Article on Global Class Actions in Canada

Associate Professor Tanya Monestier of the Roger Williams University School of Law has written an article on the willingness of Canadian courts to hear class actions involving a global plaintiff class. It is entitled "Is Canada the New 'Shangri-La' of Global Securities Class Actions?" and is forthcoming in 2012 in the Northwestern Journal of International Law and Business. The article is available here from SSRN.

The abstract reads:

> *There has been significant academic buzz about Silver v. Imax, an Ontario case certifying a global class of shareholders alleging statutory and common law misrepresentation in connection with a secondary market distribution of shares. Although global class actions on a more limited scale have been certified in Canada prior to Imax, it can now be said that global classes have "officially" arrived in Canada. Many predict that the Imax decision means that Ontario will become the new center for the resolution of global securities disputes. This is particularly so after the United States largely relinquished this role last year in Morrison v. National Australia Bank.*
>
> *Whether Imax proves to be a meaningful precedent or simply an aberration will largely depend on whether the court dealt appropriately with the conflict of laws issues at the heart of the case. No author has yet addressed the conflict of laws complications posed by the certification of global class actions in Canada; this Article seeks to fill that void. In particular, I use the Imax case as a lens through which to canvass the conflict of laws issues raised by the certification of global classes. I look at the difficult questions of jurisdiction simpliciter, recognition of judgments, choice of law, parallel proceedings, and notice/procedural rights that need to be addressed now that global classes have come to Canada.*

Cyprus Workshop on the Brussels I Reform and on Collective Redress

On Friday 30 September, the University of Cyprus will host a workshop on International Developments in International Commercial Litigation. There will be two workshops respectively on "the Revision of the Brussels I Regulation" and "A European Regime for Collective Redress". This event is sponsored by the European Commission under the Framework Programme on Judicial Cooperation in Civil Matters.

The chairs and speakers include Profs. Fichard Fentiman, Horatia Muir Watt, André Potocki, Miron Nikolatos, Nikitas Hatzimihail, Arnaud Nuyts, Louise Ellen Teitz, Michael Hellner, Maciej Szpunar, Michael Karayanni, Joaquim Forner, Anna Gardella, Garyfalia Athanassiou, Lukasz Gorywoda.

The programme can be found here.

Sciences Po PILAGG Workshop Series, Fall 2011 (updated)

The workshop on « Private International Law as Global Governance » at the Law School of the Paris Institute of Political Science (*Sciences Po*) will normally take place on Fridays at 12:30 pm, at the Law School.

The speakers for the fall 2011 will be:

- 21st October: Launching PILAGG (Horatia Muir Watt & Diego Fernandez

Arroyo: introduction to the PILAGG research project)

- 28th October: Launching PILAGG Junior Stream (Ivana Isailovitch: "Recognition and legal pluralism")
- 17th November (exceptionally a *Thursday*): Robert WAI, "Private v. Private: Models of Private Governance in Private International Law" (salle B404 au 56, rue des St Pères).
- 18 November co-sponsoring with the Ecole Doctorale de Sciences po: Kerry Rittich, Robert Wai, Horatia Muir Watt: "Tools for distributional analysis in law"
- 25th November: Veronica CORCODEL, "What room for comparative law in the governance debate?" (PILAGG Junior Stream)
- 29th November (exceptionally a *Tuesday*, co-sponsoring with "Les Grands Récits de la Pensée Juridique"): Marty KOSKENNIEMI
- 2nd December Harm SCHEPEL, "Rules of recognition: A legal constructivist approach to transnational private governance".
- 9th December: Ralf MICHAELS, "Post-critical Private International Law: From Politics to Technique"
- 16th December: Tomaso FERRANDO: "Sovereignty abuse, homogeneization of legal orders and land grabbing" (PILAGG Junior Stream)

Where: unless otherwise announced, Law School, 13 rue de l'Université 75007, J210 2nd floor.

When: 12:30 to 14:30pm

Please register at the following address: diego.fernandezarroyo@sciences-po.org

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Conference on Party Autonomy in the Conflict of Laws

On 26 September 2011, the Center for Transnational Litigation and Commercial Law at New York University Law School will host a talk by

Professor Jürgen Basedow, Director of the Max Planck Institute for Comparative and International Private Law and Professor of Law at the University of Hamburg, on “A Theory of Party Autonomy in the Conflict of Laws”.

> *A century ago, authors on both sides of the Atlantic would reject the parties’ ability to choose the law applicable to a contract. Such choice was considered to be a legislative act reserved to the state. The private persons were perceived as being governed by the law, not as determining the governing law. A hundred years later party autonomy is almost generally acknowledged as the primary method of finding the law applicable to a contract. And it is progressively recognized in further areas of the law, too: for torts, matrimonial property regimes, divorce, maintenance etc. Yet, the theoretical foundation for this fundamental change remains elusive. How is it then possible to convince the lawmakers of those countries that have not yet implemented party autonomy? A theory of party autonomy has to explain the consistency of our own law in order to convince others. Departing from a comparative survey over party autonomy in modern legislation, Professor Basedow will deal with the main objections against the freedom to elect the applicable law. He will then outline a theoretical approach that is essentially based on the origin of state and law as described by the political philosophy of the Enlightenment and that is reflected by the modern developments of human rights.*

The event will take place at NYU Law School in Room 214, Furman Hall 900, 245 Sullivan Street, New York, NY 10012, 6.15-8.00 pm.

