# Publication: Rossolillo, “Identità personale e diritto internazionale privato”

A very interesting book on conflict issues arising out of personal identity and name has been recently published by the Italian publishing house CEDAM.
The volume, “**Identità personale e diritto internazionale privato**“, is authored by Prof. ***Giulia Rossolillo*** (University of Pavia). Prof. *Rossolillo* carries on a thorough analysis of PIL issues relating to name, both in its “private” and “public” dimension, taking into account legislation, legal scholarship and caselaw from various national jurisdictions and from the ECJ and the European Court of Human Rights.

An abstract has been kindly provided by the author (the complete table of contents is available on the publisher’s website):

> *The transnational aspects of personal identity are today subject-matter not only of private international law provisions, but also of the case law of the European Court of Human Rights and of the Court of Justice of the European Communities. Through a comparative approach, this book underlines the role of the principle of continuity and stability of names in these three fields.*
>
> *As far as private international law is concerned, the two basic functions of the name (expression of one’s personality and identity, and means by which the State identifies the subjects) are mirrored in the functioning of the related private international law rules of many civil law countries. Indeed, one can distinguish conflict of laws provisions concerning the “private aspect” of the name, that is the transmission and changing of it linked to family relationships, and provisions related to the attribution and modification of the name through a public authority act. The first aspect in many continental European countries is regulated by rules referring to the national legal system of the subject as a whole and assuming its point of view, while the so called “public aspect” of the name is generally regulated by unilateral provisions, taking into account only the point of view of the forum State. The underlying idea of the first approach is that the assumption of the point of view of the nationality legal order can*

*guarantee, to a certain extent, the continuity of name every time the person moves from one State to another, whereas the principle of continuity plays a weaker role as regards the second approach. The pivotal role of the principle of continuity comes out, moreover, from national provisions allowing the individual to choose the law that will be applied to his name, like the Swiss private international law provisions giving the individual the opportunity to submit his name to his national law, instead of having it regulated by the law of the State of domicile.*

*The attempt of balancing private and public interests and the importance of stability for the protection of the personal identity of the individual comes out also from the case law of the European Court of Human Rights. On the one hand the Court gives, in fact, a great importance to State's interests, but on the other hand these interests are overruled when the interference of the State would lead to oblige the individual to change a name that, having been used for a long time, has become an expression of his personal identity.*

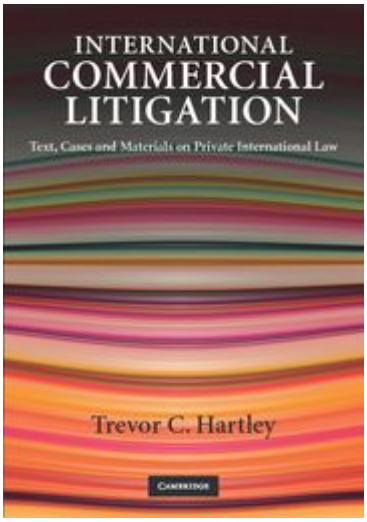
*The Court of Justice of the European Communities seems, on the contrary, to protect personal identity in a different way: the obligation for every member State to recognize a name given by another member State, envisaged by the Court in the Grunkin-Paul judgment, is, in fact, independent of any effectiveness requirement, that is of the fact that the individual has made actual use of that name, which has become a part of his identity. State interests are, thus, always overruled by the right of the individual to obtain the recognition of his name in the whole Union.*

Title: "**Identità personale e diritto internazionale privato**", by *Giulia Rossolillo*, CEDAM (Padova), 2009, XVI – 248 pages.

ISBN: 978-88-13-29065-8. Price: EUR 24,50. Available at CEDAM.

# Publication: Hartley on International Commercial Litigation

Trevor Hartley (LSE) has published a new textbook entitled, *International Commercial Litigation: Text, Cases and Materials on Private International Law*, published by Cambridge University Press. Here's the blurb:




*This carefully structured, practice-orientated textbook provides everything the law student needs to know about international commercial litigation. The strong comparative component provides a thought-provoking international perspective, while at the same time allowing readers to gain unique insights into litigation in English courts. Three important themes of the book analyse how the international element may call into question the power of the court to hear the case, whether it should exercise this power, whether foreign law applies, and whether the court should take into account any foreign judgement. Hartley provides the reader with extracts from leading cases and relevant legislation, together with an extensive reference library of further reading for those who wish to explore the topic in more detail, making this a valuable, single-source textbook. The title will benefit from a companion website, setting out all relevant case law developments for the students.*

*• Substantial extracts for leading cases are set out, so students can get an insight into how judges think • Also included is other material on jurisdictions, especially the United States • Extensive reading list after each chapter • Companion website will update material to reflect most recent case law developments*

It is available in both paperback (£48.00) and hardback (£90.00) from the CUP website, *or* you can purchase it from our Amazon-powered bookshop for the bargain prices of **£45.50** and **£85.50** respectively (click on those cheaper prices to go directly to the book on the Amazon website.)

