

First Issue of Lloyd's Maritime and Commercial Law Quarterly 2022

The first issue of the *Lloyd's Maritime and Commercial Law Quarterly* for 2022 was just published. It features the following case notes and articles on private international law respectively:

SYC Leung and M Suen, *The Extensive Jurisdiction in the Action on an Arbitral Award* (case note)

D Foxton, *The Jurisdictional Gateways - some (very) modest proposals*:

This article reviews the history of the gateways for service out of the jurisdiction in England and Wales, and seeks to identify the rationales which underpin them. The case for abolishing the gateways altogether, and applying only a forum conveniens test for service out purposes, is examined, the article concluding that there are reasons of principle and policy for maintaining the gateway requirement. The article identifies a number of variations or amendments to the current gateways which are consistent with their rationales, and which would better give effect to them.

A Kennedy, *An Exploration of the Operation and Rebuttal of the Presumption in Enka v Chubb*:

The Supreme Court in Enka v Chubb clarified the choice of law rules which help determine the governing law of an arbitration agreement when the law of the contract containing it differs from the law of the arbitral seat. According to that framework, where parties have chosen the law which governs the main contract, that law is presumed also to govern the arbitration agreement. This article identifies, and seeks to provide preliminary answers to, questions surrounding the operation of, and rebuttal of, that presumption, on the basis that such questions are most likely soon to require a judicial answer.

COMMENTARIES ON PRIVATE INTERNATIONAL LAW: THE PILIG NEWSLETTER

A new issue of *Commentaries on Private International Law*, (Vol 4. Issue 1), the newsletter of the American Society of International Law (ASIL) Private International Law Interest Group (PILIG) has been released.

The primary *purpose* of the newsletter is to communicate new developments on PIL rather than provide substantive analysis, to provide specific and concise raw information that readers can then use in their daily work. These new developments on PIL may include information on new laws, rules and regulations; new judicial and arbitral decisions; new treaties and conventions; new scholarly work; new conferences; proposed new pieces of legislation; and the like.

Commentaries includes sections dealing with regional issues, edited by specialists on the field: Africa, edited by Lamine Balde & Sedat Sirmen; Asia, by Yao-Ming Hsu & Charles Mak; the Americas by Juan Pablo Gomez (Central and South America and Mexico), and Carrie Shu Shang (North America); Europe, by Patricia Snell, Charles Mak & Christos Liakis; and Oceania, by Jeanne Huang.

This issue of *Commentaries* covers more countries and includes recent developments in PIL in each area of the world. Each regional section consists of a particular chapter devoted to new scholarly work, which is particularly important for those areas of the world. Those are not necessarily linked to a specific region or country in the world but are truly transnational or global.

Commentaries would not have been possible without Cristian Gimenez Corte (Universidad Nacional del Litoral, Santa Fe, Argentina), Jeanne Huang (University of Sydney Law School), Sedat Sirmen (Ankara University Faculty of Law), Yao-Ming Hsu (National Cheng- Chi University), Patricia Snell (Covington & Burling LLP), Charles Mak (University of Glasgow), Juan Pablo Gómez- Moreno (Cartagena Refinery), Lamine Balde (Shanghai Jiao Tong University), Christos Liakis (National & Kapodistrian University of Athens), and is coordinated by PILIG Co-Chairs Rekha Rangachari (New York International Arbitration Center) and Carrie Shu Shang (California State Polytechnic University, Pomona). In addition,

PILIG is constantly looking forward to your suggestions to improve our services to our members.

Update: HCCH 2019 Judgments Convention Repository

In preparation of the Conference on the HCCH 2019 Judgments Convention on 9/10 September 2022, taking place on campus of the University of Bonn, Germany, we are offering here a Repository of contributions to the HCCH 2019 Judgments Convention. Please email us if you miss something in it, we will update immediately...

Update of 16 February 2022: New entries are printed bold.

Please also check the “official” Bibliography of the HCCH for the instrument.

I. Explanatory Reports

Garcimartín Alférez, Francisco; Saumier, Geneviève	„Convention of 2 July 2019 on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters: Explanatory Report“, as approved by the HCCH on 22 September 2020 (available here)
Garcimartín Alférez, Francisco; Saumier, Geneviève	“Judgments Convention: Revised Draft Explanatory Report“, HCCH Prel.-Doc. No. 1 of December 2018 (available here)
Nygh, Peter; Pocar, Fausto	“Report of the Special Commission“, HCCH Prel.-Doc. No. 11 of August 2000 (available here), pp 19-128

II. Bibliography

<p>Åkerfeldt, Xerxes</p>	<p>”Indirekta behörighetsregler och svensk domsrätt - Analys och utredning av svensk domstols behörighet i förhållande till 2019 års Haagkonvention om erkännande och verkställighet” (Examensarbete inom juristprogrammet, avancerad nivå, Örebro Universitet, 2021; available here)</p> <p>“Indirect jurisdiction and Swedish law - Analysis and inquiry of the jurisdiction of Swedish courts in relation to the 2019 Hague Convention on Recognition and Enforcement”</p>
<p>Badr, Yehya Ibrahim</p>	<p>“The Hague 2019 Convention for the Recognition and Enforcement of Foreign Judicial Decisions: A Comparative Study”, <i>International Journal of Doctrine, Judiciary, and Legislation (IJDJL)</i> 2 (2021), pp. 427-468 (available here)</p>
<p>Balbi, Francesca</p>	<p>“La circolazione delle decisioni a livello globale: il rogetto di convenzione della Conferenza dell’Aia per il riconoscimento e l’esecuzione delle sentenze straniere” (Tesi di dottorato, Università degli Studi di Milano-Bicocca, 2019; available: here)</p>
<p>Beaumont, Paul</p>	<p>“<i>Forum non Conveniens</i> and the EU rules on Conflicts of Jurisdiction: A Possible Global Solution”, <i>Revue Critique de Droit International Privé</i> 2018, pp 433-447</p>
<p>Beaumont, Paul R.</p>	<p>“Judgments Convention: Application to Governments”, <i>Netherlands International Law Review (NILR)</i> 67 (2020), pp 121-137</p>
<p>Beaumont, Paul; Holliday, Jane (eds.)</p>	<p>“A Guide to Global Private International Law”, Oxford 2022, forthcoming.</p>

