ERA Conference International Commercial Transactions

This ERA Conference on International Commercial Transactions takes place on 10-11 June 2010. The objective is to analyse the legal aspects of international commercial transactions with a special focus on cross-border sale of goods.

Key topics include:

– UN Sales Convention (CISG). The CISG represents a landmark in the process of international unification of law. For example, if a company from Germany enters into a sales contract with a business that comes from the US, France or any other of the more than 70 Contracting States, the CISG will apply (unless the parties expressly agree otherwise). It is estimated that 75% of all international sales transactions worldwide are potentially governed by the CISG. There will be particular emphasis on: drafting international commercial contracts; cross-border sales; application and ambit of the CISG; remedies for breach of contract.

– UNIDROIT Principles of International Commercial Contracts (PICC). The UNIDROIT Principles on international commercial contracts are considered the most important set of rules which parties to an international contract can choose to govern their agreement. Moreover, they are becoming increasingly indispensable in international arbitration. There will be particular emphasis on: use of the PICC in international arbitration; damages; assignment of rights / contracts; coexistence of CISG, PICC and CFR.

Target group is primarily: practitioners of law dealing with transnational commercial law.

Click here for further information

Reminder: Conference on Party Autonomy in Property Law

On 27 and 28 May 2010 a conference on Party Autonomy in Property Law, organized by Erasmus School of Law and Leiden University (the Netherlands), will be held at the Erasmus University Rotterdam, the Netherlands. Leading specialists will present their views on diverse aspects of international property law.

For more information and registration, please click here. See also our previous post.

Preliminary question Dutch Court on Art. 45 Brussels Regulation

In a case concerning the enforcement of a Belgian judgment in the Netherlands, between Prism Investments BV v. J.A. van der Meer qq Arilco Holland BV, the Dutch Supreme Court (HR 12 March 2010, LJN BK4932, 08/04424) referred the following question regarding Art. 45 of the Brussels Regulation to the ECJ **(Case C-139/10)**

> *Does Article 45 of Council Regulation (EC) No 44/2001 [1] preclude the court with which an appeal is lodged under Article 43 or Article 44 of that regulation from refusing or revoking the declaration of enforceability on a ground, other than one of those specified in Articles 34 and 35 of that regulation, which has been advanced against enforcement of the judgment declared enforceable and which arose after that judgment had been delivered, such as the ground that there has been compliance with that judgment?*

Abusive Forum Shopping?

On April 28th, 2010, the Paris Court of Appeal dismissed the claim of Vivendi that its shareholders had abused their right to sue by initiating a class action against the company in New York, and thus dismissed the appeal lodged by Vivendi against the first instance judgment.

The argument of Vivendi was that its shareholders had abused their "right to forum shopping" by failling to bring their action before the "natural forum" (*juge naturel*) of the parties, i.e. a French court, and by bringing it instead before a foreign court. To give credit to its case theory, Vivendi, a French company, had only sued a couple of French shareholders in France. The remedy sought was an anti-suit injunction.

I have already summarized the facts of this case in a previous post. Suffice to say that a class action had been initiated in New York by shareholders, many of whom were French, but also many of whom were not. Shares had been traded in France, but also in the US. The directors of Vivendi were accused of having made financial misrepresentations in the US while living there. Vivendi was accused, and eventually found guilty, of numerous violation of US securities law.

Abuse of Law

So, were French courts the natural forum for this case? The Paris Court of appeal did not think so.

First, it underlined that, in tort matters, the Brussels I Regulation granted jurisdiction to a variety of fora, without establishing any hierarchy between them.

Second, it insisted that there were serious connections indeed between the dispute and the US: shares traded in the US, alleged violations of US law, directors living in NY and making representations there.

Third, it was in no way fraudulent to bring an action in New York for French plaintiffs, who were free to assess and conclude that US law was more favorable to their interests.

Finally, the Court rejected the argument that the issue of the enforceability of the

American judgment was at all relevant. There has been debate in France with regard to whether the recognition of a class action judgment would be constitutional. The Court held that the issue was irrelevant, as the American judgment could no doubt be enforced in the US, where Vivendi has significant assets.

