Conference on International Child Abduction and Human Rights, 16 October

The University of Antwerp (Research Group Personal Rights and Real Rights) and the British Institute of International and Comparative Law are organising a conference on **International Child Abduction and Human Rights: A Critical Assessment of the Status Quo**.

The confernce will take place in **Antwerp** – Stadscampus – R.212 – Rodestraat- on **16 October 2014.**

Register through http://www.biicl.org/event/1061

Programme:

10.00-10.30 Registration and coffee

10.30-10.45 Welcome (Thalia Kruger and Eva Lein)

Chair: Maarit Jänterä-Jareborg, Uppsala University

10.45-11.45 Panel on recent case law (Karin Verbist and Carolina Marín Pedreño)

11.45-12.15 United States Supreme Court Hague Abduction Decisions: Developing a Global Jurisprudence (Linda Silberman)

12.15-12.45 The Role of Central Authorities (Andrea Schulz)

12.45-14.00 Lunch??

Chair: Frederik Swennen, University of Antwerp

14.00-14.30 Keynote Address, Permanent Bureau of the Hague Conference: ?"Quo vadis 1980 Convention" (Marta Pertegas)

14.30-15.00 Keynote Address, European Commission: "Quo vadis Brussels IIbis" ?(Michael Wilderspin)

15.00-15.30	Children’s Rights and Children’s Interests: (Helen Stalford)
15.30-16.00	Is Harmonised Case Law Possible? (Paul Beaumont)
16.00-16.30	The Concerns of Children’s Organisations: (Hilde Demarré and Alison Shalaby)
16.30-17.00	Debate

Save the Date: The Hague Service Convention Turns 50

On February 19, 2015, the Center for Transnational Business and the Law at Georgetown University Law Center will host an event in Washington DC to celebrate the fiftieth anniversary of the conclusion of the Hague Service Convention.

The Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, concluded in 1965, has become one of the most useful tools for the simplification of procedure in cross-border disputes. In the beginning, just a handful of Western states were parties, but over time, the acceptance of the Convention has grown; it is now in effect in 68 states, representing every continent and every major legal tradition. Alongside the New York Convention, accession to the Hague Service Convention is now considered one of the benchmarks of a state that aspires to provide access to the rule of law and transnational justice.

The event will feature panel discussions featuring practitioners, academics, representatives of the Hague Conference on Private International Law, and the central authorities of several states. The discussions will look back at the successes of the Convention over the past half-century, as well as look ahead to new challenges (whether it be unforeseen technologies, non-uniform

interpretations of the Convention, and inadvertent failures to understand the Convention by the bench and the bar.) Of course, the event will also feature an opportunity for informal discussions among colleagues and friends.

To RSVP, see this link on Letters Blogatory

Survey on Perceptions and Use of International Commercial Mediation and Conciliation

Professor Stacie Strong from the University of Missouri School of Law is conducting a survey regarding international commercial mediation and conciliation. As many of our readers may know, this issue has recently made the news as a result of a decision by the United Nations Commission on International Trade Law (UNCITRAL) to give further consideration to a proposal from the U.S. Department of State regarding an international convention on international commercial mediation and conciliation. This survey aims to inform the discussion about an international treaty in this field and further the debate about the viability of mediation and conciliation in the international commercial context.

Anyone who works in the field of international commercial dispute resolution–either as private practitioners, in-house counsel, legal academics or neutrals–are invited to participate by clicking on this link. The survey is comprised of thirty-four questions, although not all participants will answer all questions. The survey should take approximately ten minutes to complete, and participation is entirely anonymous. The survey will remain open until 11:59 p.m. Central Daylight Time (CDT) on October 31, 2014.

A Conference to Celebrate the 50th Anniversary of the Rivista di diritto internazionale privato e processuale

(I am grateful to Prof. Francesca C. Villata – University of Milan – for the tip)

On October 23, 2014, the University of Milan will celebrate the Rivista's 50th anniversary by hosting a conference addressing the prospective reform of the Italian private international law system.
With some exceptions, the conference language will be Italian.

