Rösler on the European Judiciary in Private Law

Hannes Rösler, Senior Reserach Fellow at the Max Planck Institute for Comparative and International Private Law in Hamburg, has published a monograph on the European Judiciary in the Field of Private Law (Europäische Gerichtsbarkeit auf dem Gebiet des Zivilrechts, Mohr Siebeck 2012). Looking into the interaction between national and European courts in private law, *Rösler* asks whether the current system is effective enough to implement European Union law. He analyses the present situation and various reform options from the standpoint of private law and with the aid of interdisciplinary approaches.

More information on the book is available on the publisher's website. A detailed description of the work, including an interview with the author, is available here.

Esplugues on the Madrid Principles

Carlos Esplugues Sr. (University of Valencia) has posted Harmonization of Private International Law in Europe and Application of Foreign Law: The Madrid Principles of 2010 on SSRN.

> *Over the past few years, the European Union has undertaken an active and broad process of harmonization of Private Law and Private International Law. Focusing on choice-of-law rules, many diverse areas of law have been influenced by this harmonization, so that today a growing set of common choice-of-law rules exists within the European Union. Nevertheless, this process, directly grounded upon Article 81 TFEU, is far from being finished. The harmonization effort will likely increase in the near future so as to embrace many domains not yet governed by the European instruments. These future developments will vastly alter the basis and current situation of PIL in Europe,*

leading to a dramatic change of scene in the years to come. Besides, harmonization will create an additional effect; the process undertaken will foster an even more rapid expansion of international and interstate trade and, therefore, increase the number of cross-border cases arising within the EU integrated territory.

Focusing primarily on what is still to be undertaken within the process of harmonization of PIL in Europe, there is still some concern about the lack of a common set of rules governing the application of foreign law by EU judicial and non-judicial authorities. Although this is a longstanding and well known issue, no common action has been taken so far in Europe, which has created a real and insurmountable weakness in the whole process of harmonization4 that is capable of undermining the very effectiveness of the designed common system of choice-of-law rules. The Article deals with the current situation and analyzes the so-called Madrid Principles, approved in February 2010 in order to foster the adoption of a common EU rule on this area.

The paper was published in the *Yearbook of Private International Law* (Vol. 13, pp. 273-297, 2011)

ELI Statement on CESL Proposal

It has not yet been mentioned on this blog that the European Law Institute has published an extensive Statement on the Proposal for a Common European Sales Law. The Statement (critically) analyses the Proposal in the light of the European Commission’s policy objectives and makes recommendations how to achieve them. The Statement can be downloaded here free of charge.

13th Ernst Rabel Lecture at the Max Planck Institute in Hamburg

On 5 November 2013, *Mathias W. Reimann*, Hessel E. Yntema Professor of Law at the University of Michigan Law School, will deliver the 13th Ernst Rabel Lecture at the Max-Planck-Institute for Comparative and International Private Law in Hamburg. He will discuss "Why Americans make better Global Lawyers". More information is available here.

On Legal Pluralism and Multiculturality

Pluralismo y multiculturalidad: Tribunal arbitral musulmán y consejos islámicos (Sharia courts) en el Reino Unido is the title of the last paper by professor V. Camarero Suárez and professor F. Zamora Cabot, both from the University of Castellón. The paper, written in Spanish, has been published in the *Anuario de Derecho Eclesiástico del Estado*, 2012; professor Zamora will kindly send a pdf copy to those interested (just send him an email to this address: zamora@dpr.uji.es)

Here is the abstract:

> This study explores the interface between legal pluralism and multiculturality, taking as reference british muslim minority *nomoi* groups and the alternative means of solution of controversies embodied in the Sharia Councils and the Muslim Arbitral Tribunal (MAT). However, before dealing with this matter in the United Kingdom, our study makes insights from a comparative point of view both in Canada and the United States, where, in spite of no minor similitudes, the status of the aforesaid means of alternative solution of controversies is, at present time, far more different, given a deeper degree of religious pluralism and more reliance in arbitration at large in the

United States. These two factors, and the widely known pragmatism and tolerance of the United Kingdom result, although there have been rounds of controversy about it, in the acceptance in that Country of the workings of the Sharia Councils and the MAT, in the twilight of British law- in the first case- or taken under the rule of that law, covered by the Arbitration Act of 1996, in the case of the MAT. Conceived on these terms, we agree on the acceptation of these types of controversies's solutions – specially in case of the MAT- that we think are in full accordance with the modern State's duty to preserve minorities' rights and freedom of religion and beliefs as examples of a genuine commitment towards the fulfillment of Human Rights.

Recovery of Maintenance in the EU and Worldwide

The German Institute for Youth Human Services and Family Law is holding a Conference in Heidelberg from 5 to 8 March, 2013 (call for papers was announced here last March). Conference registration is possible from now on; registrations until 30 November 2012 are granted an early-bird discount of 20 %.