So what did Vivendi exactly mean when it argued that French courts were the natural forum for the dispute? As the Court underlined, Vivendi never argued that French courts had exclusive jurisdiction. Vivendi actually relied on an old French case where French courts had been found to be the natural forum for the purpose of applying Article 14 of the French Civil Code. It is hard to see how it could be relevant at all for a dispute falling within the scope of the Brussels I Regulation. But some French scholars find Vivendi's position perfectly legitimate. In an article published two weeks ago in the *Recueil Dalloz* (*Contentieux d'affaires et abus de* forum shopping), professor Daniel Cohen argued that French courts were indeed the natural forum for this dispute, and that the shareholders had abused their right. He concluded that French courts should not become second rank fora, that the French legal order should fight against American judicial imperialism, and that the Court of appeal had a great opportunity to convey a message to the American court. In a newspaper article published at the same time, Ms Lafarge-Sarkozy, who practises at Proskauer, recognised that the political dimension of the case could hardly be denied.

Remedy

Unfortunately, as the Court did not find that the plaintiffs had abused any of their rights, it did not rule on the remedy. We will have to wait to know whether French courts consider that they have jurisdiction to grant antisuit injunctions (they certainly can be friendly to foreign injunctions). An interesting question is whether the Brussels I Regulation had any impact on their power to do so (yet to be confirmed, to say the least).

Mari and Pretelli on Choice-of-Court Agreements, Lis Pendens and Torpedo Actions

Luigi Mari is professor of private international law and Ilaria Pretelli, Ph. D. Université Panthéon-Assas, is research fellow in private international law at the Carlo Bo University of Urbino. Both are members of the Group Galileo supported by the Université franco-italienne.

The question we would like to address is whether the *lis pendens* rule should be amended to allow the judge designated by the parties to a contract to decide on the jurisdiction, despite the case having been previously filed with a different Court in violation of the covenant Forum agreement.

If on one hand we do think that the actual rule leads many parties to "play" with a *Forum* selection with the only aim to delay the controversy definition by filing the case in front of a Court different from the one agreed upon by the parties [and apparently without Jurisdiction, so forcing the defendant to counterclaim the lack of Jurisdiction and obviously spend time before being able to get a court decision about its jurisdiction and power to hear and decide the merits of the law suit] on the other hand we do not think that the rule should be so amended as proposed by the rapporteur in the working document of 2.12.2009, but we feel to suggest to suggest another solution for the protection of choice of forum agreements in lieu of the raised issues.

According to those in favor of the modification of the *lis pendens* rule, the choice of forum covenant is a super-agreement that no other Judge but the one selected in the forum agreement should have the power to investigate in order to decide about its validity between the parties.

Firstly, it is important to stress that the prorogation agreement concerns judicial power to decide a case and therefore should the *forum selection clause* be invalid, as it happens, why should only the judge designated by the parties declare it to be so? Why should a forum selection covenant even carry the legal effect to prohibit a court decision about its own validity?

Secondly, it should be kept in mind that the terms of validity of the agreement set out in article 23 of Bruxelles I regulation do not guarantee that we are in front of a covenant which has been actually negotiated by parties.

This happens not only in the framework of a negotiation between companies with different contractual power, even though it is self-evident that between a large corporation and a small firm, the prorogation of jurisdiction may well be not subject to debate but in particular in all the agreements among companies and professionals whereby there is no negotiation at all and the professional can only adhere to the agreement without any power to amend any of the contract provision (think about all the Bank agreements, the online purchase agreements and so on and so forth).

Another very meaningful example has been given by Mme Muir Watt whom pointed out that it is important to avoid a strategic use of choice of court agreements especially when these are contained in bills of lading passing from hand to hand. This happens every day in the field of the international carriage of goods by sea, where the rules set out in art. 23 Bruxelles I – in particular the opposability of choice of court agreements to third parties according to the *Coreck* ruling – can be used to restrict carrier liability for cargo loss or damage.

Even still there is no doubt that unfair trial tactics, better known as *torpedo actions*, should be fought effectively.

Is this use of unfair trial tactics a reason sufficient to alter the *lis pendens* rule, which is grounded on the priority of action, whatever the action may be? We would like to point out that this rule, in the *Gasser* interpretation, is a rule that guarantees predictability (as the European Court of Justice stresses in *Gasser*: "in view of the disputes which could arise as to the very existence of a genuine agreement between the parties, expressed in accordance with the strict formal conditions laid down in Article 17 of the Brussels Convention, it is conducive to the legal certainty sought by the Convention that, in cases of lis pendens, it should be determined clearly and precisely which of the two national courts is to establish whether it has jurisdiction under the rules of the Convention. It is clear from the wording of Article 21 of the Convention that it is for the court first seised to pronounce as to its jurisdiction, in this case in the light of a jurisdiction clause relied on before it, which must be regarded as an independent concept to be appraised solely in relation to the requirements of Article 17)".