Biresaw, Samuel Maigreg	“Appraisal of the Success of the Instruments of International Commercial Arbitration vs. Litigation and Mediation in the Harmonization of the Rules of Transnational Commercial Dispute Settlement”, preprint (DOI:10.21203/rs.3.rs-953987/v1).
Blanquet-Angulo, Alejandra	“Les Zones d’ombre de la Convention de La Haye du 2 Juillet 2019”, <i>Revue Internationale de Droit Comparé</i> (RIDC), 73 (2021), pp. 53-71
Blom, Joost	“The Court Jurisdiction and Proceedings Transfer Act and the Hague Judgments and Jurisdictions Projects”, <i>Osgoode Hall Law Journal</i> 55 (2018), pp 257-304
Bonomi, Andrea	“European Private International Law and Third States”, <i>Praxis des Internationalen Privat- und Verfahrensrechts (IPRax)</i> 2017, pp 184-193
Bonomi, Andrea	“Courage or Caution? - A Critical Overview of the Hague Preliminary Draft on Judgments”, <i>Yearbook of Private International Law</i> 17 (2015/2016), pp 1-31
Bonomi, Andrea; Mariottini, Cristina M.	“(Breaking) News From The Hague: A Game Changer in International Litigation? - Roadmap to the 2019 Hague Judgments Convention”, <i>Yearbook of Private International Law</i> 20 (2018/2019), pp 537-567
Borges Moschen, Valesca Raizer; Marcelino, Helder	“Estado Constitucional Cooperativo e a conficacão do direito internacional privado apontamentos sobre o ‘Judgement Project’ da Conferência de Haia de Direito Internacional Privado”, <i>Revista Argumentum</i> 18 (2017), pp 291-319 (Cooperative Constitutional State and the Codification of Private International Law: Notes on the “Judgment Project” of the Hague Conference on Private International Law)

Borisov, Vitaly Nikolaevich	“2019 Hague Judgments Convention: Global Recognition and Enforcement of Civil and Commercial Judgments (Review of the International Conference held in Hong Kong on September 9, 2019), Journal of Foreign Legislation and Comparative Law 2020-03, pp. 166-172 (available here)
Brand, Ronald A.	“The Circulation of Judgments Under the Draft Hague Judgments Convention”, University of Pittsburgh School of Law Legal Studies Research Paper Series No. 2019-02, pp 1-35
Brand, Ronald A.	“Jurisdictional Developments and the New Hague Judgments Project”, in HCCH (ed.), A Commitment to Private International Law - Essays in honour of Hans van Loon, Cambridge 2013, pp 89-99
Brand, Ronald A.	“New Challenges in Recognition and Enforcement of Judgments”, in Franco Ferrari, Diego P. Fernández Arroyo (eds.), Private International Law - Contemporary Challenges and Continuing Relevance, Cheltenham/Northampton 2019, pp 360-389
Brand, Ronald A.	“Jurisdiction and Judgments Recognition at the Hague Conference: Choices Made, Treaties Completed, and the Path Ahead”, Netherlands International Law Review (NILR) 67 (2020), pp 3-17
Brand, Ronald A.	“The Hague Judgments Convention in the United States: A ‘Game Changer’ or a New Path to the Old Game?”, University of Pittsburgh Law Review 82 (2021), pp. 847-880 (available here)
Cai, Ya-qi	“Feasibility Study on China’s Ratification of the HCCH Judgment Convention from the Perspective of Indirect Jurisdiction”, Journal of Taiyuan Normal University (Social Science Edition) 2021-04, pp. 74-80

<p>Çaliskan, Yusuf; Çaliskan, Zeynep</p>	<p>“2 Temmuz 2019 Tarihli Yabancı Mahkeme Kararlarının Tanınması ve Tenfizine İlişkin Lahey Anlaşmasının Değerlendirilmesi”, <i>Public and Private International Law Bulletin</i> 40 (2020), pp 231-245 (available here) (An Evaluation of 2 July 2019 Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters)</p>
<p>Celis Aguilar, María Mayela</p>	<p>“El convenio de la Haya de 30 de junio de 2005 sobre acuerdos de elección de foro y su vinculación con el ‘proyecto sobre Sentencias’ (y viceversa)”, <i>Revista mexicana de Derecho internacional privado y comprado</i> N°40 (octubre de 2018), pp. 29-51 (available here)</p>
<p>Chai, Yuhong; Qu, Zichao</p>	<p>“The Development and Future of the Hague Jurisdiction Project”, <i>Wuhan University International Law Review</i> 2021-05, pp. 27-52 (online first)</p>
<p>Chen, Wendy</p>	<p>“Indirect Jurisdiction over the Recognition and Enforcement of Judgments of Foreign Courts in Compulsory Counterclaims”, <i>Journal of Xingtai University</i> 2019-04, pp. 106-110</p>
<p>Cheng, Xian-ping; Liu, Xian-chao</p>	<p>“On the Application of the Severable Clause in The Hague Judgments Convention”, <i>Harbin Normal University Social Science Journal</i> 2021-05, pp. 30-34</p>
<p>Choi, Sung-Soo</p>	<p>“Review of the several issues of the Convention on the Recognition and Enforcement of Foreign Judgments”, <i>Gachon Law Review</i> 14 (2021), pp. 37-68 (available here)</p>
<p>Clavel, Sandrine ; Jault-Seseke, Fabienne</p>	<p>“La convention de La Haye du 2 juillet 2019 sur la reconnaissance et l’exécution des jugements étrangers en matière civile ou commerciale : Que peut-on en attendre ?”, <i>Travaux du comité français de Droit international privé</i>, Vol. 2018-2020, Paris 2021 (Version provisoire de la communication présentée le 4 octobre 2019, available here)</p>

