

To steward or not to steward, that is the question

Some thoughts on the ATS by James Armstrong. James has been working internationally as a business process coordinator responsible for a major Oil and Gas company since 2000 in countries such as Korea, Angola, Malaysia and more recently Papua New Guinea. He is currently working as an advisor, and completing an LLM on international law with a focus on Conflicts of law and the application and use of the ATS.

The Alien Tort Claims Act (ATS) was passed in 1789 and did in effect sit on the statute shelves for nearly two centuries, until the *Filartiga* case. The main impact of this Act has been to grant US Federal Courts the ability to hear cases dealing with private claims for a reasonable number of international law violations, provided they are in breach of the Law of Nations or a treaty of the United States. The synergy between ATS and conflicts of law issues, I would suggest, have now come to forefront; forum shopping has been seen as a defining factor with the applications of ATS and the US courts have recently, in the *Kiobel* case, provided us rules, namely the “touch and concern”, that would seem, *prima facie*, to bring ATS in line with the British rules on conflicts of law. After all jurisdictional questions are about selecting the correct forum.

A recent case which has some significance here is *Al Shimari v CACI*^[1], where Iraq national brought a case against CACI and L-3 services for torts, namely torture, war crimes, crimes against humanity, sexual assault and cruel, inhuman treatment^[2]. The plaintiffs were former prisoners at the Abu Ghraib prison in Iraq; this prison was run and managed by US military personnel and or their contractors from 2003 until 2006; it has now been closed^[3]. The plaintiffs claim that they suffered mistreatment at the hands of the servicer personnel and contractors responsible for the management of the prison and the prisoners. This case is significant as Justice Breyer^[4] made the statement that the “claim” must “touch and concern”, therefore extended, correctly so, the rationale behind the application of the “touch and concern” rule developed by *Kiobel*. He went further to look at the parties and indicated that that US Congress had taken a strong

position against the offense of torture and had created a statute dealing specifically with Torture, the Torture Victims Protection Act 1991. The key distinction between *Kiobel* and *CACI* is that *CACI* is an American corporation; the senior management are located within America; the employees for the prison where recruited in America; the senior management were made aware of the actions and events that had taken place in the prison. Adding all these elements up Justice Breyer concluded that congress has taken a strong position against torture and wanted to ensure that any American participating in such act would be brought to justice^[5]. America should steward Americans: citizenship is a key factor.

Recently the American courts have applied the rules initially defined within *Kiobel* and subsequently applied and developed in *CACI*[6] to the *Chevron*[7] case. On reading this case the failings of the court to apply their own rules became apparent: they have failed to take into consideration not only the application of forum selection, as per their own rulings, but they have also failed to demonstrate a desire to steward their own, Americans, when their actions have, or may have, breached internationally accepted standards and laws. Stewardship of a countries individual, both natural and legal, should, I would suggest, be paramount when looking at the conflicts and trying to assess jurisdictional applications.

In my view, the US Courts are now demonstrating a desire -or at least are heading down a route- to remove the rational and possibility of giving jurisdiction for actions under ATS as opposed to looking to steward and control the actions of their own citizens, be these natural or legal. I was appalled to read the views of the Second Circuit Court of Appeals in *Mastafa v. Chevron Corp*[8]. This, as I am assure your are aware, was a joint case with Chevron and BNP claiming that they had aided and abetted human rights abuses by the Government of Iraq during the Saddam Hussein's regime. This case was brought under the ATS; the court looked to apply the decision from *Kiobel*[9] and stated that the citizenship, element as identified in *CACI*[10], was not relevant. They reiterate that for a case to be given jurisdiction by ATS it must a) touch and concern the United States with sufficient force to displace the presumption against extraterritoriality and: b) demonstrate that the conduct, prima facie, breaches a law of nations or treaty of the United States.

The main issue, I would suggest, for the application of ATS is now the

disagreement between the second and fourth circuit on the application of citizenship -the second circuit court clearly stating that the citizenship should have no bearing on the application of “*touch and concerns*”.