On the contrary a change, as suggested as a second option in the Green Paper (COM(2009) 175 final of 21.4.2009) wouldn't be conducive and could even give new opportunities to parties in search of delaying tactics: it could lead, for instance, to the allegation of the existence of an inexistent choice of court agreement in order to continue a trial initiated in a second time in front of a judge that lacks jurisdiction.

Moreover: are we sure that the two judges will decide that there is a jurisdiction agreement and the *lis pendens* rule does not apply, in cases where the existence of the jurisdiction agreement is unclear and depends on the existence of a usage in international trade or commerce, or a usage between the parties?

If we change the *lis pendens* rule and guarantee the protection of the clause by affirming the sole jurisdiction of the judge selected in the covenant, than we should also amend the recognition and enforcement procedure and establish that any decision taken by a judge that is not the designated judge must not be recognized.

If the designated judge has to be the only one allowed to evaluate the validity of the clause (or of the commercial practice), it would become impossible to give effect to any decision coming from a different judge, in order to avoid the risk of a contrast in the judgments.

It is easy to see, in our opinion, that changing the *lis pendens* rule will lead to a great confusion.

This is probably the reason why the Lugano Convention of 30 October 2007, signed after the Gasser ruling doesn't change the rules on *lis pendens* and continue to differentiate in art. 19, the case of exclusive jurisdiction by virtue of art. 16 from all other cases, as the case of exclusive jurisdiction by virtue of art. 17.

It is more desirable, instead of changing a general rule, to find appropriate means in order to counteract unfair practices.

As regards to judges, it seems clear that if the judge of a Member States decides on clearly abusive cases, initiated only to block the other party, that State will be held responsible for violation of the principle of loyal cooperation laid down in Art. 10 of the EC treaty.

This hypothesis is hopefully exceptional: in the majority of cases judges will not be willing to uphold an unfair practice, so it should be up to them to guarantee the efficacy of the agreement.

Many European legal systems empower the judges with instruments to punish abusive conducts: in Italy, for instance the judge may condemn the party who sued or resisted in a trial with bad faith or gross negligence to pay – in addition to judicial expenses – damages to the other party. The judge may also sanction *ex officio* the abusive conduct by condemning the loser to pay a lump sum to the other party (see art. 96 of the Italian code of civil procedure and art. 32-1 et 700 of the French code o civil procedure).

Leaving inaltered the *lis pendens* rule in the *Gasser* interpretation, the new provisions on choice of forum should contain a more detailed regulation on the validity of the agreement, its opposability to third parties, the consequences of its violations (for instance providing the assessment of damages, to be quantified in a uniform rule or according to the *lex fori*).

In our opinion, changing a general rule is nothing more than a tactic to counteract an abuse of that rule, an abuse happening in a percentage of cases the importance of which is not easy to determine, while stigmatizing the abusive conduct of those who believe to be capable of escaping to justice by way of torpedo actions or other judicial unfair practices has also an high educational value and definitely contribute to build confidence in the European judicial system.

Conference in Oslo – Choice of law on arbitration

A conference followed by a seminar on choice of law clauses and arbitration will take place next week in Oslo on Tuesday 6 and Friday 7 May.

The conference is organised by a research project run by prof. Giuditta Cordero

Moss (Oslo) at the Oslo university on the **impact of choice of law on arbitration** and by the Norwegian committee of the ICC (more information on the project: here).

Here is the program of the conference (Thursday 6 May):

09.00-09.10 Welcome – Professor Kristin Normann, Selmer Lawfi rm, Oslo

Part 1: Arbitration law, its developments and its signifi cance for International disputes

09.10-09.25 Introduction: Why national law for international arbitration? –
Professor Giuditta Cordero, Moss, University of Oslo

09.25-09.45 International Arbitration and the impact of the national law of the place of arbitration –
Professor Luca Radicati di Brozolo, Catholic University, Milan, Partner, Bonelli Erede Pappalardo, Milan

09.45-10.05 International Commercial Arbitration in the Us: The Restatement –
Professor George Bermann, Columbia University, New York, Chief Reporter on the ALI Restatement of the US Law on International Commercial Arbitration

10.05-10.25 New Trends in International Commercial Arbitration in Latin America –
Professor Diego Fernandez Arroyo, Complutense University, Madrid

Part 2: Ad hoc or institutional arbitration?