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# European Commission: Area of Freedom, Security and Justice serving the Citizen

The communication from the Commission to the European Parliament and the Council titled "An area of freedom, security and justice serving the citizen" (COM(2009) 262 final) mentioned already in one of our previous posts, is now available.

Of particular interest might be the following passages envisaging a communitarisation of choice of law rules in the field of company law:

> *The regulation of business law would help oil the wheels of the internal market. A variety of measures could be considered here: common rules determining the law applicable to matters of company law, insurance contracts and the transfer of claims, and the convergence of*
> *national rules on insolvency procedures for banks. (p. 15)*

> *Further efforts are needed to harmonise rules on the law applicable to insurance contracts and*
> *company law. (p. 31)*

*Many thanks to Andrew Dickinson and Jan von Hein for the tip-off!*

# Latest Issue of "Praxis des Internationalen Privat- und Verfahrensrechts" (4/2009)

Recently, the July/August issue of the German legal journal "Praxis des Internationalen Privat- und Verfahrensrechts" (**IPRax)** was released.

It contains the following **articles/case notes (including the reviewed decisions)**:

- ***Anatol Dutta***: "Das Statut der Haftung aus Vertrag mit Schutzwirkung für Dritte" – the English abstract reads as follows:

> *The autonomous characterisation of national legal institutions is one of the challenging tasks of European private international law. This article attempts to determine the boundaries between the Rome I and the Rome II Regulation with regard to damages of third parties not privy to the contract but closely connected to one of the parties. Notably, German and Austrian law vest contractual rights in such third parties, especially in order to close gaps in tort law. It is argued here that those third party rights, although based on contract according to national doctrine, are to be characterised as a non-contractual obligation and governed by the Rome II regime (infra III). Under Rome II, in principle, the general conflict rule for torts in Art. 4(1) applies; if the damage suffered by the third party is caused by a product, the liability towards the third party is subject to the special rule in Art. 5(1) (infra IV). Hence, the law governing the contract from which the third party rights are derived plays only a minor role (infra V): for those third party rights neither the special rule for culpa in contrahendo in Art. 12(1) – insofar as pre-contractual third party rights are concerned – nor the escape clauses in Art. 4(3) and Art. 5(2) lead to the law which governs the contract.*

- ***Ivo Bach***: "Neuere Rechtsprechung zum UN-Kaufrecht" – the English

abstract reads as follows:

*The number of case law on the CISG increases exponentially. Thanks to online databases such as the one of Pace University or CISG-online a majority of cases are internationally available. The rapid increase of case law, however, complicates the task of staying up to date in this regard. This contribution shall be the first of a series that summarises the recent developments in case-law and at the same time categorises the cases in regard to their topic and in regard to their importance. The series aligns with the date the respective decisions become available to the general public, i. e. the date they are published on the CISG-online database, rather than the date of the decision. This contribution covers the cases with CISG-online numbers 1600–1699.*

- ***Alice Halsdorfer***: "Sollte Deutschland dem UNIDROIT-Kulturgutübereinkommen 1995 beitreten?" – the English abstract reads as follows:

*The ratification of the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970 is the perfect occasion to raise the question whether or not Germany should strive for an additional ratification of the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects 1995. While many contracting states of the UNESCO Convention 1970 did not implement comprehensive return claims for illegally exported cultural objects, the self-executing UNIDROIT Convention 1995 provides such claims and in addition further claims for stolen cultural objects. One of the major difficulties is the absence of provisions on property rights. It may be argued an initial lack or intermediate loss of ownership should not affect return claims for cultural objects with the consequence that the last possessor has to be considered the rightful claimant. Further, it may be argued that the return of cultural objects includes necessarily a transfer of possession but not a transfer of property. However, the return of cultural objects to the state from which these cultural objects have been unlawfully removed may influence the applicable law and indirectly affect property rights. Since this effect is achieved only under the condition that the lex rei sitae is replaced by the lex originis, it might be advisable to extend the scope of the ss 5 (1), 9 of the German Law on the Return of Cultural Objects in the event of a future ratification of the UNIDROIT*

