Weiler on his Own Trial

We had previously reported about this criminal action initiated for a book review against NYU law professor Joseph Weiler.

The trial took place last week in Paris. Weiler reports on it here.

Verdict on March 3rd.

New French Book on Cross-Border Debt Recovery

I am delighted to announce the publication of a book that I have coauthored with Clotilde Normand, who practices at Baker & McKenzie in Paris, and Fanny Cornette, who teaches at the University of Rouen, on International Enforcement Law, or Cross-Border Debt Recovery (*Droit international de l'exécution – Recouvrement des créances civiles et commerciales*) .

The book is divided in two parts. Part one discusses how foreign judgments, arbitral awards, authentic acts and decisions of international courts can be declared enforceable in France. Part two explores how enforcement can then actually take place in France in an international context. In particular, it discusses attachments of assets and court injunctions backed with financial penalties.

More details can be found here.

O'Hara and Ribstein on Conflict Rules and Global Competition

Erin A. O'Hara, who is a professor of law at Vanderbilt Law School, and Larry E. Ribstein, who is a professor of law at the University of Illinois College of Law, have posted Exit and the American Illness on SSRN. Here is the abstract:

> This essay, prepared for a book on the effect of regulatory, liability, and litigation inefficiencies on the global competitive position of the U.S., focuses on the role of the US federal system. We show that, although multiple US states offer significant potential for jurisdictional choice to address misguided or inappropriate law, this system is only a partial solution to these problems and can itself be a source of bad law and excessive litigiousness. Federal law and enforcement of contractual choice-of-law, choice-of-court, and arbitration clauses provide some, but only partial, relief. As a result, choice of law and jurisdiction rules potentially expose firms that do business nationally or internationally to oppressive law in any of the US states. Without reform of the rules regarding jurisdictional choice the US is losing an opportunity to exploit the edge in international competition it might get from its federal system.

Italian Forum on the Brussels I Review Proposal

The Italian Society of International Law is currently holding a Forum on the Brussels I Review Proposal.

The Forum offers contributions of Italian scholars on the Proposal, in Italian. So far, two have been posted:

- Pietro Franzina, La garanzia dell'osservanza delle regole sulla competenza giurisdizionale nella proposta di revisione del regolamento "Bruxelles I"

- Antonio Leandro, La proposta per la riforma del regolamento “Bruxelles I” e l’arbitrato

---

Publication: Liber Amicorum Bernardo Cremades

Bernardo Maria Cremades Sanz Pastor, University professor and lawyer of the Ilustre Colegio de Abogados of Madrid, former Vice President of the London Court of International Arbitration, and member of the ICSID Panels of Conciliatiors and Arbitrators, is undoubtedly the Spanish best known and most recognised legal professional in international arbitration. He has been, and remains, the great master of arbitration in Spain; but his brilliant career is admired far beyond our borders, making him the best of our ambassadors. It is therefore no surprise that the Spanish Arbitration Club has decided to pay tribute to his long career with the publication of a book that gathers the contributions of more than seventy experts in the field: prestigious specialists from around the world that have paid homage to Bernardo Cremades with studies, written primarily in English, that cover the most important fields of arbitration.

Click here to see the table of contents of the book (publishing house: La Ley. ISBN/ISSN: 978-84-8126-590-3)

Conference on the Brussels I

Review Proposal

The British Institute of International and Comparative Law will hold a conference on the Commission's Brussels I Review Proposal of December 2010 on February 10th, 2011.

Speakers will include:

The Right Hon the Lord Mance, Justice of the Supreme Court of the United Kingdom
Professor Alegría Borras, University of Barcelona, Spain; GEDIP
Andrew Dickinson, Professor in Private International Law, University of Sydney; Consultant, Clifford Chance LLP; Visiting Fellow at the British Institute of International and Comparative Law
Dr Pippa Rogerson, University of Cambridge
Professor Jonathan Harris, University of Birmingham; Serle Court, London
Professor Michael Bogdan, University of Lund, Sweden
Professor Andreas Furrer, University of Luzern, Switzerland
Alexander Layton QC, 20 Essex Street
Professor em Ulrich Magnus, University of Hamburg, Germany
Professor Luboš Tichý, Charles University Prague, Czech Republic

---

More details can be found here.