10.45-11.05 Ad hoc arbitration v. institutional arbitration –
Ms Carita Wallgren-Linholm, Partner, Lindholm Wallgren, Helsinki

11.05-11.25 New Trends in ad hoc international commercial arbitration: the UNCITRAL Arbitration Rules –
Ms Corinne Montineri, Legal Offi cer, UNCITRAL, and Secretary, UNCITRAL Working Group II on Arbitration

11.25-12.15 Discussion on Part 1 and Part 2

12.15-13.15 Lunch

Part 3: Features of selected Arbitration Institutions

13.15-13.35 Arbitration under the Rules of the International Chamber of Commerce
Dr. Anders Ryssdal, Partner, Wiersholm Lawfi rm, Oslo, chairman of the Norwegian Committee,
International Chamber of Commerce

13.35-13.55 Arbitration in London: Features of the London Court of International Arbitration –
Mr Matthew Saunders, Partner, DLAPiper London

13.55-14.15 Arbitration under the Swiss Rules –**Dr. Daniel Wehrli**, Partner, Gloor & Sieger, Zürich,
Member of the Board, Swiss Arbitration Association

14.45-15.05 Arbitration in Sweden: Features of the Stockholm Rules – **Marie Öhrström**,
Associate and Business Development Lawyer, Setterwalls Lawfi rm, Stockholm, and previously Deputy Secretary General of the Arbitration Institute of the Stockholm Chamber of Commerce (SCC).

15.05-15.25 Arbitration in Finland: Features of the Central Chamber of Commerce of Finland –
Justice Gustaf Möller, Partner, Krogerus Attroneys Ltd, Chairman of the Board, Arbitration Institute, CCCF

15.25-15.45 Arbitration in Denmark: Features – **Mr Georg Lett**, Partner, Lett Law firm, Copenhagen

15.45-16.05 Arbitration in the Oslo Chamber of Commerce –
Mr Stephen Knudtzon, Partner, Thommessen Law f rm, Oslo, Member of the Board, Arbitration Institute of the Oslo Chamber of Commerce

16.05-16.45 Discussion

16.45-17.00 Final observations – Professor Giuditta Cordero Moss, University of Oslo
The conference will be followed by a seminar on Friday 7 May for the project participants.

The New Chinese Tort Law: Conflict Rules on Tort Untouched

I am grateful to Fang Xiao, a postdoctoral fellow and lecturer at the Renmin University School of Law in Beijing, for contributing this report.

The Tort Law of the People's Republic of China was adopted at the 12th session of the Standing Committee of the Eleventh National People's Congress on December 26, 2009 and promulgated on the same day according to President Decree No. 21. It shall come into force on July 1, 2010.

The Tort Law consists of 12 chapters and 92 articles, divided into General Provisions, Constituting Liability and Methods of Assuming Liability, Circumstances to Waive Liability and Mitigate Liability, Special Provisions on Tortfeasors, Product Liability, Liability for Motor Vehicle Traffic Accident, Liability for Medical Malpractice, Liability for Environmental Pollution, Liability for Ultrahazardous Activity, Liability for Harm Caused by Domestic Animal, Liability for Harm Caused by Object and Supplementary Provision.

Different from the Contract Law of the P.R.C. (1999), which stipulates in Article 126 a conflict rule on the law applicable to contract, this new legislation does not include clause on the law applicable to tort. The present system of law application on tort will not be changed in waiting for the new Chinese legislation of the conflict rules on foreign related commercial and civil relations.

The present rules on choice of law in tort matters were established by Article 146 of the General Principles of the Civil Law of the P.R.C. (1986) and Article 187 of the "Interpretations" of the Supreme People's Court on its implementation (1988). According to these rules, an act committed outside the P.R.C. shall not be treated as an infringing act if under Chinese law it is not considered an infringing act (the rule of double actionability); the tort will be governed by the law of the place of the tort, which includes the place where an infringing act was committed and the place where the damage occurred, if the two places are different, the judge can make a choice between them; if both parties are citizens of or have established

domicile in the same country, their common *lex personalis* may also be applied.