Clover Alcolea, Lucas	“The 2005 Hague Choice of Court and the 2019 Hague Judgments Conventions versus the New York Convention – Rivals, Alternatives or Something Else?”, <i>Mc Gill Journal of Dispute Resolution</i> 6 (2019-2020), pp. 187-214
Coco, Sarah E.	“The Value of a New Judgments Convention for U.S. Litigants”, <i>New York University Law Review</i> 94 (2019), pp 1210-1243
Cong, Junqi	“Reinventing China’s Indirect Jurisdiction over Civil and Commercial Matters concerning Foreign Affairs – Starting from the Hague Judgment Convention” (Master’s Thesis, National 211/985 Project Jilin University; DOI: 10.27162/d.cnki.gjlin.2020.001343)
Contreras Vaca, Francisco José	“Comentarios al Convenio de la Haya del 2 de julio de 2019 sobre Reconocimiento y Ejecución de Sentencias Extranjeras en materia civil y comercial”, <i>Revista mexicana de Derecho internacional privado y comprado</i> N°45 (abril de 2021), pp. 110-127 (available here)
Cui, Zhenghao	“On the Coordination between the Draft Convention on Judicial Sale of Ships and the related Conventions of the Hague Conference on Private International Law”, <i>China Ship Survey</i> 2021-04, pp. 65-68
Cuniberti, Gilles	“Signalling the Enforceability of the Forum’s Judgments Abroad”, <i>Rivista di diritto internazionale private e processuale (RDIPP)</i> 56 (2020), pp 33-54
DAV (German Bar Association)	“Position Paper on the EU’s possible accession to the Convention of 2 July 2019 on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters of the Hague Conference on Private International Law”, Berlin 2020 (available here)

<p>de Araujo, Nadia ; de Nardi, Marcelo ; Spitz, Lidia</p>	<p>“A nova era dos litígios internacionais”, Valor Economico 2019</p>
<p>de Araujo, Nadia ; de Nardi, Marcelo ; Lopes Inez ; Polido, Fabricio</p>	<p>„Private International Law Chronicles“, Brazilian Journal of International Law 16 (2019), pp 19-34</p>
<p>de Araujo, Nadia ; de Nardi, Marcelo</p>	<p>„Consumer Protection Under the HCCH 2019 Judgments Convention“, Netherlands International Law Review (NILR) 67 (2020), pp 67-79</p>
<p>de Araujo, Nadia ; de Nardi, Marcelo</p>	<p>„22^a Sessão Diplomática da Conferência da Haia e a Convenção sobre sentenças estrangeiras : Primeiras reflexões sobre as vantagens para o Brasil da sua adoção“, Revista de la Secretaría del Tribunal Permanente de Revisión 7 No. 14 (2019), páginas 198-221 (22nd Diplomatic Session of The Hague Conference and the Convention on Foreign Judgments: First Reflections on the Advantages for Brazil of their Adoption)</p>
<p>de Araujo, Nadia; De Nardi, Marcelo</p>	<p>“International Jurisdiction in Civil or Commercial Matters: HCCH’s New Challenge”, in Magdalena Pfeiffer, Jan Brodec, Petr B?íza, Marta Zavadilová (eds.), Liber Amicorum Monika Pauknerová, Prague 2021, pp. 1-11</p>
<p>Dlmoska, Fani</p>	<p>“Would the Judgments Convention lead to unification of the ratification and enforcement of foreign judgments in the SEE Countries: The possible impact of the Judgments Convention”, SEELJ Special Edition No. 8 (2021), pp. 81-103</p>

Dordevic, Slavko	“Country Report Serbia”, in GIZ (ed.), Cross-Border Recognition and Enforcement of Foreign Judicial Decisions in South East Europe and Perspectives of HCCH 2019 Judgments Convention, Skopje 2021, pp. 180-202
Dotta Salgueiro, Marcos	“Article 14 of the Judgments Convention: The Essential Reaffirmation of the Non-discrimination Principle in a Globalized Twenty-First Century”, Netherlands International Law Review (NILR) 67 (2020), pp 113-120
Douglas, Michael; Keyes, Mary; McKibbin, Sarah; Mortensen, Reid	“The HCCH Judgments Convention in Australian Law”, Federal Law Review 47 (2019), pp 420-443
Du, Tao	“Frontiers of Private International Law Around the World: An Annual Review (2019-2020)”, Chinese Review of International Law 2021-04, pp. 103-128 (available here)
Echegaray de Maussion, Carlos Eduardo	“El Derecho Internacional Privado en el contexto internacional actual : Las reglas de competencia judicial indirecta en el Convenio de la Haya de 2 de Julio de 2019 y el acceso a la justicia” Revista mexicana de Derecho internacional privado y comprado N°45 (abril de 2021), pp. 128-139 (available here)
Efeçinar Süral	Possible Ratification of the Hague Convention by Turkey and Its Effects to the Recognition and Enforcement of Foreign Judgments, Public and Private International Law Bulletin 40 (2020), pp. 775-798 (available here)

EGPIL/GEDIP	Observations on the possible accession of the European Union to the Hague Convention of 2 July 2019 on the Recognition of Foreign Judgments, Text adopted on 9 December 2020 following the virtual meeting of 18-19 September 2020 (available here)
Ermakova, Elena ; Frovola, Evgenia ; Sitkareva, Elena	“International Economic Integration and the Evolution of the Principles of Civil Procedure”, in Elena G. Popkova, Bruno S. Sergi, Modern Global Economic System, Basel 2021, pp. 1589-1597
European Union (EU)/ European Commission	“Proposal for a Council Decision on the accession by the European Union to the Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters”, COM(2021) 388 final (available here)
Fan, Jing	“On the Jurisdiction over Intellectual Property in the Draft Hague Convention on the Recognition and Enforcement of Foreign Judgments”, Chinese Yearbook of Private International Law and Comparative Law 2018-02, pp. 313-337
Fan, Jing	“Reconfiguration on Territoriality in Transnational Recognition and Enforcement of Intellectual Property Judgments”, Chinese Review of International Law 2021-01, pp. 90-112 (available here)
Farnoux, Étienne	“Reconnaissance et exécution des jugements étrangers en matière civil ou commerciale : À propos de la Convention de La Haye du 2 juillet 2019”, La Semaine Juridique 2019, pp. 1613-1617
Forner Delaygua, Joaquim-Joan	“El Convenio de La Haya de 2 julio 2019 como nuevo marco normativo de las sentencias en materia de contractual comercial”, in Pérez Vera et al. (eds.), El Derecho internacional privado entre la tradición y la innovación – Obra homenaje al Profesor doctor José María Espinar Vicente, Madrid 2020, pp. 307-325

