Private International Law Act (Dominican Republic)

On December 18, 2014, the Official Gazette of the Dominican Republic published the Private International Law Act of the Republic, Law 544-14, of 15 October 2014. The Act has been conceived as an all-encompassing one: According to its Art. 1 it aims to "regulate the international private relationships of civil and commercial nature in the Dominican Republic, in particular: the extent and limits of the Dominican jurisdiction; the determination of applicable law; the conditions for recognition and enforcement of foreign decisions". The broad approach is confirmed all throughout the text, which not only provides for grounds of jurisdiction, conflict of laws rules or rules on recognition and enforcement, but also for solutions to common practical problems experienced in those areas – such as situations of *lis pendens*, *forum non conveniens* linked to the localization abroad of evidence in the case at hand, or the proof of the applicable foreign law. Insolvency and arbitration matters are excluded from the scope of the new Act which, conversely, adopts a wide understanding of PIL – see for instance Art. 11.7, on exclusive jurisdiction for proceedings to establish Dominican nationality.

The text (in Spanish) can be downloaded here.

Symposium International Civil Procedure – Asser Institute 19 March 2015

PLEASE NOTE: THIS CONFERENCE IS FULLY BOOKED, NO SPACES AVAILABLE!

To celebrate the 50th anniversary of the **T.M.C. Asser Institute** and its Private International Law department it organises the symposium:

International Civil Procedure and Brussels Ibis

on 19 March 2015

The main theme will be international civil procedure, with an emphasis on the new Brussels Ibis Regulation. Recent developments in international civil procedure and specific features of the Brussels Ibis Regulation will be discussed.

Time: 10.30 – 17.30 hrs, followed by a reception
Venue: T.M.C. Asser Instituut, R.J. Schimmelpennincklaan 20-22, 2517 JN The Hague, the Netherlands

Please register for this free event before **1 March 2015**.

Programme:

10:30 Registration –Welcome
11:00 Recent Developments on the EU Level
– The future recast of Brussels IIbis *(Ian Curry-Sumner, Voorts Juridische Diensten*)
– Regulations on Wills and Successions: procedural issues (*Andrea Bonomi, Université de Lausanne*)
– Revision of the Insolvency Regulation (*Francisco Garcimartín Alférez, Universidad Autónoma de Madrid*)
– European Account Preservation Order (*Antoinette Oudshoorn, T.M.C. Asser Instituut*)

13.00 Lunch
14.00 Brussels Ibis Regulation and Forum Selection Clauses
– Choice of Court under the Brussels Ibis Regulation and the 2005 Hague Forum Selection Convention (*Xandra Kramer, Erasmus University Rotterdam*)
– Revised lis pendens rule in the Regulation Brussels Ibis (*Christian Heinze, Leibniz Universität, Hannover*)
– Weaker Parties disputes and forum selection and arbitration clauses (*Vesna Lazic, T.M.C. Asser Instituut*)

15:30 Coffee/Tea Break

16:00 Brussels Ibis Regulation and Enforcement
– Provisional Measures (*Ilaria Pretelli, Swiss Institute of Comparative Law, Lausanne*)
– Enforcement in Brussels Ibis and enforcement in special European civil procedure Regulations (*Marta Requejo Isidro, Max Planck Institute, Luxembourg*)
– Brussels Ibis in relation to other instruments of unification on the global level (*Paul Beaumont, University of Aberdeen*)

17:30 Reception

Issue 2014.4 Nederlands Internationaal Privaatrecht – Recognition and enforcement

The fourth issue of 2014 of the Dutch journal on Private International Law, ***Nederlands Internationaal Privaatrecht***, is dedicated to the Recognition and enforcement of foreign judgments, and focuses on gaps and flaws in the current framework and new pathways. It includes the following contributions:

Paulien van der Grinten, 'Recognition and enforcement in the European Union: are we on the right track?', p. 529-531 (Editorial)

Paul Beaumont, 'The revived Judgments Project in The Hague', p. 532-539.

> *This article examines the Hague Judgments Project in three phases. First, the initial ambitious plans for a double convention or a mixed convention (combining direct rules of jurisdiction with rules on conflicts of jurisdiction, exorbitant fora and recognition and enforcement of judgments) that began in 1992 and ultimately failed in 2001. Second, the triumph of rescuing a Choice of Court Agreements Convention from the ashes of the failed mixed convention between 2002 and 2005. Third, the attempt since 2010 to revive the Judgments Project with the aim of securing at least a robust single convention on*

recognition and enforcement of judgments (possibly with indirect rules of jurisdiction) and with the possibility that at least some States will agree to go further and agree some rules on some or all of the following: conflicts of jurisdiction, declining jurisdiction, outlawing exorbitant fora and some direct rules of jurisdiction. In doing so the article examines the forthcoming adoption of the Hague Choice of Court Agreements Convention by the EU including its declaration excluding certain insurance contracts. Consideration will also be given to the possible ways of establishing in a new single convention what constitutes a sufficient connection between the case and the country which gave the judgment in that case to justify the judgment being recognised and enforced in Contracting States to the convention.