In practice, these rules vest a large discretion in courts which may use several connecting factors: place where the infringing act was committed, place where the damage occurred, common nationality and common domicile of the parties. The generally accepted suggestion on the amendment of the present rules is, in addition to the above connecting factors, that the law with the most significant relationship with the tort should be applied in priority.

Belgian Judgment on Surrogate Motherhood

A lower court sitting in Belgium has recently been faced with a case of international surrogate motherhood. Two men married in Belgium had contracted with a woman living in California, who gave birth to twins in December 2008. One of the men was the biological father of the twins. In accordance with the laws of California, the birth certificate of the twins had been established mentioning the names of the two spouses as fathers. When the parents came back with their twin daughters in Belgium, the local authorities refused to give any effect to the birth certificate, in effect denying the existence of any parent-children relationship. The parents challenged this refusal before the Court of First Instance sitting in Huy.

In an opinion issued on the 22nd of March and yet unpublished, the court denied the request. Noting that what was at stake was not so much the recognition in Belgium of the decision by which the Superior Court in California had authorized, prior to the birth of the children, that the birth certificates mention the names of the two fathers, but rather the recognition of the birth certificates proper, the court applied the test laid down in Article 27 of the Code of Private International law, under which foreign acts relating to the personal status may only be recognized in Belgium provided they comply with the requirements of the national law which would be applicable to the relationship under Belgian rules. The court

focused its ruling on one specific requirement of Article 27, i.e. public policy, mentioning the issue of *fraus legis* only briefly.

The parents had argued that since Belgian law allows the adoption of a child by two persons of the same sex, recognition of the birth certificates could not be held to be contrary to fundamental principles of the Belgian legal order. The court did not follow the parents. It first held that it should consider not only the birth certificates, but also the whole history of the dealings between the parents and the surrogate mother. The court thus examined the contract which had been concluded between the parties and noted that while such contract was invalid as a matter of Belgian law, it was uncertain whether public policy could defeat such a contract validly concluded under foreign law. Turning to two important international conventions in force in Belgium, the court found that the practice of surrogate motherhood raised questions both under the Convention of the Rights of Children and under the European Convention on Human Rights. As to the first Convention, the court relied specifically on Article 7, which grants each child the right to know and be cared for by his or her parents. Turning to Article 3 of the European Convention, the court found that the fact that a surrogate mother is paid for her services is difficult to reconcile with human dignity. The Court also noted that countries which tolerate surrogacy arrangements insist on the absence of commercial motives for such arrangements. The court concluded on this basis that giving effect to the Californian birth certificates would violate fundamental principles and hence be contrary to public policy.

It is not yet known whether this ruling will be appealed. In any case, the parents will have to find an alternative solution to be recognized as such. They could turn to adoption, although this could prove difficult given that they have already had extensive contacts with the children. This is much probably not the last time a court is faced with this issue in Belgium.

Editors' note: Patrick Wautelet is a professor of law at Liege University.

Regulation EC nº 4/2009, Art. 40

Article 40

Invoking a recognised decision

1. A party who wishes to invoke in another Member State a decision recognised within the meaning of Article 17(1) or recognised pursuant to Section 2 shall produce a copy of the decision which satisfies the conditions necessary to establish its authenticity.

2. If necessary, the court before which the recognised decision is invoked may ask the party invoking the recognised decision to produce an extract issued by the court of origin using the form set out in Annex I or in Annex II, as the case may be.
The court of origin shall also issue such an extract at the request of any interested party.

3. Where necessary, the party invoking the recognised decision shall provide a transliteration or a translation of the content of the form referred to in paragraph 2 into the official language of the Member State concerned or, where there are several official languages in that Member State, into the official language or one of the official languages of court proceedings of the place where the recognised decision is invoked, in accordance with the law of that
Member State, or into another language that the Member State concerned has indicated it can accept. Each Member State may indicate the official language or languages of the institutions of the European Union other than its own which it can accept for the completion of the form.

