Dutch Private International Law journal, 2014 second and third issue published

The second issue of 2014 of the Dutch journal on Private International Law, *Nederlands Internationaal Privaatrecht* (published in June) includes scholarly articles on the Unamar ruling of the European Court of Justice and the reform of the European Insolvency Regulation.

Jan-Jaap Kuipers & Jochem Vlek, 'Het Hof van Justitie en de bescherming van de handelsagent: over voorrangsregels, dwingende bepalingen en openbare orde', p. 198-206. The English abstract reads:

> *In Unamar, the Court of Justice of the European Union decided that national rules providing protection to commercial agents going beyond the mandatory floor laid down by the Agency Directive can be qualified as overriding mandatory provisions. This article discusses the decision of the CJEU and its articulation with another case involving the Agency Directive: Ingmar. Subsequently, the article addresses two wider issues relating to overriding mandatory provisions and the Agency Directive that, even after Unamar, remain to be resolved. The first is whether rules primarily protecting the weaker party, such as the agent, can at all be qualified as overriding mandatory provisions. The second is whether a choice of court or arbitration clause should be set aside or invalidated because of the applicability of an overriding mandatory provision.*

Laura Carballo Piñeiro, 'Towards the reform of theEuropean InsolvencyRegulation: codification rather than modification', p. 207-215. The abstract reads:

> *The European Insolvency Regulation has largely succeeded in providing a framework for cross-border insolvency. But after serving for more than a decade, the time is ripe to give it 'a new facelift', as suggested by Mrs. Viviane Reding. This paper provides a critical overview of the Proposal amending the Regulation issued by the European Commission on 12 December 2012. While its*

inputs are backed up by a broad consensus as it mostly reflects developments in national insolvency laws and codifies the Court of Justice of the European Union's case law, the Proposal is a missed opportunity to modify some rules which do not properly contribute in their current wording to achieving the insolvency proceedings' goals. This is particularly remarkable in view of the extension of the Regulation's scope of application to include proceedings with reorganization, adjustment of debt or rescue purposes and hence, aiming to enhance their cross-border effects and ultimate goals.

The recently published third issue of 2014 of the Dutch journal on Private International Law, *Nederlands Internationaal Privaatrecht* contains the following three articles on: the (English) court language in international litigation, the recognition and enforcement of provisional and protective measures and international matrimonial property law in Turkey.

Johanna L. Wauschkuhn, 'Babel of international litigation: Court language as leverage to attract international commercial disputes', p. 343-350. The abstract reads:

Ever since the disappearance of Latin from European courtrooms, it has been commonly understood that each nation would use its own language(s) in its own courts of law. However, in the last few years, discussions have arisen among politicians and legal scholars as to the possibility of introducing foreign languages as court languages. Whereas politicians are mostly driven by economic considerations, many academics are more reluctant as they fear an infringement of the principle of the publicity of proceedings and a contamination of the native legal system. The present article analyses whether offering the option of using a non-national language as court language in civil and commercial litigation is an effective, feasible and efficient leverage to make a jurisdiction (or court) more attractive for international commercial dispute resolution. The article therefore addresses, firstly, why and how lawmakers would try to attract legal disputes and, secondly, why and how parties to a dispute choose a particular jurisdiction. Here, special attention is paid to the role of language in the choice of court. Following this, the most prominent and most frequently expressed practical and constitutional objections regarding competition by means of court language are summarised. After this theoretical presentation, the jurisdictions of Germany and Switzerland are analysed, as

examples, as to their standing in the present discussion and their role on the market for international dispute resolution. It is concluded that the objections against introducing a non-national court language outweigh the mostly economic arguments in favour, especially considering the only minimal positive effects.

Carlijn van Rest, 'Erkenning en tenuitvoerlegging van (ex parte) voorlopige en bewarende maatregelen op grond van de EEX-Verordening en de Herschikking van de EEX-Verordening. Een analyse aan de hand van de Engelse Freezing Order', p. 351-356. The English abstract reads:

An English Freezing Order is an interim prohibitory injunction, which is almost invariably granted ex parte and which restrains a party from disposing or dealing with its assets. On the basis of the Brussels I Regulation it is possible to recognize and enforce an English Freezing Order in the Netherlands. This is only possible if the Freezing Order has been granted on an inter partes basis, because ex parte decisions cannot generally be enforced. This article discusses what a (worldwide) Freezing Order exactly is and under what conditions it can be ordered by the English courts. A comparison will be made with the Dutch garnishee order (conservatoir derdenbeslag). Furthermore, this article discusses the problems with the recognition and enforcement of provisional and protective measures which have been granted ex parte under the Brussels I Regulation (Regulation No. 44/2001) and the consequences for the recognition and enforcement of ex parte decisions under the Recast of the Brussels I Regulation (Regulation No. 1215/2012).

Zeynep Derya Tarman & Ba?ak Ba?o?lu, 'Matrimonial property regime in Turkey', p. 357-363. The abstract reads:

As the number of marriages between spouses from different nations is increasing the issue of the matrimonial property regime has become significant. The aim of this article is to examine the possible problems when claims regarding the matrimonial property regime with a foreign element are brought before a Turkish court. In this regard, both the private international law and the substantive law aspects of the matrimonial property regime in Turkey will be explained: namely the jurisdiction issue in matrimonial property cases, the conflict of law rules regarding the applicable law in the matrimonial property

regime before the competent Turkish courts and, finally, the matrimonial property regime under the Turkish Civil Code. Accordingly, both the legal matrimonial property regime and three contractual matrimonial property regimes that the spouses may choose under Turkish law will be described.