

# Issue 2017.3 of Dutch Journal on Private International Law (NIPR)

The third issue of 2017 of the Dutch Journal on Private International Law, *Nederlands Internationaal Privaatrecht*, contains contributions on the consequences of Brexit for the future of private international law in the UK and the EU27, the ex post evaluations of legislative actions in the European Union, the Recast of the Brussels IIA Regulation, and cross-border evidence preservation measures under Brussels I-bis.

**Xandra Kramer, 'Editorial: NIPR: over Nederlands, Europees en wereldwijd IPR/NIPR: on Dutch, European, and global PIL', p. 407-410.**

**Jonathan Fitchen, 'The PIL consequences of Brexit', p. 411-432.**

*The UK's triggering of Article 50 TEU poses problems for the future of private international law in the UK and in the EU27. The UK's departure from the EU will end the mutual application of European private international law within the UK's legal systems and will affect the application of that EU law by the EU27 in matters concerning the UK as a new third State. After setting the problem in context, this article provides a political background to the events that led to the Brexit referendum of 2016 and to the UK's June 2017 general election; thereafter it illustrates certain problems posed by the threat of 'cliff-edges' arising as a consequence of a 'disorderly' UK exit from the European Union, finally it offers various possibilities concerning the future of private international law in the UK and in the EU. It is argued that if the beneficial aspects of the progress achieved for all European citizens by European private international law are to be salvaged from the Brexit process, both the UK and the EU must each consider most urgently the need for a realistic and undogmatic policy on the future of each other's private international law that reflects the political reality that, though the UK will soon be a third State relative to the EU27, many natural and legal persons will remain connected with the EU27 despite Brexit. It is argued that each side might usefully consider the unifying goals underlying private international law.*

**Giesela Rühl, '(Ex post) Evaluation of legislative actions in the European Union: the example of private international law', p. 433-461.**

*Over the last decades systematic ex post evaluations of legislative actions have become an integral part of the European law making process. The present article analyses the European Commission's evaluation practice in the field of private international law and offers recommendations for its improvement.*

**Thalia Kruger, 'Brussels IIa Recast moving forward', p. 462-476.**

*The Brussels IIa Regulation (EC 2201/2003) is currently subject to revision. This is a long and cumbersome process. The European Commission published its report on the Regulation's operation in April 2014 and its Proposal for a Recast in June 2016. The European Parliament and the Council are currently discussing the proposed amendments. In order for the Recast to be enacted, unanimity in the Council is required. This article discusses some of the issues currently on the table. These include children's rights, matters of jurisdiction and parallel proceedings in parental responsibility disputes, international child abduction, the abolition of exequatur, the coordination with the 1996 Hague Child Protection Convention, mediation, and information on foreign law.*

**Tess Bens, 'Grensoverschrijdend bewijsbeslag', p. 477-494.**

*This article analyses whether the revised Brussels I Regulation ('Recast') allows the Dutch courts to order provisional measures intended to obtain or preserve evidence located in another Member State. Recital 25 of the Recast explicitly states that the notion of provisional measures includes these type of orders. The author discusses whether Dutch measures to preserve evidence qualify as provisional measures under the Recast. Possible substantive barriers to granting these measures, such as the Evidence Regulation and territorial limitations, are taken into account in making this assessment. The author further argues that there are - in principle - no obstacles for the Dutch courts to order provisional measures aimed at obtaining or preserving evidence located in another Member State. The problems seem to begin at the enforcement stage. To illustrate this point, the author discusses the possibility of coordinating the moment of serving the order and the moment of enforcing the measure in order to retain the element of surprise and the adaptation of the*

*measure for enforcement in France and Germany. As yet there is not a clear answer as to how the enforcement of these kind of measures in a different Member State will function in practice. Moreover, the problems described equally apply to the enforcement of other provisional measures under the Recast and can be expected to give rise to more questions in the future.*