I would suggest this is wholly wrong: a given country should take responsibility for stewarding the actions of their own citizens, especially when the other country has a less than acceptable legal system. I believe this view is in alignment with the UK courts and the views expressed by Justice Breyer in the *CACI* case; I would further suggest that this should be of paramount importance, and therefore this is a fundamental failing by the court that will adversely affect the ability of the courts to hear cases under ATS.

In the recent case of Abdul-Hakim Belhaj[11] the [UK] Court of Appeal has clearly indicated that there if no remedy is left open the home country should be able to hear the case; they were actually considering action against UK officials and agencies, here we are looking for the American courts to steward their own citizens, both legal and natural. I would go further and state that the American courts could well learn from the view taken by the [UK] Court of Appeal, who considered the implications of not accepting jurisdiction, and stated that this would have an adverse effect on the international view on British justice[12].

I therefore put it forward that the courts have not applied the findings in *Kiobel* correctly, as discussed and applied by *CACI*. *Kiobel* states that a “*mere corporate presents*”[13] should not be an indication of jurisdictionally liability; Shell only has a minor office in the USA and is in fact a Dutch company, not a wholly owned American corporation. This view is correct: a mere presence should not give rise to jurisdiction; however, Chevron has more than a mere presence and therefore the Court is in error regarding this element. Chevron can be identified as being an American corporation all the way back to 1876[14], unlike Shell which shows that its history and heritage is outside the USA[15].

At the end of the day, it seems that major corporations and the dollar are openly controlling the US courts: *CACI* is a small company with lots of media attention; *Chevron* is a major international oil company that brings in billions of dollars into the American market.

These are my views on what I can only describe as a vibrant and interesting time, although things are not moving in the right direction here. This reminds me of a

favorite phrase of mine

“The only thing necessary for the triumph of evil is for good men to do nothing.” ?
Edmund Burke

[1] Suhail Najim Abdullah Al Shimari; Taha Yaseen Arraq Rashid; Salah Hasan Nusaif Al-Ejaili; Asa’ad Hamza Hanfoosh Al Zuba’e v CACI Premier Technology, Inc. CACI International, Inc. 13-1937

[2]
www.business-humanrights.org/en/abu-ghraib-lawsuits-against-caci-titan-now-i-3-0#c17777

[3]
http://www.nytimes.com/2014/04/16/world/middleeast/iraq-says-abu-ghraib-prison-is-closed.html?_r=0

[4] Kiobel v. Royal Dutch Petroleum Co., 133 S.Ct. 1659 (2013) Justice Breyer Opinion, Chapter 2 , B

[5]Suhail Najim Abdullah Al Shimari; Taha Yaseen Arraq Rashid; Salah Hasan Nusaif Al-Ejaili; Asa’ad Hamza Hanfoosh Al Zuba’e v CACI Premier Technology, Inc. CACI International, Inc. 13-1937 page 31

[6] Suhail Najim Abdullah Al Shimari; Taha Yaseen Arraq Rashid; Salah Hasan Nusaif Al-Ejaili; Asa’ad Hamza Hanfoosh Al Zuba’e v CACI Premier Technology, Inc. CACI International, Inc. 13-1937

[7] Mastafa v. Chevron Corp., No. 10-5258-cv, 2014 WL 5368853 (2d Cir. Oct.23, 2014)

[8] Mastafa v. Chevron Corp., No. 10-5258-cv, 2014 WL 5368853 (2d Cir. Oct.23, 2014)

[9] Kiobel v. Royal Dutch Petroleum Co., 133 S.Ct. 1659 (2013)

[10] Suhail Najim Abdullah Al Shimari; Taha Yaseen Arraq Rashid; Salah Hasan Nusaif Al-Ejaili; Asa’ad Hamza Hanfoosh Al Zuba’e v CACI Premier Technology, Inc. CACI International, Inc. 13-1937

^[11]Belhaj & Boudchar -v- The Rt. Hon Jack Straw, Sir Mark Allen (CMG) and others [2014] EWCA Civ 1394

^[12] Belhaj & Boudchar -v- The Rt. Hon Jack Straw, Sir Mark Allen (CMG) and others [2014] EWCA Civ 1394, para 120

