Perspectives Contentieuses Internationales (PCI), Volume 6

The following announcement was kindly shared with us by Fabienne Jault-Seseke.

The 6th issue of Perspectives contentieuses internationales has been released and is online.

It contains seven articles related to the consolidation of cross-border litigation. These articles form the first part of the proceedings of a conference held in Toulouse in November 2025. The second part will be published in Volume 7. Volume 6 also includes two further articles, one on the law applicable to air transport and one of theclassification, and three short notes (focus).

Here is the list of papers, along with their abstracts.

Fabienne Jault-Seseke, The consolidation of cross-border litigation in the interests of consistency

The consolidation of cross-border litigation makes it possible to satisfy the requirement of consistency. It is mainly understood as the ability to bring claims and defendants before a single judge,but it also arises in the context of res judicata. Consolidation serves the proper administration of justice by avoiding fragmented decisions in the same case, and it must be seen together with the right of access to a court. Finding the right balance is difficult. It depends on the nature and subject matter of the dispute. The rules that make such concentration possible are varied (related actions, the most appropriate forum, lis pendens, transfer of jurisdiction, specialization of courts, and cooperation between judges).

Sandrine Clavel, Global litigation strategy and consolidation

An analysis of the procedural strategies likely to be employed by the main parties involved in civil and commercial litigation—particularly businesses and nongovernmental organizations (NGOs)—reveals that they hold an ambivalent stance toward the goal of consolidating litigation. These strategies are, in fact, primarily driven by the desire to achieve the most favorable outcome for the party concerned; however, this fundamental objective is sometimes best served by consolidating the litigation and at other times by splitting it up. This analysis also highlights that the fragmentation of litigation is a natural tendency in transnational disputes, due to the multiplicity of parties and the dispersion of the elements of the dispute across multiple legal systems, but also, at times, due to the nature of the applicable legal rules. It is therefore relatively easy for the parties to capitalise on this trend by devising procedural strategies based on multiple proceedings, whereas it may prove more complex for those who, for very legitimate reasons, wish to effectively consolidate their litigation. The overview of litigation strategies presented in this article therefore leads to the conclusion that what matters is not so much deciding, in abstracto, on the respective merits of consolidating or fragmenting international litigation — this must be decided on a case-by-case basis by the parties involved, depending on the nature of the dispute and the applicable rules — but rather to provide litigants with effective tools to achieve the objective of consolidating litigation when they deem it desirable, and to provide judges with effective tools to sanction any abuses that might be committed by those litigants in defining their litigation strategies.

Estelle Gallant (dir.), The consolidation of litigation in family matters

Although the concentration of litigation in international family matters could undoubtedly be favored, it nevertheless appears that the European regulation of international family conflicts offers litigants a broad range of rules on judicial jurisdiction and thus establishes a deliberate form of forum shopping. This notably enables the better-informed parties to bring proceedings before the court whose applicable law will provide them with the greatest advantages. Mechanisms for consolidating proceedings do exist, but they clearly do not reflect any general objective pursued by the legislature. The autonomy of the will, increasingly valued in private international family law, may therefore prove valuable for parties wishing to anticipate outcomes in the event of a dispute; however, it may also appear as a discriminatory tool serving only a certain *category of litigants and thus fail to satisfy all the objectives of justice in private international law. Finally, the fragmentation of international litigation sometimes comes into conflict with national rules requiring the indivisibility of certain proceedings, raising the question of how such rules should be reconciled with European regulations.*

Marie Nioche, Provisional justice and consolidation of cross-border disputes

Provisional justice tends to fragment proceedings in cross-border disputes. The analysis is based on the Brussels I bis Regulation. The author first addresses the causes of this fragmentation. She then considers possible solutions for improving the concentration of cross-border provisional litigation. Under current law, the options are limited, as traditional tools are ill-suited to provisional litigation. De lege ferenda, however, it is possible to effectively tackle fragmentation by recognizing the central role of the judge who has jurisdiction on the merits, both ex ante – to prevent coordination difficulties and conflicts of provisional proceedings or decisions – and ex post – to resolve them.

