel is operated and controlled' is advocated as a connecting factor for the transfer of seagoing vessels. In addition, the effects of the repeal on maritime practice are addressed.*

Jan-Jaap Kuipers, Het internet en de Brussel I Verordening: een kwestie van Luxemburgse wispelturigheid?, p. 390-395. The English abstract reads:

*In three different preliminary references the European Court of Justice (ECJ) was recently given the opportunity to shed more light on the interpretation of the Brussels I Regulation in the light of the emergence of the internet. The ECJ held first in Pammer & Hotel Alpenhof that Article 15 should be interpreted in a similar manner, regardless of whether a consumer contract was concluded online. In eDate Advertising & Martinez the ECJ departed from this principle of technical neutrality, however. Article 5(3) should be interpreted differently if the alleged infringement of a personality right occurred via an internet site. Six months later, in Wintersteiger, a case relating to the infringement of a trademark, the ECJ adhered to a technologically-neutral interpretation of Article 5(3). The present contribution aims to analyse to what extent the three decisions can be reconciled.*