[13] Kiobel v. Royal Dutch Petroleum Co., 133 S.Ct. 1659 (2013) Para 14 IV

[14] <http://www.chevron.com/about/history/1876/>

[15]<http://www.shell.com/global/aboutshell/who-we-are/our-history/the-beginnings.html>

Call for Papers: Testing the stress of the EU - EU law after the financial crisis

The University of Bayreuth (Germany) and the Asociación Española de Profesores de Derecho Internacional y Relaciones Internacionales (Spain), with support from the German Academic Exchange Service (DAAD), will host a joint conference on the topic: **“Testing the stress of the EU: EU law after the financial crisis”**.

The conference will be held on **08 May 2015** in Madrid.

Papers on the following topics are very welcome:

- Financial crisis and general contract law
- Financial crisis and merger control law
- A common external policy for Europe
- A common tax policy for Europe

Moreover, places for German participants on a panel discussion on “The current situation of the European Union” are still available.

Submissions from Ph.D. students and Post Docs are especially encouraged.

Applicants are asked to send an abstract of a maximum of 300 words to Professor Jessica Schmidt (jessica.schmidt@uni-bayreuth.de) by **31 January 2015** and to include a short biographical note.

The conference flyer may be found [here](#).

Dutch draft bill on collective action for compensation - a note on extraterritorial application

As many readers will know, the Dutch collective settlement scheme - laid down in the Dutch collective settlement act (*Wet collective afhandeling massaschade*, WCAM) - has attracted a lot of international attention in recent years as a result of several global settlements, including those in the *Shell* and *Converium* securities cases. Once the Amsterdam Court of Appeal (that has exclusive competence in these cases) declares the settlement binding, it binds all interested parties, except those beneficiaries that have exercised the right to opt-out. When the WCAM was enacted almost ten years ago, the Dutch legislature deliberately choose not to include a collective action for the compensation of damages to avoid some of the problematic issues associated with US class actions and settlements.

However, following a Parliamentary motion, this summer the Dutch legislature published a draft proposal for public consultation (meanwhile closed, public responses available [here](#)) to extend the existing collective action to obtain injunctive relief to compensation for damages. As the brief English version of the consultation paper states, the draft bill aims to:

“enhance the efficient and effective redress of mass damages claims and to strike a balance between a better access to justice in a mass damages claim and the protection of the justified interests of persons held liable. It contains a five-

step procedure for a collective damages action before the Dutch district court. Legal entities which fulfill certain specific requirements (expertise regarding the claim, adequate representation, safeguarding of the interests of the persons on whose behalf the action is brought) can start a collective damages action on behalf of a group of persons. The group of persons on whose behalf the entity brings the action must be of a size justifying the use of the collective damages action. Those persons must not have other efficient and effective means to get redress. The entity must have tried to obtain redress from the person held liable amicably.”

A point of particular interest is a provision regarding the extraterritorial application of the proposed act. The Amsterdam Court of Appeal has been criticized by both Dutch and other scholars for adopting a wide extraterritorial jurisdiction in the WCAM procedure, on the basis of the Brussels Regulation, the Lugano Convention and domestic international jurisdiction rules. The application of the European jurisdiction rules is challenging in view of the particular procedural design of the WCAM scheme (a request to declare a settlement binding between a responsible party and representative organisations/foundations on behalf of interested parties). This draft bill does not introduce separate international jurisdiction rules, but proposes a ‘scope rule’ to ensure that the case is sufficiently connected to the Netherlands. The draft explanatory memorandum (in Dutch) states that a choice of forum of two foreign parties in relation to an event occurring outside the Netherlands will not suffice to seize the Dutch court for a collective compensatory action, even if parties have made a choice of law for Dutch law (yes, we see similarities to the US Supreme Court case *Morrison v. National Australia Bank*). It is required that either the party addressed has its domicile or habitual residence in the Netherlands (a), or that the majority of the interested parties have their habitual residence in the Netherlands (b), or that the event(s) on which the claim is based occurred in the Netherlands. Needless to say that these rules leave the application of the jurisdiction rules of Brussels and Lugano unimpeded. It is clear that the proposed provision limits the possibility for foreign parties to seek collective compensatory relief in the Netherlands. The risk of the Netherlands becoming a ‘magnet jurisdiction’ for collective redress as put forward by some commentators seems therefor absent.

