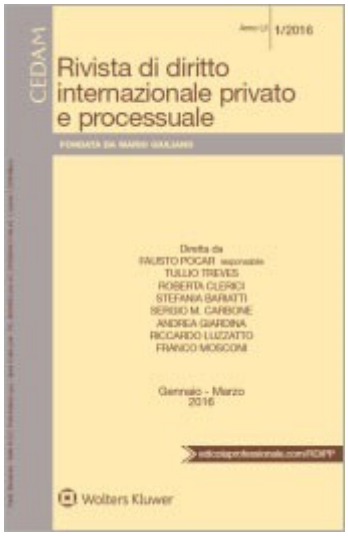
Rivista di diritto internazionale privato e processuale (RDIPP) No 1/2020: Abstracts



The first issue of 2020 of the *Rivista di diritto internazionale privato e processuale* (RDIPP, published by CEDAM) was just released. It features:

Antonietta Di Blase, Professor at the University of Roma Tre, **Sull'interpretazione delle convenzioni e delle norme dell'Unione europea in materia di diritto internazionale privato** ('On the Interpretation of the European Private International Law Conventions and Provisions'; in Italian)

- The paper provides an overview of the practice of international and national Courts relating to the interpretation of private international law conventions and EU rules, where uniform approach and autonomy from the national legal orders of Member States are construed as fundamental criteria. Some elements, especially drawn from the Court and the Italian practice, makes it evident that the national judicial organs have substantially endorsed the interpretation by the Court of Justice of the EU of the acts adopted within the framework of the judicial cooperation in civil matters. Possible gaps in EU rules could be overcome through interpretation – in keeping with the main human rights principles – taking into account that sometimes the legislation in force in the Member States follow a different approach, as in the case of family law. Finally, the paper addresses problems connected to the interpretation of conventions with Third States, also taking into account the consequences of the UK's exit from the European Union.

Gilles Cuniberti, Professor at the University of Luxembourg, **Signalling the Enforceability of the Forum's Judgments Abroad** (in English)

- The aim of this article is to document and assess the efforts made by international commercial courts to signal the enforceability of their judgments abroad. To that effect, three strategies were developed. The first and most obvious one was to enter into agreements providing for the mutual enforcement of judgments of contracting States which could serve the same function as the 1958 New York Convention for arbitral awards. Yet, as the 2005 Hague Convention has a limited scope and the 2019 Hague Convention is not yet in force, alternative strategies were identified. Several international commercial courts are actively pursuing the conclusion of non-binding documents with other courts or even law firms suggesting that the judgments of the forum would be enforced by the courts of other States. Finally, one international court has also explored how it could convert its judgments into arbitral awards.

Laura Baccaglini, Associate Professor at the University of Trento, **L'esecuzione transfrontaliera delle decisioni nel regolamento (UE) 2015/848** ('Cross-Border Enforcement of Decisions Pursuant to (EU) Regulation 2015/848'; in Italian)

- This paper addresses the cross-border enforcement of insolvency decisions in Europe. Notably, it examines how the claims brought in the interest of an insolvency proceeding opened in one Member State can be pursued in other Member States. The topic refers to EU Regulation 848/2015 that, as of 26 June 2017, replaced EC Regulation No 1346/2000 without introducing any significant new features as regards the circulation of such judgments, which remain subject to a system of automatic recognition. The reference made by such Regulation to Regulation No 1215/2012 makes the enforcement of those judgments equally automatic, without the need for prior exequatur by the court of the State addressed but only requiring the delivery of a certificate of enforceability by the court of the State of origin. The problem is examined by taking the liquidation procedure as a model, assuming that it was opened in a Member State other than Italy, where the insolvency practitioner needs to recover assets that have been disposed of by the debtor, after the opening of the procedure. The question is addressed as

to how the insolvency practitioner can prevent the continuation of individual enforcement proceedings still pending and whether he can intervene to have the assets liquidated, withholding the proceeds. More generally, the problem arises as to which rules govern the liquidation of assets located in Italy and belonging to the debtor. In all these cases, the issue is whether the foreign judgment should be enforced and, if so, how it should be enforced.

The following comment is also featured:

Giovanna Adinolfi, Professor at the University of Milan, **L'accordo di libero scambio tra l'Unione europea e la Repubblica di Singapore tra tradizione e innovazione** ('The Free Trade Agreement between the European Union and the Republic of Singapore between Tradition and Innovation'; in Italian)

- The Free Trade Agreement (FTA) with Singapore entered into force on 21 December 2019. It is one of the so-called new generation treaties negotiated and concluded by the European Union within the framework of the trade policy strategy launched in 2006. The FTA is complemented by the Investment Protection Agreement (IPA), signed in 2018 and whose entry into force requires the ratification by all EU Member States, in addition to the EU and Singapore. The overall purpose of the contribution is to assess to what extent the parties to the two agreements have not overlooked the dense network of other treaties and conventions that already govern their cooperation in economic matters. Indeed, the substantive provisions and the dispute settlement mechanisms established under the FTA and IPA have been inspired by these external sources and by their relevant case law. The analysis focuses, first, on the FTA provisions on trade in goods and services, establishment, subsidies, government procurement and intellectual property rights (para 2-6). Thereafter, the IPA is taken into consideration for the purposes of identifying possible overlaps with the FTA rules on establishment (para 7). Finally, focus is placed on the envisaged dispute settlement mechanisms, in view of the role they may play for a proper safeguard of the businesses' interests (para 7). This issue arises because of the provisions included in both the FTA and the IPA excluding the direct effects of the two agreements in the parties' legal order. Against this framework, the investor-State dispute settlement mechanism established under the IPA is

called on to play a crucial role, also in the light of the detailed provisions on the enforcement of awards under art. 3.22 IPA.

In addition to the foregoing, this issue features the following book review by *Angela Lupone*, Professor at the University of Milan: Nora Louisa Hesse, **Die Vereinbarkeit des EU-Grenzbeschlagnahmeverfahres mit dem TRIPS Abkommen**, Mohr Siebeck, Tübingen, 2018, pp. XI-274.