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Issue 4 of RabelsZ is now available online and in print. It contains the following articles:

MAX-PLANCK-INSTITUT FÜR AUSLÄNDISCHES UND INTERNATIONALES PRIVATRECHT, Die Frühehe im Rechtsvergleich: Praxis, Sachrecht, Kollisionsrecht (Early Marriage in Comparative Law: Practice, Substantive Law, Choice of Law), pp. 705–785

> *Early marriage is a global and ancient phenomenon; its frequency worldwide, but especially in Europe, has declined only in recent decades. Often, early marriage results from precarious situations of poverty, a lack of opportunities and education, and external threats, for example in refugee situations. However the concepts and perceptions of marriage, family, identities, and values in different societies are diverse, as the comparison of regulations and the practice of early marriage in over 40 jurisdictions shows. Even if early marriage appears generally undesirable, for some minors the alternatives are even worse. Some countries set fixed ages for marriage; others use flexible criteria such as physical or mental maturity to determine a threshold for marriage. All, however, until very recently provided for the possibility of dispensation. In Western countries, such dispensations have rarely been sought in the last decades and have consequently been abolished in some jurisdictions; elsewhere they still matter. Also, most countries bestow some legal effects to marriages entered into in violation of age requirements in the name of a favor matrimonii.*
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> *Early marriage has an international dimension when married couples cross borders. Generally, private international law around the world treats marriages celebrated by foreigners in their country of origin as valid if they comply with the respective foreign law. Such application is subject to a case-specific public policy exception with regard to age requirements, provided the marriage has some relation to the forum. Recent reforms in some countries, Germany included, have replaced this flexible public policy exception with a strict extension of the lex fori to foreign marriages, holding them to the same requirements as domestic marriages and thereby disabling both a case-by-case analysis of interests and the subsequent remediation of a violation of the forum's age requirements. As a consequence, parties to a marriage celebrated*

abroad can be treated as unmarried, meaning they derive no rights and protection from their marriage, and their marriage may be limping – valid in one country, invalid in another.

The extension of domestic age requirements to foreign marriage without exception, as done in German private international law, is problematic in view of both European and German constitutional law. The refusal to recognize early marriages celebrated abroad can violate the European freedom of movement. It can violate the right to marriage and family (Art. 6 Grundgesetz) and the child's best interests. It can violate acquired rights. It can also violate the right to equality (Art. 3 Grundgesetz) if no distinction is made between the protection of marriages validly entered into abroad and the prevention of marriages in Germany. Such violations may not be justifiable: The German rules are not always able to achieve their aims, not always necessary compared with milder measures existing in foreign laws, and not always proportional.

Edwin Cameron and Leo Boonzaier, Venturing beyond Formalism: The Constitutional Court of South Africa's Equality Jurisprudence, pp. 786–840

[Excerpt taken from the introduction]: After long years of rightful ostracism under apartheid, great enthusiasm, worldwide, embraced South Africa's reintegration into the international community in 1994. The political elite preponderantly responsible for the Constitution, the legal profession, and the first democratic government under President Nelson Mandela were committed to recognisablyliberal principles, founded on democratic constitutionalism and human rights.

This contribution is an expanded version of a keynote lecture given by Justice Edwin Cameron at the 37th Congress of the Gesellschaft für Rechtsvergleichung at the University of Greifswald on 19 September 2019.

Chris Thomale, Gerichtsstands– und Rechtswahl im Kapitalmarktdeliktsrecht (Choice-of-court and Choice-of-law Agreements in International Capital Market Tort Law), pp. 841–863

The treatment of antifraud provisions in international securities litigation is a salient topic of both European capital markets law and European private

international law. The article sets the stage by identifying the applicable sources of international jurisdiction in this area as well as the situations in which a conflict of laws may arise. It then moves on to give a rough and ready interpretation of these rules, notably construing the "place where the damage occurred", according to both Art. 7 Nr. 2 Brussel Ibis Regulation and Art. 4(1) Rome II Regulation, as being equivalent to the market where a financial instrument is listed or is intended to be listed. However, as the article sets out in due course, this still leaves plenty of reasonable opportunity for a contractual choice of court or choice of law. This is why the article's main focus is on creating a possibility to utilize choice-of-court and choice-of-law agreements. This is feasible either in the issuer's charter or, notably in the case of bonds, in the prospectus accompanying the issuance of a given financial instrument. The article shows that both arrangements satisfy the elements of Art. 25 Brussel Ibis Regulation on choice-of-court agreements and Art. 14(1) lit. b Rome II Regulation on ex ante choice-of-law agreements.

Moritz Hennemann, Wettbewerb der Datenschutzrechtsordnungen – Zur Rezeption der Datenschutz-Grundverordnung (The Competition Between Data Protection Laws – The Reception of theGeneral Data Protection Regulation), pp. 864–895

The General Data Protection Regulation (GDPR) has granted the European Union an excellent position in the "competition" between data protection laws. This competition goes along with a gradual convergence of data protection laws worldwide, initiated and promoted by the European Union. In this competition, the European Union benefits not only from the so-called Brussels Effect (Bradford), but also from distinct legal instruments: The GDPR rules on the scope of application and on data transfer to non-EU countries are of legal importance in this competition, and the adequacy decision under Art. 45 GDPR creates further de facto leverage for negotiations on free trade agreements with non-EU countries. The European Union has already been able to use this tool as a catalyst for European data protection law approaches. The European Union should, however, refrain from "abusing" its strong position and not press for extensive "copies" of the GDPR worldwide – and thereby create legislative lock-in-effects. Alternative regulatory approaches – potentially even more innovative and appropriate – are to be evaluated carefully by means of a functional and/or contextual comparative approach.