*Convention 1995.*

- ***Martin Illmer***: "Anti-suit injunctions zur Durchsetzung von Schiedsvereinbarungen in Europa – der letzte Vorhang ist gefallen" – the English abstract reads as follows:

*Yet another blow for the English: the final curtain for anti-suit injunctions to enforce arbitration agreements within the European Union has fallen. As the augurs had predicted, the ECJ, following the AG's opinion, held that anti-suit injunctions enforcing arbitration agreements are incompatible with Regulation 44/2001. Considering the previous judgments in Marc Rich, van Uden and Turner as well as the civil law approach of the Regulation, the West Tankers judgment does not come as a surprise. It accords with the system and structure of the Regulation. De lege lata the decision is correct. Moaning about the admittedly thin reasoning and an alleged lack of convincing arguments does not render the decision less correct. Instead, the focus must shift to the already initiated legislative reform of Regulation 44/2001. Meanwhile, one may look for alternatives within the existing system to hold the parties to the arbitration (or jurisdiction) agreement, foreclosing abusive tactics by parties filing actions in certain Member States notorious for protracted court proceedings.*

- ***Matthias Kilian***: "Die Rechtsstellung von Unternehmensjuristen im Europäischen Kartellverfahrensrecht"
  The article reviews the judgment given by the European Court of First Instance in the joined cases T-125/03 and T-253/03 (*Akzo Nobel Chemicals Ltd. and Akcras Chimcals Ltd. ./. Commission of the European Communities*) which can be found here.

- ***Rainer Hüßtege***: "Der Europäische Vollstreckungstitel in der Praxis"
  The article reviews a decision by the Higher Regional Court Stuttgart (23.10.2007 – 5 W 29/07) dealing with the requirements of a European Enforcement Order Certificate in terms of Art. 9 Regulation (EC) No. 805/2004 stating that the issue of the ceritificate requires according to Art. 6 No. 1 (c) inter alia that the court proceedings in the Member State of origin met the requirements as provided for the proceeding of uncontested claims. This requirement was not met in the present case since the summons was not served in accordance with Art. 13 (2) of the

Regulation.

- ***Christoph M. Giebel***: "Die Vollstreckung von Ordnungsmittelbeschlüssen gemäß § 890 ZPO im EU-Ausland" – the English abstract reads as follows:

*Under German law, the State is exclusively responsible for enforcing contempt fines issued by German courts. Thus, the State collects the contempt fine through its own public authorities ex officio. This approach is in contrast to the legal situation in several other EU Member States that allow the judgment creditors not only to decide upon the enforcement of the contempt fine but also to keep the funds obtained through the enforcement. In terms of EU cross border enforcement, it is commonly accepted that for example a French "astreinte" may be enforced in Germany by invoking Art. 49 of the Regulation (EC) No. 44/2001. However, it is still doubtful whether or not German judgment creditors could similarly enforce a German contempt fine in another EU Member State. These doubts were recently intensified by a resolution rendered by the Higher Regional Court of Munich on 3rd December 2008 – 6 W 1956/08 – (not res judicata). The Higher Regional Court of Munich has refused to confirm a contempt fine issued by the Regional Court of Landshut as a European Enforcement Order under the Regulation (EC) No. 805/2004. The Higher Regional Court of Munich basically argues that the judgment creditor has no legitimate interest to apply for such confirmation due to the German legislator having attributed the responsibility for the enforcement exclusively to the State. The arguments put forward by the Higher Regional Court of Munich would also rule out any cross border enforcement of German contempt fines according to the rules of the Regulation (EC) No. 44/2001. This would lead to a considerable disadvantage of German judgment creditors within the Common Market. In the article, the author discusses in detail the arguments put forward by the Higher Regional Court of Munich both from a German and European Community law perspective. The author comes to the conclusion that prior-ranking European Community law demands that German contempt fines may also be enforced in other EU Member States both on the basis of the Regulations (EC) No. 44/2001 and No. 805/2004. In reconciling the requirements of European Community and German law, the author proposes that the judgment creditor shall be entitled to act on the basis of a representative action for the State. The funds obtained through the*