A taste of program:

- Prof. Dr. Dr. h.c. mult. Erik Jayme, **"Cultural dimension of maintenance from an international law perspective"**
- William Duncan, **"From complexity to simplicity, from chaos to Hague Convention 2007"**
- Presentations of **"High functional administrative systems",** rounded out by a presentation on **IT-solutions** with Philippe Lortie
- Workshops dealing with the details of the new legal instruments such as **"EU Maintenance Regulation: the devil's in the detail"** *or* **"Applicability and application of foreign law"** and presenters as Prof. Paul Beaumont, Prof. Dr. Burkhard Hess, Chris Beresford, Hannah Roots,

Maja Groff, Dr. Matthias Heger & Dr. Thomas Meysen

- Hot topics in family law like **“Defining and establishing parentage: national approaches and new challenges**” with Prof. Frédérique Ferrand
- Workshops with Central Authorities: **“How to cooperate effectively?”** and workshops on national maintenance law: **“Diversity in a united world of child support: national reports”**
- **“Good practice for caseworkers: the rocky pathways to the recovery of maintenance”** with Mary Dahlberg, Gary Caswell and Martina Heller
- **“The Asian, American, African, Latin-American perspectives”** will be presented by contributors such a*s* Dr. Richard Frimpong Oppong, Robert Keith, Prof. Nadia de Araújo & Dr. James Ding.
- And, not least of all, outside-the-box-thinking with topics like: **“Children in focus – poverty and maintenance”** or **“Alternative dispute resolutions”** with Lis Ripke & Jessica Pearson

If you have any questions about the program, please contact Dr. Elisabeth Unger (E-Mail: unger@dijuf.de).

For questions about conference registration, please contact Margit Hüber (E-Mail: hueber@dijuf.de).

For more information on the program and the contributors please click here.

VIIth Complutense Seminar on Private International Law

The International Seminar on Private International Law promoted by Professor Fernández Rozas and Professor De Miguel Asensio (University Complutense, Madrid) will soon become a tradition. The satisfying experience of the last six years has encouraged the organizers to hold the seventh edition next April 2013. Keeping the pattern of its precedents, the forthcoming Seminar will combine a general approach centered on recent developments and future prospects in

different fields of private international law, with specific attention to singular current issues, or issues most in need of study. One whole panel will be devoted to registry law – particularly to the new Spanish Civil Registration Act and its consequences for private international law. Other sessions will accommodate papers and communications on other relevant issues. Spanish, English and French will be spoken -though no translation is provided.

This edition's speakers will be, among others, Professor Gerald Spindler(Georg-August-Universität Göttingen), Professor Bertrand Ancel (Université Paris II), and Professor Thomas Clay (Université de Versailles). 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, and at any rate before November 30, 2012, including the title of the proposal and a brief summary of its contents. Accepted papers will be eligible for publication in the 2012 volume of the *Anuario Español de Derecho Internacional Privado*, subject to prior scientific peer evaluation. The final written version shall not exceed 25 pages in Word format (double-spaced, DIN A-4, Times New Roman 12 for text and 10 for footnotes). It must be handed over in April 1, 2013 at the latest.

The suggested dates for the Seminar are 11 and 12 April 2013. Most of the panels will be held at the Faculty of Law of the Universidad Complutense de Madrid, though some may take place somewhere else in Madrid.

The definitive program and schedule will be announced here as soon as they are ready.

Little on Key Conflict of Laws

Concepts

Laura E. Little, who is a professor of law at Temple University, has posted Insights on Key Conflict of Laws Concepts: The Federal Government's Role and Judgment Recognition and Enforcement on SSRN.

> *Key themes weave throughout the history and current relevance of Conflict of Laws. As the second installment of a two part compilation of essays, this paper presents many of these themes in the form of "Notes," offering expository explanation, received wisdom, and new insights. These essays will appear in an upcoming book Conflict of Laws to be published in the Aspen Casebook Series by Wolters Kluwer. The essays cover global, jurisprudential topics as well as doctrinal, fundamental concepts. They should be useful to both novices seeking an overview of core conflict of laws themes as well as well-seasoned experts seeking pithy insights into the key debates in the field. This installment focuses on the role of the federal government as well as judgment recognition and enforcement.*
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> *The global, jurisprudential topics in this installment are:*
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> *(1) The Domestic and International Forum-Shopping System;*
> *(2) Choice of Law Methodology for Federal Courts;*
> *(3) Tools for Handling Duplicative Litigation;*
> *(4) Theories of Stare Decisis and its Role in Federal Litigation;*
> *(5) Intersection of Full Faith and Credit with Preclusion Principles;*
> *(6) Private Incentives in Judgment Recognition and Enforcement;*
> *(7) The Theoretical Kinship between Judgments and Marriage; and*
> *(8) Libel Tourism*
>
> *Specific doctrinal topics include:*
>
> *(1) The Substance/Procedure Dichotomy*
> *(2) Same Sex Marriage: Constitutional Restrictions on Same Sex Marriage Laws;*
> *(3) The Significance and Limitations of Klaxon v. Stentor;*
> *(4) Claim and Issue Preclusion; and*
> *(5) SPEECH ACT of 2010*

PIL and Human Rights in Europe

Professor Veerle Van Den Eeckhout, who teaches private international law at the Universities of Antwerp and of Leiden, has just published "Private International Law and Fundamental Rights: Private International Law as an Instrument for the Promotion of Respect for Fundamental Rights?" on SSRN. The paper analyses – in an exploratory way – the impact of Fundamental Rights on Private International Law, comprising both Human Rights and European Fundamental Freedoms.

The article is written in Dutch in the context of a research project, and will also be published in a collective book; it can be downloaded here.

Third Issue of 2012's Belgian PIL E-Journal

The third issue of the Belgian bilingual (French/Dutch) e-journal on private international law *Tijdschrift@ipr.be / Revue@dipr.be* for 2012 was just released.

The journal essentially reports on European and Belgian cases addressing issues of private international law.

It includes two articles:

- Wenliang Zhang, *Reflections on Sino-Belgian Judicial Assistance in Civil and Commercial Matters*
- Marie-Aude Deslandes, *Le brevet européen à effet unitaire: un chemin périlleux*