

Study Rome II Regulation published

The long-awaited Rome II Study commissioned by the European Commission, evaluating the first ten years of the application of the Rome II Regulation on the applicable law to non-contractual obligations, has been published. It is available [here](#). The Study was coordinated by BIICL and Civic and relies on legal analysis, data collection, a consultation of academics and practitioners, and national reports by rapporteurs from the Member States. The extensive study which also includes the national reports, discusses the scope of the Regulation and the functioning of the main rules, including the location of damages under Art. 4 Rome II, which is problematic in particular in cases of prospectus liability and financial market torts. As many of our readers will know, one of the issues that triggered debate when the Rome II Regulation was negotiated was the infringement of privacy and personality rights, including defamation, which topic was eventually excluded from the Regulation. While it has been simmering in the background and caught the attention of the Parliament earlier on, this topic is definitely back on the agenda with the majority opinion being that an EU conflict of laws rule is necessary.

Three topics that the European Commission had singled out as areas of special interest are: (1) the application of Rome II in cases involving Artificial Intelligence; (2) business and human rights infringements and the application of Art. 4 and – for environmental cases – Art 7; and (3) Strategic Lawsuits against Public Participation (SLAPPs). For the latter topic, which is currently also studied by an expert group installed by the European Commission, the inclusion of a rule on privacy and personality rights is also pivotal.

The ball is now in the court of the Commission.

To be continued.