*enforcement in the relevant EU Member State shall therefore invariably be paid to the relevant State treasury in Germany.*

- ***Felipe Temming***: "Zur Unterbrechung eines Kündigungsschutzprozesses während des U.S.-amerikanischen Reorganisationsverfahrens nach Chapter 11 Bankruptcy Code"
  The article reviews a judgment of the German Federal Labour Court (27.02.2007 – 3 AZR 618/06) dealing with the interruption of an action for protection against dismissal according to the reorganization proceedings under Chapter 11 U. S. Bankruptcy Code.

- ***Kurt Siehr:*** "Ehescheidung deutscher Juden"
  The article reviews a judgment of the German Federal Court of Justice (28.05.2008 – XII ZR 61/06) concerning in particular the question whether divorce proceedings before a Rabbinical Court in Israel lead to the result that the plea of lis alibi pendens has to be upheld in German divorce proceedings. As stated by the Federal Court of Justice this could only be the case if the Jewish divorce could be recognised in Germany. This was answered in the negative by the Federal Court of Justice under the given circumstances confirming its previous case law according to which a divorce before a Rabbinical Court constitutes an extra-judicial divorce – and not a sovereign act – which can, under German law, only be recognised if the requirements of the law applicable according to German PIL (Art. 17 EGBGB) are satisfied. Due to the fact that in the present case German law was applicable with regard to the divorce according to Art. 17 EGBGB, this was not the case.

- ***Frank Spoorenberg/Isabelle Fellrath***: "Offsetting losses and profits in case of breach of commercial sales/purchase agreements under Swiss law and the Vienna Convention on the International Sale of Goods"

*This contribution analyses the computation of damages that may be awarded in order to compensate the buyer for the losses incurred on the substitution transactions as a result of the seller's default in a commercial sales/purchase agreement. It discusses more specifically the possible compensation of substitution and additional losses with any profits incurred on a single substitution transaction, and on successive substitution transactions, focusing on the articulation of the international and Swiss law provisions governing*

*general losses and substitutions losses. Reference is made by ways of illustration to a recent unpublished ICC arbitration award addressing the issue from a set off perspective.*

- ***Dirk Otto***: "Formalien bei der Vollstreckung ausländischer Schiedsgerichtsentscheidungen nach dem New Yorker Schiedsgerichtsabkommen" – the English abstract reads as follows:

*The author criticises a decision of Austria's Supreme Court which required a party seeking to enforce a foreign arbitration award in Austria to submit a legalised original or certified/legalised copy of the arbitration award although the defendant never disputed that a submitted simple copy was authentic. The author submits the correct approach would have been to require compliance with the formalities of Art. IV of the New York Convention only if (i) defendant disputes the authenticity of a copy or (ii) the enforcing court has to pass default judgment as only in these situations there is a genuine need to prove the conformity of documents.*

- ***Götz Schulze***: "Anerkennung von Drittlandscheidungen in Frankreich" – the English abstract reads as follows:

*The author analyses two judgments of the French Court of Cassation pertaining to the incidental recognition of foreign divorce decrees under French law. In the first case, a Moroccan wife had filed for divorce in France. The conciliation hearings were opposed by the husband, who claimed that the marriage had already been dissolved by a final Moroccan divorce decree. The second case regarded a French married couple who had been resident in Texas. Upon separation, the husband returned to France, where he filed a petition for divorce. The admissibility of the latter was contested because divorce proceedings were already pending in Texas, which finally led to a final divorce decree. Since the cases did not fall within the scope of the Brussels II Regulation, French procedural law was applicable. In both cases, the question at stake was whether the courts had to take into account the foreign judgments when assessing the admissibility of the divorce petition. The Court of Cassation answered in the affirmative. It held that national courts have to determine the recognition of foreign divorce decrees in every stage of the procedure as an incidental question. It thereby overruled an earlier judgment, according to*