OUP Yearbooks Available Online

Law Yearbooks from OUP – Free Online Access until Feb. 28th

Since the start of January 2011 the law yearbooks from Oxford University Press, previously available only in print, have become available online as well. This includes all volumes since 1996 but not the most recent ones which only

published in December 2010.

*To launch this initiative we are making all of this content **freely available** until the end of February 2011. To view, browse, download and search the material click on these links:*

British Year Book of International Law

Yearbook of International Environmental Law

Yearbook of European Law

Current Legal Problems

The latest volume of each will become available to subscribers from April 2011. New content for future volumes will become available online to subscribers as it is processed thus dramatically reducing the time taken before an author's work is publicly available.

For access after the end of February you will need a subscription. Please contact your librarian if you are not sure whether your institution has taken up a subscription.

Lis pendens in Regulation (EC) 2201/03 (again on Purrucker v. Vallés)

Reference for a preliminary ruling from the Amtsgericht Stuttgart (Germany), to be dealt with through the accelerated procedure, was lodged on 16 June 2010 in case C- 296/10 (Bianca Purrucker v Guillermo Vallés Pérez, noch ein mal). ECJ's answer was published on Saturday in OJ, C, 013.

Questions referred

Is Article 19(2) of Council Regulation (EC) No 2201/2003 ('Brussels IIA') 1 applicable if the court of a Member State first seised by one party to resolve matters of parental responsibility is called upon to grant only provisional measures and the court of another Member State subsequently seised by the other party in the same cause of action is called upon to rule on the substance of the matter?

Is that provision also applicable if a ruling in the isolated proceedings for provisional measures in one Member State is not capable of recognition in another Member State within the meaning of Article 21 of Regulation No 2201/2003?

Is the seising of a court in a Member State for isolated provisional measures to be equated to seising as to the substance of the matter within the meaning of Article 19(2) of Regulation No 2201/2003 if under the national rules of procedure of that State a subsequent action to resolve the issue as to the substance of the matter must be brought in that court within a specified period in order to avoid procedural disadvantages?

ECJ Ruling

The provisions of Article 19(2) of Regulation No 2201/2003 are not applicable where a court of a Member State first seised for the purpose of obtaining measures in matters of parental responsibility is seised only for the purpose of its granting provisional measures within the meaning of Article 20 of that regulation and where a court of another Member State which has jurisdiction as to the substance of the matter within the meaning of the same regulation is seised second of an action directed at obtaining the same measures, whether on a provisional basis or as final measures.

The fact that a court of a Member State is seised in the context of proceedings to obtain interim relief or that a judgment is handed down in the context of such proceedings and there is nothing in the action brought or the judgment handed down which indicates that the court seised for the interim measures has jurisdiction within the meaning of Regulation No 2201/2003 does not necessarily preclude the possibility that, as may be provided for by the national law of that Member State, there may be an action as to the substance of the matter which is linked to the action to obtain interim measures and in which there is evidence to

demonstrate that the court seised has jurisdiction within the meaning of that regulation.

Where, notwithstanding efforts made by the court second seised to obtain information by enquiry of the party claiming lis pendens, the court first seised and the central authority, the court second seised lacks any evidence which enables it to determine the cause of action of proceedings brought before another court and which serves, in particular, to demonstrate the jurisdiction of that court in accordance with Regulation No 2201/2003, and where, because of specific circumstances, the interest of the child requires the handing down of a judgment which may be recognised in Member States other than that of the court second seised, it is the duty of that court, after the expiry of a reasonable period in which answers to the enquiries made are awaited, to proceed with consideration of the action brought before it. The duration of that reasonable period must take into account the best interests of the child in the specific circumstances of the proceedings concerned.

New French Law of Arbitration

A new law of arbitration was adopted yesterday in France. The Décret n° 2011-48 of 13 January 2011 *portant réforme de l'arbitrage* amends the French Code of Civil Procedure accordingly. The old provisions of the Code on arbitration dated back to 1980 and 1981. The reform is concerned with both domestic and international arbitration.

The new provisions are available here. An explanatory report can be found here.

P.R. China’s First Statute on Choice of Law (translated in English)

Following up on Xiao Fang’s excellent post here regarding the Statute on the Application of Laws over Foreign-Related Civil Relations of the People’s Republic of China which shall come into force as of April 1, 2011 and is the P.R. China’s first statute on conflict rules, I am very pleased to report that Professor Lu, the Secretary General of the Chinese Society of International Law, has been kind enough to provide an English translation for our readers. The translation is available here (PIL China).