<p>Franzina, Pietro; Leandro, Antonio</p>	<p>“La Convenzione dell’Aja del 2 luglio 2019 sul riconoscimento delle sentenze straniere : una prima lettura”, Quaderni di SIDIblog 6 (2019), pp 215-231 (available here) (The Hague Convention of 2 July 2019 on the Recognition of Foreign Judgments: A First Appraisal)</p>
<p>Fuchs, Felix</p>	<p>“Das Haager Übereinkommen vom 2. Juli 2019 über die Anerkennung und Vollstreckung ausländischer Urteile in Zivil- oder Handelssachen“, Gesellschafts- und Wirtschaftsrecht (GWR) 2019, pp 395-399</p>
<p>Garcimartín, Francisco</p>	<p>“The Judgments Convention: Some Open Questions”, Netherlands International Law Review (NILR) 67 (2020), pp 19-31</p>
<p>Garnett, Richard</p>	<p>“The Judgments Project: fulfilling Assers dream of free-flowing judgments”, in Thomas John, Rishi Gulati, Ben Koehler (eds.), The Elgar Companion to the Hague Conference on Private International Law, Cheltenham/Northampton 2020, pp. 309-321</p>
<p>Goddard, David</p>	<p>„The Judgments Convention - The Current State of Play”, Duke Journal of Comparative & International Law 29 (2019), pp 473-490</p>
<p>Gu, Weixia</p>	<p>“A Conflict of Laws Study in Hong Kong-China Judgment Regionalism: Legal Challenges and renewed Momentum”, Cornell International Law Journal 52 (2020), pp. 591-642</p>

<p>Guez, Philippe; de Berard, François; Malet- Deraedt, Fleur; Roccati, Marjolaine; Sinopoli, Laurence; Slim, Hadi; Sotomayor, Marcelo; Train, François-Xavier</p>	<p>“Chronique de droit international privé appliqué aux affaires, Revue de droit des affaires internationales – 1 décembre 2018 au 31 décembre 2019”, Revue de Droit des Affaires Internationales 2020, pp. 237-274</p>
<p>Gugu Bushati, Aida</p>	<p>“Country Report Albania”, in GIZ (ed.), Cross-Border Recognition and Enforcement of Foreign Judicial Decisions in South East Europe and Perspectives of HCCH 2019 Judgments Convention, Skopje 2021, pp. 16-41 (available here)</p>
<p>Guide, Jia [Foreign Ministry of the People’s Republic of China]</p>	<p>“Address by the Director of the Department of Treaty and Law of the Ministry of Foreign Affairs Jia Guide at the Opening Ceremony of the International Symposium on the Hague Judgment Convention (9 September 2019)”, Chinese Yearbook of International Law 2019, pp. 503-505</p>
<p>Gusson Said, Enza ; Quiroga Obregón, Marcelo Fernando</p>	<p>“Homologação de sentenças estrangeiras e o Judgements Project”, Derecho y Cambio Social N.º 60 (2020) en línea, pp. 1-13 (available here)</p>

<p>Hägglom, Annie</p>	<p>”2019 års Haagkonvention om erkännande och verkställighet av utländska domar på privata rättsens område: Ett framgångsrikt internationellt instrument på den internationella privata rättsens område?” (Examensarbete i internationell privat- och processrätt, Uppsala Universitet, 2021; available here)</p> <p>“The Convention of 2 July 2019 on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters : A successful international instrument in the field of private international law?”</p>
<p>He, Qisheng</p>	<p>“The HCCH Judgments Convention and the Recognition and Enforcement of Judgments pertaining to a State”, Global Law Review 3 (2020), pp 147-161 (available here)</p>
<p>He, Qisheng</p>	<p>“Unification and Division: Immovable Property Issues under the HCCH Judgement Convention”, Journal of International Law 1 (2020), pp 33-55</p>
<p>He, Qisheng</p>	<p>“The HCCH Judgments Convention and International Judicial Cooperation of Intellectual Property”, Chinese Journal of Law 2021-01, pp. 139-155</p>
<p>He, Qisheng</p>	<p>“Latest Development of the Hague Jurisdiction Project”, Wuhan University International Law Review 2020-04, pp. 1-16</p>
<p>He, Qisheng</p>	<p>“ ‘Civil or Commercial Matters’ in International Instruments Scope and Interpretation”, Peking University Law Review 2018-02, pp. 1-25 (available here)</p>

He, Qisheng	“A Study on the Intellectual Property Provisions in the ‘Hague Convention on Judgment’ - On the Improvement of Transnational Recognition and Enforcement of Intellectual Property Judgments in China”, Journal of Taiyuan University (Social Science Edition) 2020-05, pp. 40-47
Herrup, Paul; Brand, Ronald A.	“A Hague Convention on Parallel Proceedings”, University of Pittsburgh School of Law Legal Studies Research Paper Series No. 2021-23, pp. 1-10 (available here)
Jacobs, Holger	“Der Zwischenstand zum geplanten Haager Anerkennungs- und Vollstreckungsübereinkommen - Der vorläufige Konventionsentwurf 2016“, Zeitschrift für Internationales Privatrecht & Rechtsvergleichung (ZfRV) 2017, pp 24-30
Jacobs, Holger	“Das Haager Anerkennungs- und Vollstreckungsübereinkommen vom 2. Juli 2019 - Eine systematische und rechtsvergleichende Untersuchung“, Tübingen 2021
Jang, Jiyong	“Conditions and Procedure for Recognition and Enforcement of Foreign Judgments”, Korea Private International Law Journal 2021-01, pp. 399-430
Jang, Junhyok	“The Public Policy Exception Under the New 2019 HCCH Judgments Convention”, Netherlands International Law Review (NILR) 67 (2020), pp 97-111
Jang, Junhyok	“2019 Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters”, Korea Private International Law Journal 2019-02, pp. 437-510.
Jang, Junhyok	“Practical Suggestions for Joining the 2019 Judgments Convention and Its Implications for Korean Law and Practice”, Korea Private International Law Journal 2020-02, pp. 141-217