*which the recognition of foreign judgments was reserved for the "juge de fond" and could not be determined in conciliation hearings or summary proceedings. It also held that recognition could not be denied for reasons beyond the three exhaustive grounds of non-recognition established under French law, which are lack of international jurisdiction, misuse of rights, and public policy. In the second case, the lower court had denied recognition because the divorce decree had not been registered with the register office. The reported judgments herald an important shift in French procedural law and were unanimously welcomed by legal writers. Not only did the Court of Cassation interpret national civil procedural law in a manner as to align it with art. 21 (4) Brussels II Regulation. It also overcame the long criticised procedural privileges for French nationals. As the court made clear, art. 14 Code of Civil Procedure, which grants to every French national an international venue within the domestic territory, cannot be read as to inversely hinder the recognition of a foreign judgment.*

**Futher, this issue contains the following information**:

- The new German choice of law rules as amended due to the adaptation to Regulation (EC) No. 593/2008 (Rome I) which are applicable from 17 December 2009: "Das EGBGB in der ab 17.12.2009 geltenden Fassung"
- ***Erik Jayme/Carl Friedrich Nordmeier*** report on two PIL conferences held in Lausanne: "Zwanzig Jahre schweizerisches IPR-Gesetz – Globale Vergleichung im Internationalen Privatrecht"
- ***Ralf Michaels/Catherine H. Gibson*** report on the conference held at Duke Law School on 9 February 2008 titled: "The New European Choice-of-Law Revolution: Lessons for the United States?"
- ***Hilmar Krüger*** reports on the wife's right of succession under Iranian law: "Neues zum Erbrecht der überlebenden Ehefrau nach iranischem Recht"
- ***Hilmar Krüger*** reports on the recognition of foreign decisions in the field of family law in Turkey: "Zur Anerkennung familienrechtlicher Entscheidungen in der Türkei"

# Publication: The University of Pennsylvania Journal of International Law

The *University of Pennsylvania Journal of International Law* (Volume 30, Number 4) has recently published a symposium in celebration of its anniversary. Private international lawyers will be interested in the following contributions:

International Litigation and Arbitration

- Gary Born, *The Principle of Judicial Non-Interference in International Arbitral Proceedings*
- Catherine A. Rogers, *Lawyers Without Borders*
- David J. McLean, *Toward a New International Dispute Resolution Paradigm: Assessing the Congruent Evolution of Globalization and International Arbitration*
- Jonathan C. Hamilton, *Three Decades of Latin American Commercial Arbitration*

Private International Law

- David P. Stewart, *Private International Law: A Dynamic and Developing Field*

Stewart's article, in particular, provides an excellent overview of the field from the perspective of a US lawyer.

# Does Astreinte Belong to Enforcement? (I)

French courts do not have contempt power. When they issue injunctions, the only available tool that they have to ensure compliance is *astreinte*. *Astreinte* is a pecuniary penalty which typically accrues per day of non-compliance. For instance, a French commercial court may order a party to do something or to refrain from doing something under a penalty of 1,000 euros per day of non-compliance.

Obviously, *astreinte* puts pressure on the defendant to comply. However, such pressure is only indirect. If the defendant does not comply, he will not be physically forced to. But he may be ordered to pay millions of euros instead, which can certainly be compelling. So this begs the question: does *astreinte* belong to enforcement? If it does, this could have a variety of consequences as far as private international international law is concerned.

In this first post, I would like to examine the interaction between *astreinte* and sovereign immunities.

If *astreinte* belongs to enforcement, this should mean that it is not admissible to use it against foreign states enjoying an immunity from enforcement. This is indeed what the Paris Court of appeal regularly rules.

I have reported earlier about a case where a private owner sought an injunction and an *astreinte* against the German state. The Paris Court of appeal had held that it could not possibly grant the astreinte, as it was not compatible with the immunity from enforcement of the German state. The *Cour de cassation* reversed, but on the ground that the claim fell outside of Germany's immunity. As usual, it is hard to say whether this means that the French supreme court implicitly endorsed the part of the ruling of the Court of appeal holding that *astreinte* and immunity are incompatible.

This was not an issue of first impression for the Paris Court of appeal. In a judgment of July 1, 2008, the Court had already ruled that *astreinte* could not be used against a foreign state (enjoying its immunity). In this case, a cleaning lady had been fired by the Embassy of Qatar in Paris. She sued before the Paris

labour court. She claimed for payment of unpaid wages, but also for an injunction to produce a variety of documents related to her employment, under the penalty of an *astreinte*.