See for two recent English publications on the Dutch collective settlements act, published in the *Global Business & Development Law Journal* 2014 (volume 27,

issue 2) devoted to Transnational Securities and Regulatory Litigation in the Aftermath of *Morrison v. Australia National Bank*: Bart Krans (University of Groningen), *The Dutch Act on Collective Settlement of Mass Damages*, and Xandra Kramer (Erasmus University Rotterdam), *Securities Collective Action and Private International Law Issues in Dutch WCAM Settlements: Global Aspirations and Regional Boundaries*.

Reviewing a Review, or: What is the meaning of Article 4(1) Rome II?

The 80's British pop band *Prefab Sprout* once recorded a song called „Electric Guitars“, dealing with the career of the Beatles, which contained the line: „We were quoted out of context – it was great!“ Being quoted out of context in a review, however, is an entirely different and less pleasant matter. In a recent issue of *Lloyd's Maritime and Commercial Law Quarterly* (2013, pp. 272-274), *Adrian Briggs* from Oxford University criticizes my commentary on Article 4 of the Rome II Regulation (in: *Calliess* (ed.), *Rome Regulations*, Alphen aan den Rijn, 2011) as follows (p. 273):

„The book is at its best when the reader is looking for an answer to a precise question, such as whether the particular contract with which he is dealing, and which does not contain an express choice of law, falls within any the specific contracts listed in Art. 4(2) of the Rome I Regulation, or whether the particular kind of assignment, or particular right to be assigned, falls within the choice of law rule in Art. 14 of the same Regulation, and so on. There are, of course, odd points with which one is simply bound to disagree. One such is the assertion, in relation to the Rome II Regulation, that the said instrument “is rather conservative, in giving the *lex loci delicti* pride of place as the general rule for torts” (p. 404). It is not the first time this kind of sentiment has been heard, but it is simply not true, and credibility is neither gained nor given by advancing it. The

most striking thing about Art. 4, as it was about earlier English legislation, is that it saves one from the gymnastic pain of having to decide where a cross-border tort was committed: to look for the place of the tort is, in a significant number of cases, to look for something which is not there. Article 4 accordingly places its emphasis on the place where the damage occurs. It is not helpful to pretend that this is a rule which it manifestly is not. Indeed, the commentary makes no more of the assertion set out above; it is still a pity that it was there at all.

It might be said that the presentation of arguments is still more German than it is delocalised. For example, the elucidation of the country in which the damage occurs (which is the proper reading of Art.4(1)) states, at p. 406, that the legislation reflects something which is rendered in German as *Erfolgsort*. No doubt it does. But for the non-German reader, the more helpful starting point would surely be to go to the substantial jurisprudence of the European Court in relation to Art. 5(3) of the Brussels I Regulation. This is soon done, but putting it after the German law point seems wrong. Certainly, when one gets there the analysis of the European material is good and clear, but one might still have thought that this, rather than German understanding of damage and its location, should have been presented as the primary source material. It must be said, however, that the citation of material from sources outside Germany is extraordinarily impressive; and it is, of course, hard not to offer lessons from one's own law where these appear to be instructive. But there are still advantages in trying, in this context, to treat the European law source material as the first resource, and anything generated by national law as ancillary only."

Briggs' first point seems to be that my commentary erroneously tries to assert that the Rome II Regulation clings to the primacy of the place where the tortfeasor acted (place of conduct). Of course, such a statement would be utterly nonsensical. Read in context, however, the incriminated section merely points out that the systematic position of Art. 4(1) Rome II as a general rule must be put into perspective when viewing the more complex structure of the Regulation. The whole section reads as follows:

„Contrary to earlier drafts (see mn. 12), the final Rome II Regulation is rather conservative in giving *lex loci delicti* pride of place as the 'general rule' for torts. In fact, *lex loci delicti* is, for logical and systematic reasons, rather a **subsidiary rule**: It applies only if the parties have not chosen the applicable law (Article 14), if there is no manifestly closer connection, for example, because of a contract

between the parties (Article 4(3)) and if there is no common habitual residence of the parties (Article 4(2)) [footnotes omitted]”.