H/T: Déborah Lipszyc

Second Circuit Vacates…: Link to Decision

Following Gilles’ post: see here.

Skopje Conference on impact of EU PIL on local laws

The conference "**Recent trends in European Private International Law – Challenges for the national legislations of the South East European countries**" is held in Skopje, Macedonia on 24 September 2011. This is the 9th conference in the series of regional private international law conferences, the most recent being announced here. This conference will gather number of private international lawyers who prepare to discuss questions related to impact the European Union codifications in the field have on their national laws as well as issues that arise in the context of European integration. The program is below:

9:00 am to 9:45 am Registration of the participants
9:45 am to 10:00 am Opening of the conference
10:00 am to 11:15 am **I panel** General issues of private international law

Mirko Zivkovic, PhD, University Nis

Discussion

11:15 am to 11:30 am Coffee break

11:30 am to 1:00 pm **II panel** Integration of EU PIL into national PIL codifications of the region (conflict of laws)

Zlatan Meskic, PhD, University of Zenica
"Integration of EU Private International law into national PIL codifications of the region"

Mirela Župan, PhD, University of Osijek
"Normiranje mjerodavnog prava za osobno ime – novina budu?eg hrvatskog Zakona o me?unarodnom privatnom pravu" / "Regulating cross border personal name issues – novelty of new Croatian PIL code "

Ivana Kunda, PhD, University of Rijeka

“Intellectual Property Contracts in EU Conflict of Laws”

Discussion

1:00 pm to 2:00 pm Lunch at University Restaurant

2:00 pm to 3:45 pm **III panel** Integration of EU PIL into national PIL codifications of the region (influence of EU civil procedure)

Ales Galic, PhD, University of Ljubljana
“Uredba Brisel 1 – temelj evropskog gra?anskog procesnogprava / The Brussels I Regulation – the Cornerstone of the European Civil Procedure”

Vesna Lazic, PhD, University of Utrecht
“The Commission’s Proposal to Revise the EC Jurisdiction Regulation: the amendment of the lis pendens rule and of the arbitration exception”

Evangelos Vassilakakis, PhD, Aristotle University Thessaloniki
“The Unification of European Procedural Law and its Impact on Agency and Distributorship Agreements”

Vesna Tomljenovic, PhD, University of Rijeka
“Forum of necessity – novelty in the new Croatian PIL Act”

Jasmina Alihodzic, PhD, University of Tuzla
“Pravila o me?unarodnoj nadležnosti kod pojedina?nih ugovora o radu u pravu Evropske unije i Bosne i Hercegovine” / “International jurisdiction for individual employment contracts in EU and Bosnia and Herzegovina”

Gjorgje Krivokapic LLM, University of Belgrade, and Ugljesa Grusic LLM, London School of Economics
“Zasto Srbija treba da pristupi Haskoj konvenciji o sporazumima o nadleznosti suda?” / “Why should Serbia access Hague Choice of Court Convention?”

Sanja Marjanovic, PhD, University of Nis,
“Jurisdikcioni imunitet strane drzave izmedju unutrasnjeg i medjunarodnog prava” / “Jurisdictional immunity of a foreign state – between domestic and international law”

Apostolos Anthimos, PhD, Panelist at the CAC for .eu ADR, Greece

Online Dispute Resolution – The .eu ADR Paradigm

Discussion

3:45 pm to 4:00 pm Coffee break

4:00 pm to 4:45 pm **IV panel** Conflict of laws on property

Slavko Djordjevic, PhD, University of Kragujevac
“Merodavno pravo za stvarnopravne odnose sa elementom inostranosti – de lege lata i de lege ferenda” / “Determining applicable law for Property Relations with foreign element – de lege lata and de lege ferenda”

Discussion

4:45 pm to 5:15 pm

Christa Yesell Holst, GIZ
“Support to development of draft laws and model solutions in the field of Private International Law (Closing of the component)”

5:15 pm Closing of the conference

8:30 pm Dinner at National Restaurant “Dukat”

Second Circuit Vacates Anti-Enforcement Injunction in Chevron

Here.

European Parliament Workshop on Brussels I Reform

A session of the Committee of Legal Affairs on the Brussels I Reform took place today and lasted a bit more than an hour.

Speakers included A. Layton, A. Dickinson, I. Pretelli, F. Horn and A Nuyts.

The video of the meeting is available here.

UPDATE: The original workshop should be rescheduled, and the papers made available on the site of the Parliament.