The Court held that Qatar did not enjoy an immunity from being sued and could therefore be ordered to pay unpaid wages. This is because the immunity from being sued only covers *de iure imperii* actions of foreign states, and recruiting (or firing) a secretary was not one of them. However, the Court held that the foreign state did enjoy its immunity from enforcement and therefore could not be sentenced under a penalty of *astreinte*. Qatar was eventually ordered to pay € 70,000 and to hand down the relevant documents, but the claim for the grant of an *astreinte* was dismissed.

As far as sovereign immunities are concerned, therefore, it seems clear that *astreinte* is perceived as belonging to enforcement.

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# Sovereign Immunity over French Buildings

On November 19, 2008, the French Supreme Court for private matters (*Cour de cassation*) delivered an interesting judgment on the scope of the sovereign immunity of foreign states in France.

The German state was the owner of a building which had been used in the past for the purpose of hosting first a NATO unit (possibly NATO headquarters), then a social facility for German soldiers seconded in France. Since 2002, however, at least part of the building was not used anymore, as a wall was in a very bad condition. It seems that it was necessary to actually rebuild the wall, but Germany did not intend to. The problem was that the wall was shared with a private owner who did want to wall to be repaired. She sued before French courts.

The private owner sought a variety of remedies. First, she wanted Germany to be held responsible for the damage. Secondly, she claimed damages on the

basis of liability for fault (article 1382 of the French Civil Code). Thirdly, she sought an injunction to repair the wall under a financial penalty of a certain sum per day of non-compliance (*astreinte*).

The first instance court and the Paris Court of appeal did find that Germany was responsible for the damage. However, it dismissed all other claims on the ground that Germany was protected by its sovereign immunities. More precisely, it held that Germany's immunity from being sued (*immunité de juridiction*) protected it from being sued in damages, as it covered all de iure imperii actions of foreign states, and as this included managing a building for the purpose of a foreign public service. It further held Germany's immunity of enforcement (*immunité d'exécution*) protected it from being ordered anything under a financial penalty, as the property was used for public purposes.

The *Cour de cassation* reversed.

As far as the immunity of being sued is concerned, it held that the relevant action was Germany's refusal to break down a wall and to rebuild it, and that this was not a *de iure imperii* action, especially since the property was not used anymore. The claim for damages was thus admissible.

As far as the immunity from enforcement is concerned, it held that the purchase of real property in France belongs to private law, and that so does mananging the property. As a consequence, the grant of the injunction under a financial penalty was also admissible. It must be emphasized that the traditional rule under French law (since the mid-1980s) has not been that assets belonging to foreign states are only covered by a sovereign immunity (of enforcement) if they are dedicated to a public law activity. Assets dedicated to a private law activity are also protected, unless the debt which is enforced arose out of that very private law activity. This means that the reason why Germany could not raise its immunity was that the neighbour was seeking to enforce an obligation (i.e. repair the wall) on an asset (i.e. the property) which was directly related to the said obligation.

# French Court Denies Recognition to American Surrogacy Judgement

On 26 February 2009, the Paris Court of Appeal denied recognition to a couple of American judgments which had sanctioned a surrogacy. The Court held that it was contrary to French international public order.

In this case, a French couple had found a surrogate mother in Minnesota who had accepted to carry their child. After Ben was born, the parties had obtained on 4 June 2001 two judgments from a Minnesota court, the first finding that that the child had been abandonned by the American surrogate mother, the second ruling that he was adopted by the French couple. A birth certificate had then been delivered by the relevant Minnesota authorities.

When the couple came back to France, they tried to have the child registered as theirs on the relevant French registry. The French public prosecutor initiated proceedings to have this registration cancelled.

Both the French first instance court and the Paris Court of Appeal ruled against the couple. The debate focused on whether the American judgments could be recognised in France (it does not seem that the issue of whether the birth certificate could be recognised was raised). The Paris Court of appeal noticed that there were no international convention between the U.S. and France on the recognition of foreign judgments, and that it followed that the French common law of judgments as laid down by the *Cour de cassation* in *Avianca* applied.

The Court only explored whether one of the conditions was fulfilled, namely whether the foreign judgments comported with French international public order. It simply held that it did not, as the Civil code provide that surrogacy is forbidden in France (Article 16-7 of the Civil Code), and that the rule is mandatory (*d'ordre public*: see Article 16-9 of the Civil Code). In truth, the Code certainly provides that the rule is mandatory in France, but it does not say whether the rule is also internationally mandatory. The Court rejected arguments to the effect that Article

8 ECHR or the superior interest of the child commanded a different outcome.

I had reported earlier about another judgment of the same Paris Court of Appeal (indeed, the same division of the court, which is specialized in private international law matters) which had accepted to recognize a Californian judgment. This decision had been overruled by the *Cour de cassation*, but on an issue of French civil procedure which was unrelated.