Jovanovic, Marko	Thou Shall (Not) Pass - Grounds for Refusal of Recognition and Enforcement under the 2019 Hague Judgments Convention, YbPIL 21 (2019/2020), pp. 309 - 332
Jueptner, Eva	“The Hague Jurisdiction Project - what options for the Hague Conference?”, Journal of Private International Law 16 (2020), pp 247-274
Jueptner, Eva	“A Hague Convention on Jurisdiction and Judgments: why did the Judgments Project (1992-2001) fail?”, (Doctoral Thesis, University of Dundee, 2020)
Kasem, Rouzana	“The Future of Choice of Court and Arbitration Agreements under the New York Convention, the Hague Choice of Court Convention, and the Draft Hague Judgments Convention”, Aberdeen Student Law Review 10 (2020), pp. 69-115
Kessedjian, Catherine	“Comment on the Hague Convention of 2 July 2019 on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters. Is the Hague Convention of 2 July 2019 a useful tool for companies who are conducting international activities?”, Nederlands Internationaal Privaatrecht (NIPR) 2020, pp 19-33
Khanderia, Saloni	„The Hague judgments project: assessing its plausible benefits for the development of the Indian private international law”, Commonwealth Law Bulletin 44 (2018), pp 452-475
Khanderia, Saloni	“The Hague Conference on Private International Law’s Proposed Draft Text on the Recognition and Enforcement of Foreign Judgments: Should South Africa Endorse it?”, Journal of African Law 63 (2019), pp 413-433

Khanderia, Saloni	“The prevalence of ‘jurisdiction’ in the recognition and enforcement of foreign civil and commercial judgments in India and South Africa: a comparative analysis”, Oxford University Commonwealth Law Journal 2021
Kindler, Peter	“Urteilsfreizügigkeit für derogationswidrige Judikate? – Ein rechtspolitischer Zwischenruf auf dem Hintergrund der 2019 HCCH Judgments Convention“, in Christoph Benicke, Stefan Huber (eds.), Festschrift für Herbert Kronke zum 70. Geburtstag, Bielefeld 2020, pp 241-253
Kostic-Mandic, Maja	“Country Report Montenegro”, in GIZ (ed.), Cross-Border Recognition and Enforcement of Foreign Judicial Decisions in South East Europe and Perspectives of HCCH 2019 Judgments Convention, Skopje 2021, pp. 114-137 (available here)
Krotkov, I. A.; Sidorova, A.P.	“On the Concept of the possible Ratification by the Russian Federation of the Convention of July 2019”, in Perm State University (ed.), First All-Russian Conference of Young Scientists on Actual Issues of the Development in Private Law and Civil Procedure (Perm 12 December 2020), Perm 2020, pp. 140- 142 (available here)
Landbrecht, Johannes	“Commercial Arbitration in the Era of the Singapore Convention and the Hague Court Conventions”, ASA Bulletin 37 (2019), pp. 871-882 (available here)
Lee, Gyooho	“The Preparatory Works for the Hague Judgment Convention of 2019 and its Subsequent Developments in terms of Intellectual Property Rights”, Korea Private International Law Journal 2020-02, pp. 85-140
Liu, Guiqiang	“Limitation Period for the Enforcement of Foreign Judgments”, China Journal of Applied Jurisprudence 2020-04, pp. 109-124

Liu, Yang; Xiang, Zaisheng	“The No Review of Merit Clause in the Hague Judgments Convention”, Wuhan University International Law Review 2020-05, pp. 44-65
Malachta, Radovan	“Mutual Trust between the Member States of the European Union and the United Kingdom after Brexit: Overview”, in Jiří Valdhans (ed.), COFOLA International 2020: Brexit and its Consequences - Conference Proceedings, Brno 2020, pp. 39-67 (available here)
Mariottini, Cristina	„Establishment of Treaty Relations under The 2019 Hague Judgments Convention“, YbPIL 21 (2019/2020), pp. 365-380
Mariottini, Cristina	“The Exclusion of Defamation and Privacy from the Scope of the Hague Draft Convention on Judgments, YbPIL 19 (2017/2018), pp 475-486.
Martiny, Dieter	“The Recognition and Enforcement of Court Decisions Between the EU and Third States”, in Alexander Trunk, Nikitas Hatzimihail (eds.), EU Civil Procedure Law and Third Countries - Which Way Forward?, Baden-Baden 2021, pp 127-146
Maude, L. Hunter	“Codifying Comity: The Case for U.S. Ratification of the 2019 Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters”, Wisconsin International Law Review 38 (2021), pp. 108-138
Meier, Niklaus	“Notification as a Ground for Refusal”, Netherlands International Law Review (NILR) 67 (2020), pp 81-95
Muir Watt, Horatia	“Le droit international privé au service de la géopolitique : les enjeux de la nouvelle Convention de la Haye du 2 juillet 2019 sur la reconnaissance et l’exécution des jugements étrangers en matière civile ou commerciale”, Revue Critique de Droit International Privé 2020, pp. 427-448