Thirty-one publications on South African private international law 2008-2011

- Bennett and Kopke "Characterization and 'gap' in the conflict of laws" 2008 South African Law Journal 62
- Eiselen "Goodbye arrest ad fundandam. Hello forum non conveniens?" 2008 TSAR 794
- Harder "Statutes of limitation between classification and renvoi: Australian and South African approaches compared" 2011 ICLQ 659
- Neels "Falconbridge in Africa" 2008 Journal of Private International Law 167
- Neels "Consumer protection and private international law" 2010 Obiter 122
- Neels "South Africa" in Fernandez Arroyo (ed) Consumer Protection in International Private Relationships (2010) CEDEP 415
- Neels "External public policy, the incidental question properly so-called

and the recognition of foreign divorce orders" in Boele-Woelki, Einhorn, Girsberger and Symeonides (eds) Convergence and Divergence in Private International Law. Liber amicorum Kurt Siehr (2010) Eleven International Publishers / Schulthess 331 (reprint in 2010 TSAR 671)

- Neels and Fredericks "The music performance contract in European and Southern African private international law" 2008 Tydskrif vir die Hedendaagse Romeins-Hollandse Reg / Journal of Contemporary Roman-Dutch Law 351 and 529
- Neels and Fredericks "Tacit choice of law in the Hague Principles on Choice of Law in International Contracts" 2011 De Jure (forthcoming)
- Neels and Wethmar-Lemmer "Constitutional values and the proprietary consequences of marriage in private international law" 2008 TSAR 587
- Oppong "Roman-Dutch law meets the common law on jurisdiction in international matters" 2008 Journal of Private International Law 311
- Oppong "Enforcing judgments of the SADC Tribunal in the domestic courts of member states" 2010 Monitoring Regional Integration in Southern Africa Yearbook 115
- Oppong "Inter-institutional relations: public-private international law dimensions" chapter 8 in Oppong: Legal Aspects of Economic Integration in Africa (2011) Cambridge University Press
- Oppong "Interstate relations, economic transactions and private international law" chapter 9 in Oppong: Legal Aspects of Economic Integration in Africa (2011) Cambridge University Press
- Roodt "Recognition of Muslim marriages in South Africa: a conflicts perspective" 2008 The International Journal of Diversity in Organisations, Communications and Nations 137
- Roodt "Party autonomy in international law of succession" 2009 TSAR 241
- Roodt "Conflicts of procedure between courts and arbitral tribunals in Africa: an argument for harmonization" 2010 Tulane European and Civil Law Forum 65
- Roodt "Autonomy and due process in arbitration: recalibrating the balance" 2011 European Journal of Law Reform (forthcoming)
- Roodt "Conflicts of procedure between courts and arbitral tribunals with particular reference to the right of access to court" 2011 African Journal of Comparative and International Law 236
- Schulze "Conflict of laws" 2008 Annual Survey of South African Law 167
- Schulze "International jurisdiction in claims sounding in money: is

Richman v Ben-Tovim the last word?" 2008 South African Mercantile Law Journal 61

- Schulze "Conflict of laws" 2009 Annual Survey of South African Law 134
- Schulze "Arbitration agreements and jurisdiction in terms of the Judgment Regulation" 2010 The Comparative and International Law Journal of Southern Africa 68
- Schulze "Conflict of laws" 2010 Annual Survey of South African Law (forthcoming)
- Sibanda "Jurisdictional arrest of a foreign peregrines now unconstitutional in South Africa" 2008 Journal of Private International Law 167
- Van Niekerk "Choice of English law and practice in a 'South African short-term policy' of marine insurance: jurisdiction and applicable law" 2010 TSAR 590
- Van Niekerk "Choice of foreign law in a South African marine insurance policy: an unjustified limitation of party autonomy?" 2011 TSAR 159
- Wethmar-Lemmer "When could a South African court be expected to apply the United Nations Convention on Contracts for the International Sale of Goods (CISG)?" 2008 De Jure 419
- Wethmar-Lemmer "The impact of article 95 reservation on the sphere of application of the United Nations Convention on Contracts for the International Sale of Goods (CISG)" 2010 De Jure 362
- Wethmar-Lemmer: The Vienna Sales Convention and Private International Law (2010) LLD thesis University of Johannesburg
- Wethmar-Lemmer "Party autonomy and international sales contracts" 2011 TSAR 431

TSAR = Tydskrif vir die Suid-Afrikaanse Reg / Journal of South African Law

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Spanish Legislación de Derecho

Internacional Privado, latest edition

The 14th edition of the *Legislación de Derecho Internacional Privado* has been released. Prepared by Professors Santiago Álvarez González, Carlos Esplugues Mota, Pilar Rodriguez Mateos and Sixto Sánchez Lorenzo, it a useful tool for students, practitioners, and foreign scholars willing to know what PIL laws, either autonomous, conventional or European, are applicable in Spain (and, for the last two, what their Spanish wording is: not always the same as in other languages). The *Legislación de Derecho Internacional Privado* includes most of the rules in force in Spanish PIL: ad. ex., those of domestic source, provisions of the European Union and the EFTA, Hague Conference, Council of Europe Conventions, International Commission on Civil Status Conventions and United Nations Conventions, as well as a list of 25 bilateral agreements on cooperation. New to this edition is the inclusion of the Hague Convention of October 19, 1996; Regulation (EU) no. 1259/2010 (Rome III); and the important reform of the Spanish Arbitration Act. To have a look at the complete summary click here.