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# Petition Granted in Abbott v. Abbott

This morning, the United States Supreme Court granted the Petition for Writ of Certiorari in *Abbott v. Abbott*, a case concerning the role of *ne exeat* clauses in the Hague Abduction Convention. The grant was urged not only by the petitioner, but also by the Solicitor General on the Court's invitation. Previous coverage of the case on this site can be found here, and here. This will be the first time in nearly two decades that the Supreme Court has considered a Hague Convention case on the merits. We will post the parties briefs, as well as any amici, as they become available in the coming months.

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# Anuario Español de Derecho Internacional Privado, vol VIII (2008)

The Anuario de Derecho Internacional Privado Español,vol. VIII, 2008 has just been released. These are its contents:

Manuel Díez de Velasco Vallejo,
“Adolfo Miaja de la Muela y el Derecho Internacional Privado español. A propósito de su centenario”

DOCTRINA

Andrea Bonomi
“El Reglamento Roma II y las relaciones con terceros Estados”
Pedro J. Martínez-Fraga
“Estudio de los efectos del Convenio de Nueva Cork y la doctrina de manifiesta indiferencia de la ley sobre el arbitraje internacional: análisis de dos paradigmas afirmativos y defensivos”
Nuria Marchal Escalona
“Disolución de la adopción en Derecho Internacional Privado español”

JORNADAS SOBRE LA COOPERACIÓN INTERNACIONAL DE AUTORIDADES: ÁMBITOS DE FAMILIA Y DEL PROCESO CIVIL, BARCELONA 2 Y 3 DE OCTUBRE DE 2008 (reproduction of papers) :

Alegría Borrás
“La cooperación internacional de autoridades: en particular, el caso del cobro de alimentos en el extranjero”
Joaquim J. Forner Delaygua
“La cooperación en materia de notificación y obtención de pruebas: cooperación internacional de autoridades; problemas generales de cooperación”
Cristina González Beilfuss
“La cooperación internacional de autoridades: articulación del Derecho Internacional Privado interno y el Derecho internacional privado comunitario”
Ramón Viñas Farre
“La cooperación internacional de autoridades en Latinoamérica”
Carmen Parra Rodríguez
“De la cooperación administrativa a la era de los formularios”
Georgina Garriga Suau
“La creciente potencialidad de la red judicial europea en materia civil y mercantil en la construcción del espacio judicial europeo”

III SEMINARIO INTERNACIONAL: AUTORREGULACIÓN Y UNIFICACIÓN DEL DERECHO DE LOS CONTRATOS INTERNACIONALES, MADRID, 5 y 6 DE

FEBRERO DE 2009 (all papers presented at the seminar are reproduced; see more information under my post III International Seminar on Private International Law)

VARIA

Pilar Rodrígez Mateos
“El Convenio entre España y Vietnam sobre cooperación en materia de adopción”
Carmen Otero García-Castrillón
“Efecto directo y aplicación retroactiva del acuerdo sobre los derechos de propiedad intelectual relacionados con el comercio: el problema de las patentes europeas de medicamentos en España”
Nerea Magallón Elósegui
“La Disposición Adicional séptima de la Ley de Memoria Histórica: otra ampliación de los sujetos con derecho de opción a la nacionalidad española”

TEXTOS LEGALES (2008’s PIL Community Regulations, Directives, Decisions and Preparatory works; also International Agreements and Spanish Legislation)

JURISPRUDENCIA (exhaustive collection of 2008’s Spanish case law concerning Private International Law; most cases are commented)

MATERIALES DE LA PRÁCTICA ESPAÑOLA (reports, legislative preparatory works from different Spanish organisations; printout of the jurisprudence from the Dirección General de los Registros y el Notariado, mostly commented)

FOROS INTERNACIONALES (compte-rendu of meetings and activities carried out by different inter-governmental organisations/community bodies in 2008)

Alegría Borrás
“La Conferencia de La Haya de Derecho Internacional Privado (2008)”
Nuria Marchal Escalona
“El Reglamento (CE) nº 1393/2007: ¿una solución o más problemas?”
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