The conference program reads as follows:

9:00-9:30 Welcoming remarks
Provost of the University of Milan
Director of the Department of International, Legal, Historical and Political Studies
Director of the Department of Italian and Supranational Public Law

9:30-11:00 I Session – Law No 218/1995: Defining Features and General Problems
Chair: **Fausto Pocar** (University of Milan)
Roberto Baratta (University of Macerata), **Marc Fallon** (Université catholique de Louvain), **Hans van Loon** (Former Secretary-General, Hague Conference on Private International Law)
Concluding Remarks: **Tullio Treves** (University of Milan)

11:00-12:30 II Session – Personal Status
Chair: **Roberta Clerici** (University of Milan)
Alegría Borrás (Universitat de Barcelona), **Luigi Fumagalli** (University of Milan), **Costanza Honorati** (University of Milan-Bicocca), **Carlo Rimini** (University of Milan), **Ilaria Viarengo** (University of Milan)
Discussion and Concluding Remarks: **Franco Mosconi** (University of Pavia)

14:30-16:00 III Session – Corporations, Contractual and Non-Contractual

Obligations
Chair: **Riccardo Luzzatto** (University of Milan)
Ruggiero Cafari Panico (University of Milan), **Cristina Campiglio** (University of Pavia), **Domenico Damascelli** (University of Salento), **Paola Ivaldi** (University of Genoa), **Peter Kindler** (Universität München)
Discussion and Concluding Remarks: **Andrea Giardina** (University of Rome "La Sapienza")

16:30-18:00 IV Session – International Civil Procedure Law
Chair: **Sergio Maria Carbone** (University of Genoa)
Mario Dusi (President CRINT), **Alberto Malatesta** (University Carlo cattaneo-LIUC), Francesco Salerno (University of Ferrara), **Lidia Sandrini** (University of Milan), **Francesca C. Villata** (University of Milan)
Discussion and Concluding Remarks: **Stefania Bariatti** (University of Milan)

Final Remarks: **Fausto Pocar** (University of Milan)

Registration is open here.

Call for Papers: 'Privacy under International and European Law'

Utrecht Journal of International and European Law is issuing a call for papers in relation to its forthcoming 80th edition on 'Privacy under International and European Law'.

With information gathering and sharing techniques becoming ever more advanced, States are being forced to take a stand on their permissible cost for individual privacy. As the international legal system struggles to keep up with the irreversible process of globalisation, its role in regulating these competing interests is coming under increasing discussion. That's why the Board of Editors are inviting scholars to submit papers addressing any legal issues relating to privacy and international law from an international or European law perspective.

While this edition is primarily concerned with privacy and international law, relevant issues may have broader implications, including: the responsibility of private actors under international law; privacy as a human right; the conflict between State interests and individual rights; the internet and territorial limits; data protection; diverging national approaches to the protection of privacy and the rise of cybercrime. All types of manuscripts, from socio-legal to legal-technical to comparative will be considered.

The Board of Editors will select articles based on quality of research and writing, diversity and relevance of topic. The novelty of the academic contribution is also an essential requirement. Prospective articles should be submitted online and conform to the journal style guide. For further information please consult the website, or send an email to utrechtjournal@urios.org.

(Deadline for Submissions: 14 November 2014)

ISDS in the TTIP?

The question whether the Transatlantic Trade and Investment Partnership (TTIP) should include an Investor-State Dispute Settlement (ISDS) provision clause has triggered a lively debate where opinions are clearly opposed. As I am not an expert in the field I can only report on the fact and refer to what has been already said elsewhere. In this regard I would recommend to have a look at J. Garcia Olmedo's post of last Friday. It contains info and interesting links to further contributions, in particular to the responses to the EC public consultation on the matter in March 2014 (ended on 13 July 2014). The author comments focus especially in the response submitted by professors from several universities such as Sciences Po Paris, the University of Kent, the School of Oriental and African Studies, and Osgoode Hall Law School. Some other contributions can be found online: click here, or here). The Preliminary Report of the Commission, which provides a statistical overview, was published in July 2014; the EC does not expect to have its final analysis ready before November this year. Considering the success of the public consultation, with almost 150.000 answers, stakeholders will

be certainly waiting for it.

