New Book on Rome II

Brill / Martinus Nijhoff has recently published *The Rome II Regulation on the Law Applicable to Non-Contractual Obligations: A New International Litigation Regime*. The book is edited by John Ahern and William Binchy of Trinity College Dublin. Full details of the book are available here. It can be ordered through this link from the publisher or web sites like Amazon.

The book is the result of a conference held in Dublin in June 2008. It contains fifteen chapters by authors from across Europe and North America.

Commission's Report and Green Paper on Brussels I Regulation

Yesterday, on 21 April 2009, the European Commission adopted a **report** and a **green paper** on the functioning of the existing rules on jurisdiction of the courts and the recognition and enforcement of foreign judgments (Regulation (EC) No. 44/2001).

The background of the Commission's report and green paper is as follows: Art. 73 Brussels I Regulation requires the Commission to evaluate the operation of the Regulation and to present a report on the application of the Regulation which shall be accompanied, if necessary, by proposals for adaptations to the Regulation.

In preparation of the Commission's report, a study has been carried out on behalf of the Commission by an external contractor – the Institute for Private International Law, University of Heidelberg. While this study shows that the Regulation operates, in principle, well, it reveals some difficulties as well which need to be addressed.

Thus, the Commission addresses in the report and the green paper, as stated in

its memo, the following issues:

> *– The removal of the remaining obstacles to a free circulation of judgments, i.e. the removal of "exequatur"*
>
> *– The protection of European citizens and companies in case of disputes with parties domiciled in third States, in particular by ensuring equal access to the courts of the Member States and equal protection against judgments given by the courts of third States against European defendants;*
>
> *– Finally, certain imperfections in the application of certain rules of the Regulation, such as avoiding parallel proceedings in different Member States and ensuring the sound application of contractual agreements as to which courts will deal with the case in the Union*

According to the Commission, the report and the green paper aim at launching a broad public consultation on possible ways forward with regard to the mentioned issues. The deadline for consultation is 30 June 2009 (see also here). A proposal for revision of the Regulation is planned for the end of this year.

The Commission's press release can be found here. The Brussels I report can be found here, and the Green Paper can be found here.

On the Desirability of the Alien Tort Statute

> *Judicially made corporate human rights litigation is a luxury we can no longer afford.*

This is the conclusion of an op-ed (Rights Case Gone Wrong) published yesterday in the *Washington Post* by two leading American international law professors, Curtis Bradley (Duke) and Jack Goldsmith (Harvard).

An interesting debate is now following at opiniojuris between the supporters and the critics of the Alien Tort Statute: see the comments of, inter alia, Kevin Jon Heller, Julian Ku, Kenneth Anderson and Eric Posner.

New publication on Israeli PIL

Private International Law in Israel

by Prof Talia Einhorn

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Visiting Senior Research Fellow / Tel-Aviv University Faculty of Management

Kluwer Law International

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Israel's PIL is not codified, nor is it clearly traceable to any one legal system. Since the style and method of legal development in Israel has primarily followed the tradition of the common law, the author first critically analyzes the case law to draw the pertinent rules. However, the study does not confine itself to the rules already existing in Israeli PIL, but establishes rules in areas where such are missing, guided by the methods and principles which the court and legislature would have adopted had they been confronted with these problems.

Subjects covered in the book include:
– national and international sources of Israeli PIL;
– types of choice-of-law rules;
– characterization of legal matters;

– natural and legal persons;
– contractual and non-contractual obligations;
– property law (movables, immovables, trusts, cultural property)
– intellectual and industrial property rights;
– companies organized under the civil or commercial law of any state;
– insolvency;
– family law and succession;
– scope of international jurisdiction in Israeli courts;
– proof of foreign law;
– judicial assistance;
– recognition and enforcement of foreign judgements;
– international arbitration; and
– the role of literature and legal doctrine.

Conference: The Future of Transnational Litigation

The Future of Transnational Litigation Conference will be taking place in Vienna, Austria on 4-5 June 2009. The organizer is the International Bar Association. Topics will include:

- The future for international litigation in Europe: revising the Brussels Regulation
- A role-playing exercise in which an international client, general counsel and lead external counsel consider where to bring suit to recover damages from a multi-national price fixing cartel and counsel from potential venues make the case for bringing suit in their respective fora
- Recent developments in choice of law clauses in international contracts and the case for a new global instrument
- Cross-border litigation: developments in US law

For more information, have a look at the conference website.

