Márton on Violations of Personality Rights through the Internet

Edina Márton has authored a book on "Violations of Personality Rights through the Internet: Jurisdictional Issues under European Law". The book has been published by Nomos in cooperation with Hart Publishing.

The official abstract reads as follows:

> *This book considers jurisdictional issues on violations of personality rights through the Internet under the so-called 'Brussels-Lugano Regime' and centres on the special rule of jurisdiction in matters relating to tort, delict, or quasi-delict. It notes the governing objectives and underlying principles of this special rule; analyses its interpretation through the judgments of the ECJ, especially Bier, Shevill, and eDate and Martinez; and explores views expressed in legal theory and national judicial practice regarding its application for localising online violations of personality rights.*
>
> *The book aims to examine how the eDate and Martinez-approaches advance administrability, predictability, and litigational justice and to assess whether they are suitable jurisdictional bases in Europe, where common legal norms, interests, and values increasingly integrate and connect persons. It concludes that they are not and recommends their possible reform.*

Further information is available on the publisher's website.

Article: Marriage for All and

International Public Policy

Professor Victoria Camarero Suarez published an article on marriage for all and international public policy in the **Revista General de Derecho Canónico y Eclesiástico del Estado (no. 40/2016),** a Spanish Journal on the Law of Church and State.

Here is the English abstract:

In this work, in the first place, some general considerations are carried out, in relation with same-sex marriages and their roots in comparative systems as far as the legal practice is concerned. After this brief outline, we offer a presentation of the Decision of the French Cour de Cassation dated 28 January 2015, following the development of its historical iter and the foundations on which it is based upon. Within the stage that we may define as a comment, our research makes a evaluation of such as those foundations and, above all, of the interplay between international public policy and Fundamental Rights. In the same way we make detailed comparisons with the Spanish legal practice within the terms specially defined by DGRN. We put an end to our study through suggestive reflections with a view to throwing some light on the issue concerning the performance criteria of the French High Court and the need to reach full Human Rights, avoiding to the extent possible the emergence of unnecessary conflicts with regard to the subject of coexistence among the different legal systems.

Commentary on Succession Regulation Bonomi and Wautelet

A second edition of the commentary of the Succession Regulation written by Andrea Bonomi and Patrick Wautelet has just been published. As with the first edition, the book is conceived as a commentary, article by article, of the Regulation. Written in French it provides in more than 1.000 pages a comprehensive analysis of the Regulation taking into account the vast literature

already published on the Regulation, as well as various measures adopted by Member States in order to facilitate the practical operation of the Regulation.

More information available here.



Committee on Legal Affairs II: Possible legislative basis for instrument on public documents

Written by Edina Márton

On 1 February 2016, the Committee on Legal Affairs of the European Parliament delivered an "Opinion on the legal basis of the proposal for a Regulation of the European Parliament and of the Council on promoting the free movement of citizens and businesses by simplifying the acceptance of certain public documents in the European Union and amending Regulation (EU) No 1024/2012 (COM(2013)0228 – C7-0111/2013 – 2013/0119(COD))". As is clear from the opinion, the initial proposal was based on "dual legal basis" [i.e., Articles 114(1) and 21(2) TFEU]. After the removal of the former provision, the need for the assessment of the latter provision arose. Thus, the Chair, Mr Pavel Svoboda, assesses whether "the new single legal basis" of the proposal is valid and appropriate.

The opinion is available here.

Committee on Legal Affairs I: Possible legal basis for instrument on minimum standards in civil procedure

Written by Edina Márton

On 21 December 2015, the Committee on Legal Affairs of the European Parliament issued a Working Document on establishing common minimum standards for civil procedure in the European Union – the legal basis (PE572.853v01-00). The Rapporteur, Emil Radev, outlines the scope of the legislative competence of the EU regarding civil procedure law and discusses provisions of the EU Treaties as possible legal basis for harmonising national civil procedure laws in the EU.

The Working Document is available here.

Cour de cassation refers preliminary question regarding Art. 5(3) Brussels I to the ECJ

It has not been mentioned on this blog that the French Cour de cassation has submitted a request for a preliminary ruling to the ECJ regarding Article 5(3) Brussels I Regulation (Concurrence Sàrl v Samsung Electronics France SAS, Amazon Services Europe Sàrl – Case C-618/15) on 23 November 2015. The question relates to the interpretation of the phrase »the place where the harmful event occurred or may occur« and reads as follows:

»Is Article 5(3) of Council Regulation (EC) No 44/2001 of 22 December 2000 on

> *jurisdiction and the recognition and enforcement of judgments in civil and commercial matters to be interpreted as meaning that, in the event of an alleged breach of a prohibition on resale outside a selective distribution network and via a marketplace by means of online offers for sale on a number of websites operated in various Member States, an authorised distributor which considers that it has been adversely affected has the right to bring an action seeking an injunction prohibiting the resulting unlawful interference in the courts of the territory in which the online content is or was accessible, or must some other clear connecting factor be present?« (OJ 2016 C 38/38, footnote omitted.)*

Thanks to Edina Márton for the tip-off!

Towards an 'enhanced cooperation' among 17 Member States in the area of property regimes of international couples

This post has been written by Ilaria Aquironi.

On 2 March 2016 the European Commission adopted a proposal for a Council decision authorising enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions on the property regimes of international couples, covering both matters of matrimonial property regimes and the property consequences of registered partnerships (COM(2016) 108 final).