Roundup of Recent Alien Tort Statute Cases Post-Kiobel

For those interested in the impact that *Kiobel* is having on Alien Tort Statute litigation, John Bellinger of Arnold & Porter (who was the Legal Advisor at the US State Department) has an interesting post here. After reviewing the cases, John concludes

> *It is clear from these decisions that the courts remain uncertain about what domestic conduct is necessary to "touch and concern" the territory of the United States and whether the conduct of corporate defendants inside the United States must itself violate the law of nations. In particular, there already appears to be a circuit split between the 9^{th} and 11^{th} circuits regarding whether the Supreme Court intended lower courts to apply to ATS cases the "focus" test in Morrison v. Australian National Bank, where the Supreme Court concluded that, in considering whether conduct that occurs both inside and outside the United States violates a statute without extraterritorial application, the courts should determine whether the conduct that is the "focus of congressional concern" occurred inside or outside the United States. I discuss the decisions in more detail below.*

The whole piece is definitely worth a read.

EP Paper on future of European Private International Law

In a workshop of the European Parliament's JURI Committee on *Upcoming issues of EU Law,* that took place on 24th September, papers were presented on five selected topics: the application of EU Law (Wolfgang Heusel), the implementation of EU law (Marta Ballesteros), European private international law (Xandra Kramer), intellectual property law (Lionel Bently and Alfred Radauer) and regulating robotics (Andrea Bertolini and Erica Palmerini).The workshop focused on work that has been accomplished in the past and challenges for the current legislature (2014-2019). The compilation of papers is available here.

For those readers only interested in private international law, the paper entitled *European private international law: the way forward*, is also available here.

Second Issue of 2014's Rivista di diritto internazionale privato e processuale

(I am grateful to Prof. Francesca Villata – University of Milan – for the following presentation of the latest issue of the RDIPP)

The second issue of 2014 of the Rivista di diritto internazionale privato e processuale (RDIPP, published by CEDAM) was just released. It features one article and three comments.

Angela Del Vecchio, Professor at LUISS – Guido Carli University, addresses recent cases of conflict of criminal jurisdiction and piracy in **"Il ricorso all'arbitrato obbligatorio UNCLOS nella vicenda dell'*Enrica Lexie*"** (Recourse to UNCLOS Compulsory Arbitration in the *Enrica Lexie* Case)

The Enrica Lexie *incident has given rise to two disputes between Italy and India, one concerning the violation of the United Nations Convention on the Law of the Sea ("UNCLOS") rules on piracy and criminal jurisdiction in the case of an incident of navigation on the high seas, and the other concerning the violation of the international rules on the sovereign functional immunity of military personnel abroad. Regarding the first dispute, there is a difference of opinion between Italy and India as to the interpretation of the UNCLOS provisions that govern the jurisdiction of domestic courts to adjudicate on the merits of the case. This has led to a conflict of jurisdiction between the two States that, as examined in this article, could be resolved by recourse to the compulsory arbitration provided for in Annex VII to UNCLOS. Such arbitration may be commenced even by just one of the parties. By contrast, as concerns the second dispute recourse to compulsory dispute resolution mechanisms would appear quite problematic as a result of the gradual erosion of the principle of sovereign functional immunity of State organs.*

Georgia Koutsoukou, Research Fellow at the Max Planck Institute Luxembourg, and *Nikolaos Askotiris*, Ph.D. Candidate at the International Investment Law Centre Cologne, examine waivers of sovereign immunity in light of the most recent jurisprudence in **"Tightening the Scope of General Waivers of Sovereign Immunity from Execution"** (in English)

The establishment, under international law, of the proper interpretive approach to broadly phrased waivers of sovereign immunity from execution is an unsettled issue, which was not addressed in legal theory or practice until recently. However, this issue became practically relevant in the wake of certain hedge funds' strategy to seek the collection of defaulted sovereign debt in any available jurisdiction. Most important in this respect are the recent judgments of the French Court of Cassation in NML v. Argentine Republic*, where the Court held, in fact, that, under customary international law, waivers of execution immunity may not extend to a particular category of state assets, unless expressly referred to. The present article examines the accuracy of the Court's proposition in light of the major parameters for the determination of the relevant standards of interpretation: the 2004 UN Convention on Jurisdictional Immunities of States and Their Property as well as the pre-existing state practice,* i.e. *the settled case law regarding the interpretation of general immunity waivers in light of the diplomatic and*