I have difficulty in understanding what should be wrong about this analysis concerning the obvious, not to say trivial, discrepancy between the numerical position of Art. 4(1) in the Regulation and its real importance for the choice-of-law process. *Briggs*, however, seems to be more infuriated by what he perceives as my incorrect use of “*lex loci delicti*” as encompassing the *lex loci damni* (and not only the law in force at the place of conduct). In this regard, however, the text merely follows the understanding of the term as it was used by the European Commission when it drafted the Rome II Regulation. In its Explanatory Memorandum on the 2003 draft, which already opted for the place of damage as the basic connecting factor, the Commission points out explicitly: “The Commission’s objectives in confirming [!] the *lex loci delicti commissi* rule [!] are to guarantee certainty in the law and to seek to strike a reasonable balance between the person claimed to be liable and the person sustaining the damage. The solutions adopted here also reflect recent developments in the Member States’ conflict rules” (COM [2003]427 final, p. 11). The fact that the European legislature saw *lex loci damni* merely as a more precise, uniform definition of the place where a harmful event occurred rather than an antithetical novelty is also supported by Recitals 15 and 16 of the final Regulation. Being a non-native speaker, I concede that I would accept any criticism referring to an idiosyncratic use of established English (or, in this case, Latin) legal terms. In their treatise „The Private International Law of Obligations“, 3rd ed. 2009, para. 18-007, however, *Richard Plender & Michael Wilderspin* state as well: „Article 4(1) [Rome II] thus represents a refined version of the classic *lex loci delicti commissi* rule [!] which has always been applied in one way or another in all Member States.“ Thus, with due respect for my learned colleague *Adrian Briggs*, I still think that the section he strongly criticizes as pitiful is correct both in its wording and its substance.

Briggs’ second point of concern refers to my seemingly parochial preference for quoting German sources rather than genuine European material. Again, the section that he criticizes is far more nuanced when it is read in context:

„Although the language of Article 4(1) Rome II is rather complex, defining the place of injury as ‘the country in which the damage occurs ... irrespective of the country or the countries in which the indirect consequences of that event occur’,

the explicit exclusion of ‘indirect consequences’ makes clear that the real connecting factor is not the place where mere pecuniary damage was suffered (‘I suffered the damage in my pocket’),[35] but the place of injury, the *Erfolgsort* in the traditional German terminology.[36]”

The footnote 35 explicitly refers to the rejection of a so-called money pocket rule under Art. 5(3) of the Brussels I Regulation. Moreover, the section *Briggs* criticizes is actually preceded [!] by a paragraph (marginal number 13) which draws the reader’s attention to the “settled case law of the ECJ” on Art. 5(3) Brussels I. Apart from that, even the Commission, when drafting Rome II, occasionally referred to established German legal terms, for instance in COM [2003]427 final, p. 11: “The rule entails, where damage is sustained in several countries, that the laws of all the countries concerned will have to be applied on a distributive basis, applying what is known as *„Mosaikbetrachtung“* in German law.” This explanation shows that the Commission did not legislate on a clean slate, but was very aware of the experience gained under former domestic approaches to choice of law in torts. Thus, making the reader familiar with some established German legal terms and their background might actually be helpful in understanding some ideas underlying the Rome II Regulation.

For other, more balanced reviews of the Commentary, see, for example, *Matteo Fornasier*, *Zeitschrift für Europäisches Privatrecht (ZEuP)* 20 (2012), p. 676 et seq. and *Xandra Kramer*, *Common Market Law Review* 51 (2014), pp. 335-337. By the way: A new edition of the Commentary is forthcoming in 2015. In addition to the Rome I and II Regulations, Rome III will be covered as well. Stay tuned!

Stefan Wrška on European Consumer Access to Justice Revisited

Stefan Wrška, Associate Professor for European and Comparative Private Law at

Kyushu University, has authored a book on “European Consumer Access to Justice Revisited”. Published by Cambridge University Press it will be out in late November.