This stance comes close after the failure, in December 2015, to reach a political agreement among all Member States on the proposals relating to matrimonial property regimes and registered partnerships adopted in 2011.

Over the last few weeks, seventeen Member States – namely Belgium, Bulgaria,

the Czech Republic, Germany, Greece, Spain, France, Croatia, Italy, Luxembourg, Malta, the Netherlands, Austria, Portugal, Slovenia, Finland and Sweden – addressed a request to the Commission to propose a decision authorising the establishment of enhanced cooperation between themselves in this field.

As a response, the Commission adopted the aforementioned proposal for a Council decision authorising enhanced cooperation, as well as a proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes (COM(2016) 106 final) and a proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of the property consequences of registered partnerships (COM(2016) 107 final).

The adoption of the decision authorising enhanced cooperation requires a qualified majority of Member States within the Council and the consent of the European Parliament. The adoption of the two regulations implementing the enhanced cooperation requires unanimity by the participating Member States and the consultation of the European Parliament.

The non-participating Member States will continue to apply their national private international law rules to cross-border situations dealing with matrimonial property regimes and the property consequences of registered partnerships, and will remain free to join the enhanced cooperation at any time.

Slovenia: conference “Corporate Entities at the Market”

It is a tradition of the University of Maribor to organise conferences “**Corporate Entities at the Market**“. This year the conference will include issues related to cross-border debt collection. The conference is supported and partly financed by the European Commission, in the framework of EU Project BIARE. The conference is divided into five sessions:

1st Session: Corporate Law – Current Issues Related to ZGD-1 and Amendments
2nd Session: Commercial Legal Transactions
3rd Session: Cross-border Disputes in Civil and Commercial Matters (International session, English-Slovene interpretation) – 1. part
4th Session: Cross-border Disputes in Civil and Commercial Matters (International session, English-Slovene interpretation) – 2. part
Poster Session: National System of Enforcement from Perspective of Bruxelles Ia (Slovenia, Croatia, Austria, Germany, Italy, Czech Republic, Portugal, Netherlands, France, Lithuania, Estonia, Belgium, Sweden, UK, Greece).

The program is available here. The conference will take place on 19–21 May 2016 in Portoroz, Slovenia. The registration form can be accessed here.

Lehmann on Jurisdiction and Applicable law in Prospectus Liability Cases

Against the backdrop of the CJEU's judgment in Kolassa (Case C-375/13, see here and here for previous posts), Matthias Lehmann has written an article that is forthcoming in the August issue of the Journal of Private International Law. The article can be downloaded here.

The abstract reads as follows:

> *In its Kolassa judgment, the CJEU has for the first time decided which national court in the EU has jurisdiction for claims against an issuer of securities based on an allegedly false prospectus. This contribution analyses this fundamental and at the same time ambiguous ruling.*
>
> *The ruling's most important part concerns tort jurisdiction, in particular the identification of the place where loss is suffered by the investor. The court's mixture between the domicile of the investor and the location of the bank that*

manages his account is unsatisfying and leads to problems, which will be analysed. With regard to the place of conduct, the decision will be criticized for hesitating between four different connecting factors, the relation of which among each other remains unclear. Moreover, this contribution argues that prospectus liability never falls under the consumer provisions or the contractual head of jurisdiction in the Brussels I(a) Regulation because such liability is delictual in nature. Contrary to the CJEU's assumption, the particularities of the securities holding system do not play any role in the determination of the competent court.

Finally, it will be shown that the judgment is not limited to the determination of the competent court, but also affects the governing law for prospectus cases. It will be argued that the consequences of the Kolassa judgment under the Rome II Regulation are so drastic that a legislative reform of this Regulation has become necessary.

The legislative process of the EU regulation on public documents reaches its final stage

This post has been written by Ilaria Aquironi.

After nearly three years of negotiations, the time apparently has come for the adoption of a regulation aimed at simplifying the requirements for presenting certain public documents in the European Union (the initial proposal may be found here).

The regulation aims at promoting the free movement of EU citizens (*a*) by facilitating the circulation within the European Union of certain public documents (those regarding, *inter alia*, birth, death, marriage, legal separation and divorce, registered partnership, adoption, parenthood), as well as their certified copies,

and (*b*) by simplifying other formalities, such as the requirement of certified copies and translations of public documents.

Here's a summary of the key developments occurred over the last two years.

In February 2014, the European Parliament adopted its position at first reading on the proposed regulation. In June 2015, the Council approved, as a general approach, a compromise text (contained in document 6812/15 and its annex I, in combination with document n. 3992/15, and annexes *I*, *II* and *III* here) and further agreed that it should constitute the basis for future negotiations with the European Parliament.

In October 2015, an agreement was reached between the Council and the European Parliament on a compromise package; the agreement was then confirmed by COREPER and the compromise package was endorsed by the European Parliament's Committee on Legal Affairs.

The Chair of the latter Committee addressed a letter to the Chair of COREPER II to inform him that, should the Council formally transmit its position to the European Parliament in the form presented in the Annex to that letter, he would recommend to the plenary that the Council's position be accepted without amendment, subject to legal-linguistic verification, at the European Parliament's second reading.

In December 2015, the Council adopted a political agreement on the compromise package and instructed the Council's legal-linguistic experts to proceed with the revision of the text.

The text resulting from the revision carried out by the legal-linguistic experts can be found here (Council document No 14956/15 of 25 February 2016).

The Council is expected to discuss the adoption of its position at first reading on 10 and 11 March 2016.