Patrick Kinsch, 'Enforcement as a fundamental right', p. 540-544. The abstract reads:

There is, under the case law of the European Court of Human Rights, a right to the enforcement of judgments obtained abroad. The nature of that right can be substantive and founded on the right to recognition of the underlying situation. It can also be procedural and derive from the fair trial guarantee of Article 6 of the Convention which includes a right to the effectiveness of judgments rendered by 'any court', a concept considered – without, in the author's opinion, a cogent justification in the present jurisprudence of the Court – as including foreign courts. Once there is a right to enforcement, there can be no interferences by national law with that right (and the national authorities can even have a 'positive obligation' to see to its effectiveness), unless the interference or the refusal to take positive measures is justified, in line with the principle of proportionality.

Ian Curry-Sumner, 'Rules on the recognition of parental responsibility decisions: A view from the Netherlands', p. 545-558.

Parental responsibility decisions are increasingly international in nature; international contact arrangements, determinations that the main place of residence will be abroad and the cross-border placement of children are nowadays commonplace instead of seldom. Unfortunately, the story oftentimes does not end after the judge has issued the decision. In many cases, cross-border recognition and/or enforcement of the judgment will be required. This

article is devoted to providing an overview of those rules, focussing on the various international regimes currently in operation in Europe, as well as domestic rules applicable in the Netherlands. In doing so, a number of problem areas will be identified with respect to the current rules and their application.

Anatol Dutta and Walter Pintens, 'The mutual recognition of names in the European Union de lege ferenda', p. 559-562.

How could the harmony of decision regarding names be attained within the European Union – a harmony of decision which has been demanded by the European Court of Justice in a number of cases? The following contribution presents the results of a working group which has made a proposal for a European Regulation on the law applicable to the names of persons harmonising the conflict rules of the Member States. This classic approach is, however, supplemented by a second element, which shall be the focus in this special issue on recognition and enforcement. The proposal establishes a principle of mutual recognition of names guaranteeing that every person has one name throughout Europe.

Mirjam Freudenthal, 'Dutch national rules on the recognition and enforcement of foreign judgments, Article 431 CCP', p. 563-572.

This paper discusses Article 431 CCP. Article 431 CCP states that no decision rendered by a foreign court can be enforced within the Netherlands unless international conventions or the law provides otherwise. According to Article 431 paragraph 2 CCP the matter of substance has to be dealt with and settled de novo by a Dutch court. As from its enactment in 1838 Article 431 CCP has been subject to critical discussions and was restricted by case law from the beginning of the 20th century. Since then recognition will be granted if the foreign judgment will meet a set of conditions. But, the enforcement of condemnatory judgments remained impossible. More recently, case law has introduced the pseudo-enforcement procedure, meaning that if the foreign condemnatory judgment meets the conditions for recognition a hearing on the substance according to Article 431 paragraph 2 CCP is not required. However, the disadvantage of this pseudo-enforcement procedure is the lack of legal certainty. A revision of the actual Dutch statutory rules on recognition and enforcement is very much needed.

Elsemiek Apers, 'Recognition and enforcement of foreign judicial decisions: Belgium's codification explored', p. 573-580.

Belgium's codification of private international law has led to a comprehensive Code containing a detailed set of rules and procedure for the recognition and enforcement of foreign judicial decisions and authentic acts. Increased transparency, the clarity of private international law concepts and harmonisation in a more globalised world with changing values were the main reasons for such a codification. Most of the rules on recognition and enforcement are inspired by the Brussels Convention (now Brussels I Regulation), providing for an almost automatic recognition of foreign judicial decisions and a simplified exequatur procedure. Even though the Code provides a clear framework, in practice difficulties still arise, especially for the recognition of authentic instruments. This article explores the reasons behind Belgium's codification, describes the procedure for recognition and enforcement and provides a brief practical insight.

Regulation 1215/2012, Reminder

Art. 81: This Regulation shall apply from 10 January 2015.

See also the transitional provisions:

Art. 66

1. This Regulation shall apply only to legal proceedings instituted, to authentic instruments formally drawn up or registered and to court settlements approved or concluded on or after 10 January 2015.

2. Notwithstanding Article 80, Regulation (EC) No 44/2001 shall continue to apply to judgments given in legal proceedings instituted, to authentic instruments formally drawn up or registered and to court settlements approved or concluded before 10 January 2015 which fall within the scope of that Regulation.

Reshaping the Investor-State Dispute Settlement System: Journeys for the 21st Century

On Thursday, February 26, 2015, the Wilson Center will host a panel to examine practical suggestions for reform of the current system of resolving international investment treaty disputes. The increase in cases against States and their challenge to public policy measures has generated a strong debate, usually framed by complaints about a perceived lack of legitimacy, consistency and predictability. While some ideas have been proposed for improvement, there has never before been a book systematically focusing on constructive paths forward. The new volume launched with this panel discussion features 38 chapters by almost 50 leading contributors, all offering concrete proposals to improve the ISDS system for the 21st century.