CLIP Principles for Conflict of Laws in Intellectual Property: First Preliminary Draft

The European Max-Planck Group for Conflict of Laws in Intellectual Property, or simply CLIP, has published the first version of their Principles which are available for download at their web page. The purpose of publishing the First Preliminary Draft is to invite scholars and practitioners outside the Group to make suggestions or advance critical remarks in regard to the proposed rules on international jurisdiction, applicable law, and recognition and enforcement of foreign decisions in matters of intellectual property. They expect to bring foraward the Second Draft by the end of October 2009, while the final version of the Principles accompanied with the commentary is planned to be published next year.

Lawrence Collins Appointed to the House of Lords

It does not seem very long ago that we announced the appointment of Sir Lawrence Collins (co-author and General Editor of Dicey Morris and Collins: *The Conflict of Laws*) to the Court of Appeal; and, in fact, it wasn't. After two years sitting as a Lord Justice of Appeal, Sir Lawrence has been appointed a Lord of Appeal in Ordinary, and will replace Lord Hoffman (who is retiring) on 20th April 2009. Here is, in relevant part, the rest of the press release:

> *Lord Justice Lawrence Antony Collins (67) was admitted as a solicitor in 1968, took Silk in 1997 and was appointed a Deputy High Court Judge in 1997. He was appointed to the High Court in 2000 and made a Bencher (Inner Temple) in 2001. He was appointed to the Court of Appeal in 2007. He has been a Fellow of Wolfson College, Cambridge since 1975 and a Fellow of the British Academy since 1994. Lord Justice Collins was knighted in 2000.*
>
> *Lord Justice Collins…will become a Justice of the Supreme Court of the United Kingdom when it is launched on 1 October 2009. On that date The Right Honourable Lord Phillips of Worth Matravers will become the President of the Supreme Court and the Law Lords will become Justices of the Supreme Court.*

Sir Brian Kerr will be replacing Lord Carswell on 28th June 2009.

Manitoba Law Reform Commission Releases Report on Private International Law

The province of Manitoba's Law Reform Commission has released a report on Private International Law (available here). It considers three central issues:

1. Should legislation be adopted to modify the common law choice of law rule for torts as formulated in *Tolofson v. Jensen*?

2. Should legislation be adopted regarding the characterization of limitation periods?

3. Should Manitoba adopt the Uniform Law Conference of Canada's model Court Jurisdiction and Proceedings Transfer Act?

A secondary question under the first issue is how similar the legislation should be to the English PIL(MP)Act 1995.

Journal of Private International Law Conference 2009 at NYU

There are just a few places left at the Journal of Private International Law Conference 2009 – to be held at NYU from 16th – 18th April – so (if you wish to attend) I suggest that you book with all due speed.

I shall be attempting to 'live blog' the conference, alerting readers to the main points and themes from each panel. It promises to be a fantastic event, and I hope to see many of you there.

EC Signs Hague Choice of Court Convention

On 1st April 2009, the Czech Minister for Justice signed the Convention on behalf of the European Community (see the proposal to do so here). Negotiations on the Convention at the Hague were carried out ostensibly under shared competence between the EC and the Member States, but in the wake of Opinion 1/03, of course, the Community has exclusive competence to ratify the Convention. In other words, it does not need to be signed by the Member States (i.e. we're stuck with it, whether we like it or not.) Denmark, however, will not be bound.

~~You will remember that~~ Mexico ~~and the~~ USA ~~have already signed the Hague Choice of Court Convention, and with the EC joining that exclusive club only one more ratification is needed for the entry into force of the Convention~~. My attention has been drawn to the fact that the above statement is vague at best, and misleading/confusing/wrong at worst. Apologies; allow me to rework: the Hague Convention requires *two* ratifications or accessions to enter into force (Art

31(1)). So far, only Mexico has acceded to the Convention, and no State has ratified it. If either the EC or US ratify it (having already signed it), or a non-signatory State accedes to it, or another Hague member state signs and ratifies it, then the Convention will enter into force (thanks Andrew and Ralf.)

(Many thanks to everyone who emailed/commented to let us know; much appreciated.)