

Michaels on Non State Law in the Hague Principles

Ralf Michaels (Duke Law School) has posted Non-State Law in the Hague Principles on Choice of Law in International Contracts on SSRN.

Article 3 of the Hague Principles on Choice of Law in International Contracts is the first quasi-legislative text on choice of law to allow explicitly for the choice of non-state law also before state courts. This paper, forthcoming in a Festschrift, puts the provision into a broader context, discusses their drafting history and particular issues involved in their interpretation. It also provides a critical evaluation. Article 3 does not respond to an existing need, and its formulation, the fruit of a compromise between supporters and opponents of choosing non-state law, makes the provision unsuccessful for state courts and arbitrators alike.