Date & Venue:
Thursday, February 26, 2015
8:30 am-9:00 am Registration and Coffee Reception
9:00 am-10:30 am Panel Discussion
6th floor Flom Auditorium
Wilson Center, Washington, DC

REEI, December 2014

The last issue of the Spanish *Revista Electronica de Estudios Internacionales* (REEI), published by the Asociación Española de Profesores de Derecho

Internacional y Relaciones Internacionales, has been released. Contents are fully downloadable as pdf files.

Click here to see the ToC and for further access to all sections of the journal.

New Dutch treatise on PIL (Asser/Kramer & Verhagen)

The last volume of three books dedicated to private international law within the leading Asser-series in the Netherlands has just been published.

Asser/Kramer & Verhagen, 10-III International vermogensrecht, Deventer: Kluwer 2015 (827 pages). It is authored by Xandra Kramer (Erasmus University Rotterdam) and Rick Verhagen (Radboud University Nijmegen/Clifford Chance), in collaboration with Sanne van Dongen and Paul Vonken (Radboud University Nijmegen). The book discusses Private International Law aspects of company law, agency, property law, trusts, contractual and non-contractual obligations from a Dutch, European and international perspective. More information is available here. A seminar dedicated to the publication of this book will take place at Clifford Chance in Amsterdam on 29 January 2015 (14-18 hrs), registration information is available here.

It follows the publication of the first volume dedicated to general aspects of PIL: **Asser/Vonken, 10-I Algemeen deel**, Deventer: Kluwer 2013, authored by Paul Vonken, in collaboration with Rick Verhagen, Xandra Kramer and Sanne van Dongen and part two on international family and succession law: **Asser/Vonken, 10-II Internationaal personen-, familie- en erfrecht**, Deventer: Kluwer 2012, authored by Paul Vonken, in collaboration with Freek Schols (Radboud University Nijmegen).

La Ley: Unión Europea (Number 21)

Number 21 (December 2014) of the Spanish legal journal *La Ley: Unión Europea* has been released, with the following contents:

Section *Doctrina*

Patricia OREJUDO PRIETO DE LOS MOZOS, "Diez años de aplicación e interpretación del Reglamento Bruselas II bis sobre crisis matrimoniales y responsabilidad parental (Análisis de los aspectos de competencia judicial internacional)

Abstract: *Ten years have already passed since Brussels II bis Regulation entered into force. Along these years, the EU institutions, and especially the ECJ, have developed an important task in the interpretation and application of this instrument. By means of an analysis of this development, this paper is directed to contribute to the reflection on some of the issues that are currently under consideration ahead of a possible reform of the Regulation, and also to draw attention to other issues that are not being considered. For reasons of limited space, whole consideration is given to the rules on international jurisdiction.*

Ana FERNÁNDEZ PÉREZ, "La cooperación de la Unión Europea con terceros países en materia de defensa de prácticas anticompetitivas: hacia un modelo de *nueva generación*"

Abstract: *The need to implement a Defense of Competition system in all states of the WTO offers several avenues to strengthen international cooperation in the fight against anticompetitive conducts. In this sense, bilateral conventions seem to respond to this need by promoting the convergence of tools and practices of competition policy among jurisdictions and facilitate cooperation with competition authorities.*

Section *Tribuna*

Alegría BORRÁS, “La aceptación de las adhesiones al Convenio de La Haya de 1980 sobre sustracción de menores: el Dictamen del TJUE de 14 de octubre de 2014”

Abstract: *On 14 October 2014 the European Court of Justice delivered its opinion on the exclusive external competence of the European Union to accept the accession of third States to the 1980 Hague Convention on the civil aspects of international child abduction. Following strictly its opinion 1/03 the Court understands that it is necessary to maintain the uniform and consistent application of EU rules. This comment refers to this opinion in contrast with the view of the great majority of member States and of the Council.*

The current issue contains as well a section on case law with comments on selected decisions.

German Society of International Law: 34th Biannual Conference, March 11 to 14, 2015

From 11 through 13 March 2015 the German Society of International Law will hold its 34th biannual conference at the Justus Liebig University in Gießen (Germany). The conference will address two different topics: “Freedom and Regulation in Cyberspace” and “Identifying the Law between Source and Judicial Application”.
Further details are available (in German) at the conference website.

Call for Papers, Utrecht Journal of International and European Law

The Utrecht Journal of International and European Law is issuing a Call for Papers to be published in its 81st edition on 'General Issues' within International and European law. The Board of Editors invites submissions addressing any aspect of International and European law. Topics may include, but are not limited to, International and European Human Rights Law, International and European Criminal Law, Transnational Justice, Family Law, Health and Medical Law, Children's Rights, Commercial Law, Media Law, Law of Democracy, Intellectual Property Law, Taxation, Comparative Law, Competition Law, Employment Law, Law of the Sea, Environmental Law, Indigenous Peoples, Land and Resources Law, Alternative Dispute Resolution or any other relevant topic.

Authors are invited to address questions and issues arising from the specific area of law relating to their topic. All types of manuscripts, from socio-legal to legal technical to comparative, will be considered for publication.

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 via the journal website, and should conform to the journal style guide (See here for full details). Utrecht Journal has a word limit of 15,000 words including footnotes. For further information please consult the website or email us at utrechtjournal@urios.org.

Deadline for Submissions: 30 April 2015