Philippine Blajan, Consolidation of cross-border disputes litigation through the optimal use of choice-of-court agreements

Choice-of-court agreements have become key instruments for managing cross-border disputes in an increasingly complex international commercial environment. Beyond ensuring predictability, they enable parties to concentrate litigation before a single forum and reduce the risks of parallel proceedings and inconsistent judgments. Their effectiveness, however, depends on their ability to bind third parties involved in complex contractual networks and to withstand competing jurisdictional claims. At the same time, excessive concentration may undermine procedural fairness where vulnerable or weaker parties are compelled to litigate before a distant or burdensome forum. The article analyses the tensions between party autonomy, procedural efficiency, and access to justice under European and French private international law. It concludes by suggesting a new "jurisdictional concentration clause" designed to centralize disputes arising from interconnected contractual relationships while preserving fairness and legal certainty, and binding force of contracts.

Julie Esquenazi, Hélène Georgelin, Choice-of-court agreements, primacy at any cost comes at a price

In the last few months, case law has been particularly notable in relation to jurisdiction clauses. Notably, the scope of such clauses is becoming increasingly broader, particularly with regard to their primacy over other jurisdictional rules as well as their enforceability against interested third parties. This approach in case law, justified by the objective of predictability, may conflict with other principles, such as the proper administration of justice or the relative effect of agreements.

Laurence Idot Consolidation of litigation: the contributions of public enforcement to private enforcement

Public enforcement in cross-border matters has developed considerably. Competition law is a prime testing ground. But financial and digital matters, among others, are also concerned. The mechanisms for concentrating litigation found there cannot simply be transposed to private enforcement. They are nevertheless a source of inspiration, whether in identifying the most suitable authority, putting in place cross-border information mechanisms, or identifying rules that help ensure coherence.

Caroline Derache, Constance Plouchart, The law applicable to disputes relating to air transport

Although international air transport is governed by uniform substantive rules laid down among others in long-standing international treaties, there are still many situations where, in case of litigation, the court may have to determine the law applicable to the claims brought before it. This is the case, for example, when parties other than the carrier are involved. Determining the relevant text and subsequently applying the appropriate conflict of laws rule can, then, give rise to debates that have led to decisions that are worth examining. However, some issues have not yet been resolved.

Sophie Duparc, Elie Lenglard, Maud Minois, Noela Picari, What role does the 'lege fori' classification play in the age of independent classification ?

What role remains for lege fori characterization in a private international law increasingly shaped by the European Union and by autonomous concepts developed by the Court of Justice of the European Union ? Using the landmark

Caraslanis decision as its starting point, the article argues that the opposition between domestic and autonomous characterization is less radical than commonly assumed. Although European harmonization has shifted the interpretation of connecting-factor categories to the legal order of the Union, it has neither eliminated the relevance of national legal concepts nor resolved the difficulties surrounding the identification of the object of characterization. The article highlights the continuing methodological value of lege fori characterization through three contemporary case studies: the fiducie and the trust, the direct action mechanism, and claims based on the abrupt termination of established commercial relationships. These examples reveal the persistent tension between European uniformity and the diversity of national private law systems. The authors contend that autonomous characterization can operate coherently only through renewed reliance on comparative analysis and a careful understanding of national legal institutions. The challenge today is therefore not to replace lege fori characterization with autonomous concepts, but to articulate both approaches in a manner that safeguards the unity of EU private international law while preserving the coherence of domestic legal systems.

The focus are the following :

Summary report on the inaugural conference of the GLAS Forum, by Daniela de Avilez Demoro and Yannick Vincent

A first step towards a revision of the Brussels I bis Regulation, by Sandrine Clavel

The transposition of the anti-SLAPP Directive, by Fabienne Jault-Seseke