Nielsen, Peter Arnt	“The Hague 2019 Judgments Convention - from failure to success”, <i>Journal of Private International Law</i> 16 (2020), pp 205-246
Nielsen, Peter Arnt	“A Global Framework for International Commercial Litigation”, in Christoph Benicke, Stefan Huber (eds.), <i>Festschrift für Herbert Kronke zum 70. Geburtstag</i> , Bielefeld 2020, pp 415-433
Nishimura, Yuko	“Indirect Jurisdiction at the Place where the Immovable Property is situated in HCCH 2019 Judgments Convention”, <i>Seinan Gakuin University Graduate School Research Review</i> N°13, pp. 1-20 (available here)
North, Cara	“The 2019 HCCH Judgments Convention: A Common Law Perspective”, <i>Praxis des Internationalen Privat- und Verfahrensrechts (IPRax)</i> 2020, pp 202-210
North, Cara	“The Exclusion of Privacy Matters from the Judgments Convention”, <i>Netherlands International Law Review (NILR)</i> 67 (2020), pp 33-48
Oestreicher, Yoav	“ ‘We’re on a Road to Nowhere’ - Reasons for the Continuing Failure to Regulate Recognition and Enforcement of Foreign Judgments”, <i>The International Lawyer</i> 42 (2008), pp 59-86
Öhlund, Jonas	”2019 års Haagkonvention - ett globalt regelverk om erkännande och verkställighet av domar”, <i>Svensk Juristtidning</i> 2020, pp. 350-360 (available here)
Okorley, Solomon	“The possible impact of the Hague Convention on the Recognition and Enforcement of foreign Judgments in Civil or Commercial Matters on Private International Law in Common Law West Africa”, (Master’s Dissertation, University of Johannesburg, 2019; available: here)

<p>Pasquot Polido, Fabrício B.</p>	<p>“The Judgments Project of the Hague Conference on Private International Law: a way forward for a long-awaited solution”, in Verónica Ruiz Abou-Nigm, Maria Blanca Noodt Taquela (eds.), <i>Diversity and integration in Private International Law</i>, Edinburgh 2019, pp. 176-199</p>
<p>Payan, Guillaume</p>	<p>“Convention de La Haye du 2 juillet 2019 sur la reconnaissance et l’exécution des jugements étrangers en matière civile ou commerciale”, in Hubert Alcaez, Olivier Lecucq (eds.), <i>L’exécution des décisions de justice</i>, Pau 2020, pp 167-183</p>
<p>Pertegás Sender, Marta</p>	<p>“The 2019 Hague Judgments Convention: Its Conclusion and the road ahead”, in Asian Academy of International Law (publ.), <i>Sinergy and Security: the Keys to Sustainable Global Investment: Proceedings of the 2019 Colloquium on International Law</i>, 2019 Hong Kong, pp 181-190 (available here)</p>
<p>Pertegás, Marta</p>	<p>“Brussels I Recast and the Hague Judgments Project”, in Geert Van Calster (ed.), <i>European Private International Law at 50: Celebrating and Contemplating the 1968 Brussels Convention and its Successors</i>, Cambridge 2018, pp 67-82</p>
<p>Pocar, Fausto</p>	<p>“Riflessioni sulla recente convenzione dell’Aja sul riconoscimento e l’esecuzione delle sentenze straniere”, <i>Rivista di diritto internazionale privato e processuale</i> 57 (2021), pp. 5-29</p>
<p>Pocar, Fausto</p>	<p>“Brief Remarks on the Relationship between the Hague Judgments and Choice of Court Conventions”, in Magdalena Pfeiffer, Jan Brodec, Petr B?íza, Marta Zavadilová (eds.), <i>Liber Amicorum Monika Pauknerová</i>, Prague 2021, pp. 345-353</p>
<p>Poesen, Michiel</p>	<p>“Is specific jurisdiction dead and did we murder it? An appraisal of the Brussels Ia Regulation in the globalizing context of the HCCH 2019 Judgments Convention”, <i>Uniform Law Review</i> 26 (2021), pp. 1-13</p>

Popov, Vasiliy	“Grounds for Recognition and Enforcement of Foreign Judgments in Russia”, Issues of Russian Justice 15 (2021), pp. 137-152
Povlakic, Meliha	“Country Report Bosnia and Herzegovina”, in GIZ (ed.), Cross-Border Recognition and Enforcement of Foreign Judicial Decisions in South East Europe and Perspectives of HCCH 2019 Judgments Convention, Skopje 2021, pp. 42-81 (available here)
Qerimi, Donikë	“Country Report Kosovo”, in GIZ (ed.), Cross-Border Recognition and Enforcement of Foreign Judicial Decisions in South East Europe and Perspectives of HCCH 2019 Judgments Convention, Skopje 2021, pp. 82-113 (available here)
Qian, Zhenqiu	“On the Common Courts Provision under the Draft Hague Convention on the Recognition and Enforcement of Foreign Judgments”, Wuhan University International Law Review 2019-01, pp. 59-74 (available here)
Qian, Zhenqiu; Yang, Yu	“On the Interpretation and Application of the Cost of Proceedings Provision under the Hague Judgment Convention”, China Journal of Applied Jurisprudence 2020-04, pp. 96-108
Reisman, Diana A. A.	“Breaking Bad: Fail -Safes to the Hague Judgments Convention”, Georgetown Law Journal 109 (2021), pp. 880-906
Reyes, Anselmo	„Implications of the 2019 Hague Convention on the Enforcement of Judgments of the Singapore International Commercial Court”, in Rolf A. Schütze, Thomas R. Klötzel, Martin Gebauer (eds.), Festschrift für Roderich C. Thümmel zum 65. Geburtstag, Berlin 2020, pp 695-709

Ribeiro-Bidaoui, João	“The International Obligation of the Uniform and Autonomous Interpretation of Private Law Conventions: Consequences for Domestic Courts and International Organisations”, <i>Netherlands International Law Review</i> 67 (2020), pp 139 - 168
Rumenov, Ilija	“Implications of the New 2019 Hague Convention on Recognition and Enforcement of Foreign Judgments on the National Legal Systems of Countries in South Eastern Europe”, <i>EU and Comparative Law Issues and Challenges Series (ECLIC)</i> 3 (2019), pp 385-404
Rumenov, Ilija	“Country Report North Macedonia”, in GIZ (ed.), <i>Cross-Border Recognition and Enforcement of Foreign Judicial Decisions in South East Europe and Perspectives of HCCH 2019 Judgments Convention</i> , Skopje 2021, pp. 138-179 (available here)
Rumenov, Ilija	“The indirect jurisdiction of the 2019 Hague Convention on recognition and enforcement of foreign judgments in civil or commercial matters - Is the “heart” of the Convention”, <i>SEELJ Special Edition</i> No. 8 (2021), pp. 9-45
Sachs, Klaus; Weiler, Marcus	“A comparison of the recognition and enforcement of foreign decisions under the 1958 New York Convention and the 2019 Hague Judgments Convention”, in Rolf A. Schütze, Thomas R. Klötzel, Martin Gebauer (eds.), <i>Festschrift für Roderich C. Thümmel zum 65. Geburtstag</i> , Berlin 2020, pp 763-781
Saito, Akira	“Advancing Recognition and Enforcement of Foreign Judgments: Developments of Inter-Court Diplomacy and New Hague Judgments Convention”, <i>Kobe Law Journal</i> 2019-03, pp. 59-110 (available here)
Sánchez Fernández, Sara	“El Convenio de la Haya de Reconocimiento y Ejecución de Sentencias”, <i>Revista Española de Derecho Internacional</i> 73 (2021), pp. 233-252