4. Any translation under this Article must be done by a person qualified to do translations in one of the Member States.

What does art. 40, Regulation 4/2009, mean? Let's take its factual assumption: a party who wishes to invoke in a Member State a decision recognised in another Member State. The different language versions of the Regulation do not aid to determine which is the situation the rule aims to regulate. In a first reading, it

evokes the banned *exequatur on exequatur*, enforcement on enforcement. This would be the case of, for example, invoking in Spain a German resolution that has already been recognized in France. But is this really so? We follow Prof. Santiago Alvarez, *La Ley 31 July 2009,* when he rejects this opinion arguing several reasons. To start with, from a systematic point of view, because the rule refers to a situation contemplated by the preceding sections (recognition and execution without any intermediate procedure, and declaration of enforceability of the resolution). This could result at first sight from the first paragraph: "The party wishing to invoke in another Member State a decision recognized within the meaning of Article 17, paragraph 1, or under section 2 …".

Second, the rule speaks of the "court of origin" as the court which will issue an extract using the form set out in Annex I or in Annex II, as the case may be. The definition of art. 2.1. No. 9) of the Regulation states that the "court of origin" is the one which has given the decision to be enforced, and not the court that would have issued a decision on recognition (unnecessary, on the other hand, for resolutions of Section 1). That is, art. 40 only refers to the court of origin and to another Member State: not to an intermediate State (one might say, the State where a first recognition took place). Accepting this, the assumption would be that when a resolution of a Member State is invoked in another Member State in the context of art. 17.1 and Art. 23.1, for purposes other than its recognition (Section 1) or a declaration of enforceability (Section 2) –for instance, to ask for its amendment-, the invoking part must be equipped with an authentic copy, either of the extract foreseen by the forms; or, where appropriate, of the translations.

The term "Member State" is equated in other rules -such as art. 44, referring to legal aid- to any Member State or Member State other than the Member State of origin (and not necessarily a 'third' Member State). The concept of "decision recognized" is more complex to integrate into the proposed interpretation: but this seems to be due to its strangeness to our usual terminology; the difficulty would be overcome if we succeed to understand that automatic recognition has both an active and a passive dimension (a recognizable decision, a recognized decision- except opposition in the cases of Section 2). In any case, art 40 itself speaks of "… The party wishing *to invoke in another Member State* a recognized decision …"; and not "… The party wishing to invoke a decision *recognized in another Member State* …". In this case, the order of the statement's elements is

not innocuous.

Nonrecognition of Foreign Defamation Judgments

In recent years, there has been much debatein Congress and in the several states concerning what effect foreign judgments should be given by United States courts that do not comport with the First Amendment to the United States Constitution. In such cases of "libel tourism," a plaintiff chooses to sue for defamation in a foreign state that has lower standards of proof for defamation. Even though such a defamation claim would not be successful if pled in a United States court due to the First Amendment, the libel tourist seeks to enforce the judgment rendered abroad in the United States. Put another way, the libel tourist seeks to sneak around the First Amendment by bringing the case as an enforcement proceeding. Such actions are governed in many states by the Uniform Foreign-Country Money Judgments Recognition Act. California's version of the Uniform Foreign-Country Money Judgments Recognition Act (Cal. Code Civil Proc. 1716-1717) was amended last year to provide as follows:

> *1716. … (c) A court of this state is not required to recognize a foreign-country judgment if …(9) The judgment includes recovery for a claim of defamation unless the court determines that the defamation law applied by the foreign court provided at least as much protection for freedom of speech and the press as provided by both the United States and California Constitutions….*
>
> *1717…. (c) If a judgment was rendered in an action for defamation in a foreign country against a person who is a resident of California or a person or entity amenable to jurisdiction in California, and declaratory relief with respect to liability for the judgment or a determination that the judgment is not recognizable in California under Section 1716 is sought, a court has jurisdiction to determine the declaratory relief action as well as personal jurisdiction over the person or entity who obtained the foreign-country judgment if both of the*

following apply:

(1) The publication at issue was published in California.

(2) The person who is a resident, or the person or entity who is amenable to jurisdiction in California, either (A) has assets in California that might be subject to an enforcement proceeding to satisfy the foreign-country defamation judgment, or (B) may have to take actions in California to comply with the foreign-country defamation judgment….

As an empirical matter, I wonder what impact this will have on California cases. As a jurisdictional matter, it is interesting to see that California has presumably expanded its view of personal jurisdiction to cover these cases in the declaratory judgment context. In any event, it shows that there still remains conflict of laws activity in state legislatures.