Rivista di diritto internazionale privato e processuale (RDIPP) No 4/2024: Abstracts

The fourth issue of 2024 of the *Rivista di diritto internazionale privato e processuale* (RDIPP, published by CEDAM) was just released. It features:

Francesca C. Villata, Professor at the University of Milan, **On the Track of the Law Applicable to Preliminary Questions in EU Private International Law** [in English]

> Silenced, if not neglected, in (most) legislation and practice, the issue of determining the law applicable to preliminary questions is a constant feature in the systematics of private international law ("p.i.l.").

> In legal doctrine, in a nutshell, the discussion develops along the traditional alternative techniques of (i) the independent connection (or disjunctive solution, based on recourse to the conflict rules of the forum even for preliminary questions), (ii) the dependent connection (to which both the so-called "joint" solution and the "absorption" solution are attributable, for which, respectively, the conflict rules of the *lex causae* or, directly, the substantive law of the latter are relevant), or, finally, (iii) the approach which

emphasises the procedural dimension of preliminary questions and leads them back to the substantive law of the forum. In these pages, an attempt is made to ascertain whether, in the absence of EU rules explicitly intended to determine the law applicable to preliminary questions, there are nevertheless indications within the EU Regulations containing uniform conflict rules that make it possible to reconstruct, at least in selected cases, an inclination, if not adherence, of the European legislature to a specific technique for resolving preliminary questions. To this end, particular attention will be paid to the rules defining the material scope of application of the various EU p.il. Regulations in force and in the making, to those establishing the "scope" of the applicable law identified by these Regulations, and to those concerning the circulation (of points) of decisions on preliminary questions. This approach will concern both the preliminary questions the subject-matter of which falls *ratione materiae* within the scope of those Regulations and those that do not. On the assumption that at least in some areas, if not in all, the EU legislator does not take a position on the law applicable to preliminary questions, leaving this task to the law of the Member States, the compatibility of the traditional alternative techniques used in the law of the Member States (or in practice) with the general and sec-toral objectives of EU p.i.l. and with the obligation to safeguard its effectiveness will be assessed. Finally, some considerations will be made as to the appropriateness, relevance and extent of an initiative of the EU legislator on this topic, as well as the coordinates to be considered in such an exercise.

Sara Tonolo, Professor at the University of Padova, **Luci e ombre: il diritto internazionale privato è strumento di contrasto allo sfruttamento della povertà o di legittimazione dell'ingiustizia?** [Lights and Shadows: Is Private International Law a Tool for Combating the Exploitation of Poverty or Legitimising Injustice?; in Italian]

The relationship between private international law and poverty is complex and constantly evolving. It is a multifaceted issue in which private international law plays an ambivalent role: on the one hand, as a tool to combat the exploitation of poverty, and on the other, as a means of legitimizing injustice. The analysis of the role of private international law in countering the exploitation of poverty often intersects with other fields, such

as immigration law, due to the relevance that private law institutions have on individuals' status and their international mobility, which is significantly affected in the case of people in situations of poverty.

Lidia Sandrini, Professor at the University of Milan, **La legge applicabile al lavoro mediante piattaforma digitale, tra armonizzazione materiale e norme di conflitto** [The Law Applicable to Labour through a Digital Platform, between Material Harmonisation and Conflict of Law Rules; in Italian]

> This article explores the phenomenon of platform work in the legal framework of the European Union from the methodological point of view of the relationship between substantive law and conflict-of-law rules. After a brief examination of the text of the Directive (EU) No. 2024/2831 "on improving working conditions in platform work", aimed at identifying its overall rationale and the aspects that most directly reverberate effects on the EU conflict-of-law rules, the article investigates its interference with Regulation (EC) No. 593/2008 (Rome I), proposing an assessment of the solutions accepted from the point of view of the coherence between the two acts and their adequacy to their respective purposes.

This issue also comprises the following comments:

Stefano Dominelli, Associate Professor at the University of Genoa, **A New Legal Status for the Environment and Animals, and Private International Law: *Tertium Genus Non Datur*? Some Thoughts on (the Need for) Eco-Centric Approaches in Conflict of Laws** [in English]

> Traditional continental approaches postulate a fundamental contraposition between (natural and legal) 'persons' – entitled to a diverse range of rights – and 'things'. Conflict of laws is methodologically coherent with an anthropocentric understanding of the law. Yet, in some – limited – cases, components of the environment are granted a legal personality and some rights. Narratives for animals' rights are emerging as well. This work wishes to contribute to current debates transposing in the field of conflict of laws reflections surrounding non-human legal capacity by addressing legal problems a national (Italian) court might face should a non-human-based entity start proceedings in Italy. The main issues explored are those related to the possibility of said entity to exist as an autonomous rights-holder and

thus to start legal proceedings; to the search for the proper conflict-of-laws provisions as well as to the conceptual limits surrounding connecting factors developed for 'humans'. Furthermore, public policy limits in the recognition of non-human-derived autonomous rights-holders will be explored. The investigation will conclude by highlighting the possible role of private international law in promoting societal and legal changes if foreign legal personality to the environment is recognised in the forum.

Sara Bernasconi, Researcher at the University of Milan, **Il ruolo del diritto internazionale privato e processuale nell'attuazione del «pacchetto sui mercati e servizi digitali» (DMA&DSA)** [The Role of Private International and Procedural Law in the Implementation of the 'Digital Markets and Services Package' (DMA&DSA); in Italian]

In line with the goal to achieve a fair and competitive economy, Regulation (EU) 2022/1925 of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) and Regulation (EU) 2022/2065 of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) – composing the so called Digital Services Act Package – aim at introducing a uniform legal framework for digital services provided in the Union, mainly protecting EU-based recipients, companies and the whole society from new risks and challenges stemming from new and innovative business models and services, such as online social networks and online platforms. Namely, the ambition of the abovementioned regulations is, on the one hand, to regulate, with an ex ante approach, platform activities so to reduce side-effects of the platform economy and therefore ensure contestable and fair markets in the digital sector and, on the other hand, to introduce EU uniform to grant a safe, predictable and trustworthy online environment for recipients (e.g. liability of providers of intermediary services for illegal contents and on obligations on transparency, online interface design and organization, online advertising). Despite expressly recognising the inherently cross-border nature of the Internet, which is generally used to provide digital services, DMA and DSA do not contain any private international law rule or provide for any provision on the relationship between the two sectors, but only state that their rules do not prejudice EU rules on judicial cooperation in civil and commercial matters. Therefore, the

present article will discuss the role of private international law rules in the daily application of DMA and DSA to cross-border situations. Accordingly, after having ascertained the so called extraterritorial effects of the new rule on digital markets and digital services and assessed their overriding mandatory nature, the author first investigates the role that conflict-of-laws provisions could possibly play in the application of DMA and DSA, by integrating such regimes, and then suggests a possible role also for rules on jurisdiction in a private enforcement perspective, highlighting potential scenarios and possible difficulties arising from the need to coordinate two different set of rules (i.e. substantive provisions on digital markets and digital services, on the one hand, and private international rules, on the other hand).

Finally, the issue features the following book review by *Gabriella Venturini*, former Professor at the University of Milan: **INSTITUT DE DROIT INTERNATIONAL, *150 ans de contributions au développement du droit international: Livre du sesquicentenaire de l'Institut de Droit international (1873-2023)/150 Years of Contributing to the Development of International Law: Sesquicentenary Book of the Institute of International Law (1873-2023), Justitia et Pace*,** edited by Kohen, van der Heijden, Paris, Editions A. Pedone, 2023, p. 1053.