More information is available on the publisher’s website. The official abstract reads as follows:

European Consumer Access to Justice Revisited takes into account both procedural and substantive law questions in order to give the term ‘access to justice’ an enhanced meaning. Specifically, it analyses developments and recent trends in EU consumer law and aims to evaluate their potential for increasing consumer confidence in the cross-border market. Via a critical assessment of the advantages and disadvantages of the means initiated at the EU level, the author highlights possible detriments to the cross-border business-to-consumer (B2C) market. To remedy this, he introduces an alternative method of creating a legal framework that facilitates B2C transactions in the EU – ‘access to justice 2.0’.

A Note from Professor S.I. Strong on the Results of Her Recent Survey on International Commercial Mediation and Conciliation

With the permission of the publishers, I wanted to let you know that the preliminary results from a recent empirical study on international commercial mediation and conciliation are now available. The study, which is entitled “*Use and Perception of International Commercial Mediation and Conciliation: A Preliminary Report on Issues Relating to the Proposed UNCITRAL Convention on*

International Commercial Mediation and Conciliation,” collected detailed data on 34 different questions from 221 respondents from all over the world. Survey participants included private practitioners, neutrals, in-house counsel, government lawyers, academics and judges with expertise in both domestic and international proceedings.

This information was gathered to assist UNCITRAL and UNCITRAL Working Group II (Arbitration and Conciliation) as they consider a proposal from the Government of the United States regarding a possible convention in this area of law. The U.S. proposal will be considered in depth at the Working Group II meeting in February 2015.

Those who would like to see a copy of the preliminary report can download a free copy [here](#). The data will be further analyzed in the coming months and published sometime next year as an article.

Many thanks to those from conflictsoflaw.net who participated in the survey and who helped distribute it among their networks. If you have any questions about the preliminary report, please feel free to let me know.

Kind regards,

S.I. Strong, FCIArb

Associate Professor of Law

Senior Fellow, Center for the Study of Dispute Resolution University of Missouri

Papers ELI/UNIDROIT Project on Civil Procedure published

As we reported earlier, in October 2013, the first exploratory workshop of the ELI/UNIDROIT project on European Rules of Civil Procedure took place. This was followed by the launch of three pilot studies this spring, the first results of which will be discussed in Rome next week.

Most of the papers presented at the first exploratory workshop have meanwhile been published in the *Uniform Law Review* 2014, issues 2 and 3.

Uniform Law Review 2014/2

- Diana Wallis - **Introductory remarks on the ELI-Unidroit project**
- Geoffrey C. Hazard, Jr. - **Some preliminary observations on the proposed ELI/Unidroit civil procedure project in the light of the experience of the ALI/Unidroit project**
- Sacha Prechal and Kees Cath - **The European acquis of civil procedure: constitutional aspects**
- Thomas Pfeiffer - **The contribution of arbitration to the harmonization of procedural laws in Europe**
- Xandra E. Kramer - **The structure of civil proceedings and why it matters: exploratory observations on future ELI-Unidroit European rules of civil procedure**
- Nicolò Trocker - **From ALI-Unidroit Principles to common European rules on access to information and evidence? A preliminary outlook and some suggestions**
- Loïc Cadiet - **The ALI-Unidroit project: from transnational principles to European rules of civil procedure: Public Conference, opening session, 18 October 2013**
- Neil Andrews - **Fundamentals of costs law: loser responsibility, access to justice, and procedural discipline**
- Miklós Kengyel - **Transparency of assets and enforcement**
- Rolf Stürner - **Principles of European civil procedure or a European model code? Some considerations on the joint ELI-Unidroit project**

Uniform Law Review 2014/3

- Eva Storskrubb - **Due notice of proceedings: present and future**
 - Ianika N. Tzankova - **Case management: the stepchild of mass claim dispute resolution**
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International Seminar on Private International Law, Madrid 2015

The 9th International Seminar on Private International Law promoted by Professor Fernández Rozas and Professor De Miguel Asensio (University Complutense, Madrid), has been scheduled for May 22 next year.