consular law principle ne impediatur legatio*, and the submission of execution immunity waivers to certain restrictions under domestic statutes. The Authors take the view that the interpretive criteria of the Vienna Convention on the Law of Treaties are applicable by analogy to immunity waivers inserted in government bonds, leading to the adoption of a rather narrow approach. It is further suggested that, under the well-established principle that the plaintiff bears the burden of proof with respect to any exception to execution immunity, the "asset specificity" requirement may reasonably be seen as the allocation of the risk of ambiguity of immunity waivers to the judgment creditor. Finally, the Authors argue that the restrictive interpretation of general immunity waivers may serve as a functional substitute for lacking clear-cut international law rules on state insolvency, insofar as no international law rule protecting good faith restructuring procedures from the speculative tactics of vulture funds is yet in force.*

Antonio Leandro, Researcher at the University of Bari, addresses the impending reform of EC Regulation No 1346/2000 in **"Amending the European Insolvency Regulation to Strengthen Main Proceedings"** (in English)

EC Regulation No 1346/2000 on insolvency proceedings allows for the coexistence of different proceedings with respect to the same debtor. This engenders certain problems in terms of efficiency of the insolvency administration within the European Judicial Space, thus menacing the "effet utile" of the Regulation. This article focuses on such problems, explaining the shortcomings which affect the Regulation and wondering whether ECJ managed a solution for them. As a matter of principle, preventing the opening of secondary proceedings seems in several cases to be a suitable means for protecting the main proceedings' purposes. However, at the same time, not opening secondary proceedings could hamper the interests of local creditors, which rely on them to safeguard rights and priorities on the grounds of the local lex concursus*. The Author addresses the main aspects of this tension. The Regulation is under revision as result of the 2012 Proposal of the European Commission, which,* inter alia*, aims to strike a balance between the aforesaid interests at odds. In this paper, the Author carries out a critical appraisal of the envisaged amendments, taking also into account the recent reactions of the other European Institutions, so as to ascertain whether they could really achieve such a balance.*

Arianna Vettorel, Fellow at the University of Padua, discusses the protection of the unity of one's personal name in **"La continuità transnazionale dell'identità personale: riflessioni a margine della sentenza *Henry Kismoun*"** (Pesonal Identity's Continuity across Borders: Remarks on the *Henry Kismoun* Judgment")

> *This paper focuses on the novelties introduced by the European Court of Human Rights' judgment in* Henry Kismoun v. France*, which concerns the issue of transnational continuity of names: in* Henry Kismoun v. France *the Court recognized the need of protecting the unity of a personal name on the basis of Article 8 ECHR, also with regard to the secondary name conferred on a person, in the State of the person's second citizenship. The novelties introduced by this judgment could influence the future jurisprudence of the European Court of Justice which has granted protection to the unity of the name firstly attributed on the basis of the EC Treaty (now TFEU) without referring to fundamental human rights. At the domestic level, fundamental human rights have been used to grant protection to transnational continuity of names of non EU citizens by the Italian courts, first, and by the Minister for Internal Affairs, then. Moreover, Article 8 ECHR constituted the legal basis to grant new Italian citizens the right to maintain the name they were assigned abroad. In addition to introducing new interpretational perspectives about the issue of continuity of name across borders, the above mentioned judgment and the new Italian practice seem to constitute an additional step in the direction of the establishment of the "method of recognition" based on the vested rights theory, and bear a great impact on the issue of continuity of personal status across borders.*

Indexes and archives of RDIPP since its establishment (1965) are available on the website of the Rivista di diritto internazionale privato e processuale. This issue is available for download on the publisher's website.

Volume on German Case Law on Private International Law

The Max Planck Institute for Comparative and Private International Law has released the latest volume of its annual series on German case law in matters of private International law ("Die deutsche Rechtsprechung auf dem Gebiet des Internationalen Privatrechts"). Published by Mohr Siebeck it contains all private international law cases decided by German courts in 2012.

More information is available here.