Saumier, Geneviève	“Submission as a Jurisdictional Basis and the HCCH 2019 Judgments Convention”, Netherlands International Law Review (NILR) 67 (2020), pp 49-65
Schack, Haimo	“Wiedergänger der Haager Konferenz für IPR: Neue Perspektiven eines weltweiten Anerkennungs- und Vollstreckungsübereinkommens?“, Zeitschrift für Europäisches Privatrecht (ZeuP) 2014, pp 824-842
Schack, Haimo	„Das neue Haager Anerkennungs- und Vollstreckungsübereinkommen“, Praxis des Internationalen Privat- und Verfahrensrechts (IPRax) 2020, pp 1-96
Senicheva, Marina	“The Relevance and Problems of the Hague Convention of July 2, 2019 on the Recognition and Enforcement of Foreign Judgments Ratification by the Russian Federation”, Advances in Law Studies 8 (2020), online (available: here)
Shan, Juan	“A study on the Anti-trust Provisions in the Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters”, Chinese Yearbook of Private International Law and Comparative Law 2019-01, pp. 318-335
Shchukin, Andrey Igorevich	“Indirect International Jurisdiction in the Hague Convention on the Recognition and Enforcement of Foreign Judgments of 2019 (Part 1)”, Journal of Russian Law No. 2020-07, pp. 170-186 (available here)
Shchukin, Andrey Igorevich	“Indirect International Jurisdiction in the Hague Convention on the Recognition and Enforcement of Foreign Judgments of 2019 (Part 2)”, Journal of Russian Law No. 2020-11, pp. 140-54 (available here)

Shen, Juan	<p>“Further Discussion on the Drafts of the Hague Convention on Jurisdiction and Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters and Considerations from Chinese Perspective”, Chinese Review of International Law 2016-06, pp. 83-103 (available here)</p>
Silberman, Linda	<p>“Comparative Jurisdiction in the International Context: Will the Proposed Hague Judgments Convention be Stalled?”, DePaul Law Review 52 (2002), pp 319-349</p>
Silberman, Linda	<p>“The 2019 Judgments Convention: The Need for Comprehensive Federal Implementing Legislation and a Look Back at the ALI Proposed Federal Statute”, NYU School of Law, Public Law Research Paper No. 21-19 (available here)</p>
Skvortsova, Tatyana Aleksandrovna; Denyak, Victoria Yurievna	<p>“On the issue of Recognition and Enforcement of Court Decisions of a Foreign State in the Russian Federation”, Collection of selected Articles of the International Scientific Conference, Saint Petersburg (2021), pp. 258-261</p>
Solomon, Dennis	<p>“Das Haager Anerkennungs- und Vollstreckungsübereinkommen von 2019 und die internationale Anerkennungszuständigkeit“, in Rolf A. Schütze, Thomas R. Klötzel, Martin Gebauer (eds.), Festschrift für Roderich C. Thümmel zum 65. Geburtstag, Berlin 2020, pp 873-893</p>
Song, Jianli	<p>“ ‘Convention on the Recognition and Enforcement of Foreign Civil and Commercial Judgments’ and its influence on my country”, People’s Judicature (Application) 2020-01, pp. 88-92 (available here)</p>

<p>Song, Lianbin; Chen, Xi</p>	<p>“The Judicial Difference and International Coordination of the Recognition and Enforcement of Foreign Punitive Damages Judgements: Also on China’s Corresponding Measures Under the Frame of HCCH Convention”, Jiang-Huai Tribune 2021-03, pp. 111-113</p>
<p>Spitz, Lidia</p>	<p>„Homologação De Decisões Estrangeiras No Brasil – A Convenção de Sentenças da Conferência da Haia de 2019 e o controle indireto da jurisdição estrangeira”, Belo Horizonte 2021</p>
<p>Spitz, Lidia</p>	<p>„Refusal of Recognition and Enforcement of Foreign Judgments on Public Policy Grounds in the Hague Judgments Convention – A Comparison with The 1958 New York Convention“, YbPIL 21 (2019/2020), pp 333-364</p>
<p>Stein, Andreas</p>	<p>„Das Haager Anerkennungs- und Vollstreckungsübereinkommen 2019 – Was lange währt, wird endlich gut?“, Praxis des Internationalen Privat- und Verfahrensrechts (IPRax) 2020, pp 197-202</p>
<p>Stewart, David P.</p>	<p>„Current Developments: The Hague Conference adopts a New Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters”, American Journal of International Law (AJIL) 113 (2019), pp 772-783</p>
<p>Stitz, Olivia</p>	<p>“Comity, Tipping Points, and Commercial Significance: What to expect of the Hague Judgments Convention”, Corporate and Business Law Journal (Corp. & Bus. L.J.) 2 (2021), pp. 203-236 (available here)</p>
<p>Storskrubb, Eva</p>	<p>“The EU Commission’s Proposal for the EU to Accede to the Hague Judgments Convention”, EU Law Live Weekend Edition No. 75 (2021), pp. 10-16 (available here)</p>

