RabelsZ: New issue alert

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ESSAYS

Urs Peter Gruber, Ein europäisches »Full Faith and Credit« für Rechtsgeschäfte? – Über die (partielle) Ersetzung des IPR durch ein Anerkennungssystem, [European »Full Faith and Credit« for Private Acts? – On the (Partial) Replacement of PIL with a System of Recognition], pp 195–213, https://doi.org/10.1628/rabelsz-2025-0010

> *In EU law, there are increasing signs of a fundamental change in methodology: Step by step, the EU legislature could be moving towards extending the rules on the recognition of judgments to private acts. Taken to its logical conclusion, the (quasi-)procedural recognition of private acts means that there is no need for an ex post review of the validity of these acts in the Member State of recognition. Therefore, in the Member State of recognition, the application of conflict-of-law or substantive law rules is no longer admissible. At first glance, the (quasi-)procedural recognition of private acts appears to be incompatible with the established principles of private international law. It is therefore likely to meet with considerable resistance. However, upon closer look, it could prove to be an effective tool in the creation of a single European judicial area.*

*Frederick Rieländer, Di*gitalisierung des grenzüberschreitenden Zivilprozesses – Entwicklungsstufen und Entwicklungsperspektiven im europäischen Rechtsraum [Digitalization of Cross-Border Civil Procedure – Current Developments and Prospects for Reform Within the European Judicial Area], pp 214–261, https://doi.org/10.1628/rabelsz-2025-0011

Regulation (EU) 2023/2844 plays a key role in the European Union's efforts to improve the efficiency and effectiveness of judicial proceedings in cross-border civil, commercial, and criminal matters and to utilize digital technology to improve access to justice in civil and commercial matters. It establishes a new frame-work for exchanging data in cross-border judicial procedures, introduces a central platform for communication between the parties and the authorities in cross-border civil cases, regulates the formal requirements for and legal effects of electronic documents, and provides for the optional use of videoconferencing or other remote communications in oral hearings in civil and criminal matters with cross-border implications. The article critically examines the reform package, arguing that while the EUs initiatives are an important step in the right direction, they are insufficient and not well coordinated. In particular, the article calls for the EU Service Regulation and the EU Evidence Regulation to be revised, and soon, to address these shortcomings.

Patrick Ostendorf, Auslegung und Wirksamkeit von Freizeichnungsklauseln im unternehmerischen Geschäftsverkehr im deutschen, Schweizer und englischen Recht [The Interpretation and Applicability of Exemption Clauses in Commercial Transactions under German, Swiss, and English Law], pp 262–310, https://doi.org/10.1628/rabelsz-2025-0015

Given the unlimited liability that most jurisdictions provide for breach of contract, exemption clauses are, due to the lack of adequate alternatives, an essential tool for contractual risk management in commercial transactions. At the same time, broad application of the law regulating general terms and conditions, in conjunction with the »cardinal obligation doctrine« of the German Federal Court of Justice (Bundesgerichtshof), has made it virtually impossible to draft enforceable limitation of liability clauses under German law. English and Swiss law, by contrast, are among the most frequently chosen laws for

international commercial transactions and give the parties far more leeway to conclude exemption clauses. Against this background, the article examines principles of interpretation and applicable legal restrictions regarding exemption clauses in these legal systems, also with a view to the potential reform of German law.

Mika Sharei, Rechtsbegriffe in internationalen Wirtschaftsverträgen [Legal Terms of Art in International Commercial Contracts], pp 311–344, https://doi.org/10.1628/rabelsz-2025-0018

Rarely will a contract be free of terms that have specific meanings in legal contexts. This is especially true in the highly professionalized realm of cross-border commercial transactions. Some of the transactional attorney's lexicon could even be considered to constitute a standard terminology. However, the exact recognized usage of a specific term will often differ from one jurisdiction to the next, and this can lead to considerable uncertainty in the practice of international business law. So it is no surprise that case law and scholarship perennially devote a great deal of attention to this kind of issue at the national level. This article critically examines different jurisdictions' approaches to these issues, some of which appear to be marred by serious mis-understandings. Where this is so, this study aims to introduce clarity by suggesting viable principles instead.

BOOK REVIEWS

This issue also contains several reviews of literature in the fields of comparative private and private international law and on related topics (pp. 345–407).