This edition's speakers will be, among others, Prof. Burkhard Hess (Max Planck Institute Luxembourg for International, European and Regulatory Procedural Law), Bertrand Ancel (Université Paris II), Franco Ferrari (New York University) and Louis D'Avout (Université Paris II). Short contributions from academics and law professionals are welcome provided they are timely submitted. In this regard the organizers kindly request those intending to participate to send an email to Professor Patricia Orejudo (patricia.orejudo@der.ucm.es) as soon as possible, in any event not later than December 15, 2014, including the title of the proposal and a brief summary of its contents. Accepted papers will be eligible for publication in the *Anuario Español de Derecho Internacional Privado*, subject to prior scientific peer evaluation.

The definitive program, schedule of presentation, venue and further details on organization will be announced here as soon as they become available.

Commemorating Bernd von Hoffmann (1941-2011)

The University of Trier will hold an academic ceremony commemorating the late Professor Dr. Bernd von Hoffmann (1941-2011), on November 28, 2014. Bernd von Hoffmann held a Chair in Private Law, Comparative Law and Private International Law at the University of Trier from 1979 to 2007 and is recognized as one of the leading scholars of his generation, particularly in the fields of private international law and arbitration. The ceremony will be followed by a

symposium (in German) dealing with „Structural asymmetries in international dispute resolution“ on November 29, 2014. The ceremony and the symposium are organized by von Hoffmann's academic pupils, Professor Dr. Herbert Kronke, LL.M., University of Heidelberg, who is currently serving as a judge with the Iran-United States Claims Tribunal in The Hague, and Professor Dr. Karsten Thorn, LL.M., Bucerius Law School, Hamburg, in close collaboration with the Institute for Legal Policy at the University of Trier and the University's law faculty.

The program is as follows:

Friday, November 28, 2014 - 17.30

Welcome Addresses

Professor Dr. Mark A. Zöller, Dean, Faculty of Law, University of Trier

Professor Dr. Michael Jäckel, President, University of Trier

Zur Person Bernd von Hoffmann

Professor Dr. Herbert Kronke, LL.M., University of Heidelberg; Judge, Iran-United States Claims Tribunal, The Hague

Privatautonomie und Parteiautonomie: (familienrechtliche) Zukunftsperspektiven

Professor Dr. Dr. h.c. mult. Dieter Henrich, University of Regensburg

Saturday, November 29, 2014 - 9.00 - 14.00

Welcome Address

Professor Dr. Gerhard Robbers, Minister of Justice, Rhineland-Palatinate

Der Schutz des Geschädigten bei grenzüberschreitenden Delikten im europäischen Zivilprozessrecht

Professor Dr. Jan von Hein, University of Freiburg/Germany

Grenzüberschreitende Rechtsdurchsetzung und Gemeinsames Europäisches Kaufrecht

Professor Dr. Jens Kleinschmidt, LL.M., University of Trier

Schiedsvereinbarungen in Fällen struktureller Unterlegenheit – hinreichende Schutzmechanismen oder Regelungslücken?

Professor Dr. Karsten Thorn, LL.M., Bucerius Law School, Hamburg

Kollektiver Rechtsschutz im Schiedsverfahren
Professor Dr. Thomas Rűfner, University of Trier

Justice is open to all – like the Ritz Hotel: Schiedsvereinbarungen im Sport
Dr. Francesca Mazza, Deutsche Institution für Schiedsgerichtsbarkeit

Convention on Taking Evidence in the EU

The Institute for Civil, Comparative and International Private Law of the Faculty of Law in Ljubljana is organising an international conference titled “European Dimension of Taking Evidence in Civil Procedure”. This conference is focused on one of the important topics in the EU law on civil procedure and its various aspects, including the principle of *audiatur et altera pars*, role of the judge in taking evidence, administration and integrity of evidence as well as function of the information technology in the process. This conference is one of the activities within the EU funded project Dimensions of Evidence in European Civil Procedure. More details are available in the program.

The conference will be held 15 and 16 January 2015 at the premises of the Faculty of Law in Ljubljana, Slovenia.