Suk, Kwang-Hyun	“Principal Content and Indirect Jurisdiction Rules of the Hague Judgments Convention of 2019”, Korea Private International Law Journal 2020-02, pp. 3-83
Sun, Jin; Wu, Qiong	“The Hague Judgments Convention and how we negotiated it”, Chinese Journal of International Law 19 (2020) (available here)
Sun, Xiaofei; Wu, Qiong	“Commentary and Outlook on the Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters”, Journal of International Law 2019-01, pp. 155-164+170
Symeonides, Symeon C.	“Recognition and Enforcement of Foreign Judgments: The Hague Convention of 2019”, in Symeon C. Symeonides, Cross-Border Infringement of Personality Rights via the Internet, Leiden 2021, pp. 130-144
Takeshita, Keisuke	“The New Hague Convention on Recognition and Enforcement of Foreign Judgments: Analysis on its Relationship with Arbitration”, Japanese Commercial Arbitration Journal (JCA) 2020-02, pp. 10-15 (available here)
Takeshita, Keisuke	<p>“The New Hague Convention on Recognition and Enforcement of Foreign Judgments”, Japanese Commercial Arbitration Journal</p> <p>Part 1: JCA 2020-04, pp. 40-45 (available here)</p> <p>Part 2: JCA 2020-05, pp. 40-45 (available here)</p> <p>Part 3: JCA 2020-06, pp. 42-49 (available here)</p> <p>Part 4: JCA 2020-10, pp. 40-46 (available here)</p> <p>Part 5: JCA 2020-11, pp. 35-41 (available here)</p> <p>Part 6: JCA 2020-12, pp. 43-48 (available here)</p> <p>Part 7: JCA 2021-02, pp. 50-56</p> <p>Part 8: JCA 2021-04, pp. 45-51</p> <p>Part 9: JCA 2021-07, pp. 46-53</p> <p>Part 10: JCA 2021-09, pp. 40-46</p> <p>Part 11: JCA 2021-10, pp. 48-54</p>

<p>Taquela, María Blanca Noodt ; Abou-Nigm, Verónica Ruiz</p>	<p>“News From The Hague: The Draft Judgments Convention and Its Relationship with Other International Instruments”, Yearbook of Private International Law 19 (2017/2018), pp 449-474</p>
<p>Teitz, Louise Ellen</p>	<p>“Another Hague Judgments Convention? - Bucking the Past to Provide for the Future”, Duke Journal of Comparative & International Law 29 (2019), pp 491-511</p>
<p>Tian, Hongjun</p>	<p>“The Present and Future of the Recognition and Enforcement of Civil and Commercial Judgments in Northeast Asia: From the Perspective of the 2019 Hague Judgments Convention”, Chinese Yearbook of Private International Law and Comparative Law 2019-01, pp. 300-317</p>
<p>Tian, Xinyue; Qian, Zhenqiu; Wang, Shengzhe</p>	<p>“The Hague Convention on the Recognition and Enforcement of Foreign Judgments (Draft) and China’s Countermeasure - A Summary on the Fourth Judicial Forum of Great Powers”, Chinese Yearbook of Private International Law and Comparative Law 2018-01, pp. 377-388</p>
<p>Trooboff, Peter D.; North, Cara; Nishitani, Yuko; Sastry, Shubha; Chanda, Riccarda</p>	<p>“The Promise and Prospects of the 2019 Hague Convention: Introductory Remarks”, Proceedings of the ASIL Annual Meeting 114 (2020), pp. 345-357</p>
<p>Tsang, King Fung; Wong, Tsz Wai</p>	<p>“Enforcement of Non-Monetary Judgments in Common Law Jurisdictions: Is the Time Ripe?”, Fordham International Law Journal 45 (2021), pp. 379-428 (available here)</p>

<p>UIHJ (ed.); Walker, David (dir.)</p>	<p>“The HCCH 2019 Judgments Convention, adding essential components for an effective international legal framework on recognition and enforcement”, in UIHJ (ed.), David Walker (dir.), <i>Cyberjustice, de nouvelles opportunités pour l’huissier de justice / Cyberjustice, New Opportunities for the Judicial Officer - XXIVe Congrès de l’Union Internationale des Huissiers de Justice</i> - Dubai - 22 au 25 Novembre 2021, Bruxelles 2021, pp. 120-133</p>
<p>van der Grinten, Paulien; ten Kate, Noura</p>	<p>„Editorial: The 2019 Hague Judgments Convention”, <i>Nederlands Internationaal Privaatrecht (NIPR) 2020</i>, pp 1-3</p>
<p>van Loon, Hans</p>	<p>“Towards a global Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters”, <i>Nederlands Internationaal Privaatrecht (NIPR) 2020</i>, pp 4-18</p>
<p>van Loon, Hans</p>	<p>“Towards a Global Hague Convention on the Recognition and Enforcement of Judgments in Civil or Commercial Matters”, <i>Collection of Papers of the Faculty of Law, Niš 82 (2019)</i>, pp 15-35</p>
<p>van Loon, Hans</p>	<p>“Le <i>Brexit</i> et les conventions de La Haye”, <i>Revue critique de droit international privé (Rev. Crit. DIP) 2019</i>, pp. 353-365</p>
<p>Viegas Liquidato, Vera Lúcia</p>	<p>“Reconhecimento E Homologação De Sentenças Estrangeiras : O Projeto De Convenção Da Conferência da Haia”, <i>Revista de Direito Brasileira 2019-09</i>, pp. 242-256</p>
<p>Wagner, Rolf</p>	<p>“Ein neuer Anlauf zu einem Haager Anerkennungs- und Vollstreckungsübereinkommen“, <i>Praxis des Internationalen Privat- und Verfahrensrechts (IPRax) 2016</i>, pp 97-102</p>

Wang, Quian	“On Intellectual Property Right Provisions in the Draft Hague Convention on the Recognition and Enforcement of Foreign Judgments”, China Legal Science 2018-01, pp. 118-142 (available here)
Wang, Yahan	“No Review of the Merits in Recognizing and Enforcing Foreign Judgments”, China Journal of Applied Jurisprudence 2020-04, pp. 78-95
Weidong, Zhu	“The Recognition and Enforcement of Commercial Judgments Between China and South Africa: Comparison and Convergence”, China Legal Science 2019-06, pp 33-57 (available here)
Weller, Matthias	“The HCCH 2019 Judgments Convention: New Trends in Trust Management?”, in Christoph Benicke, Stefan Huber (eds.), Festschrift für Herbert Kronke zum 70. Geburtstag, Bielefeld 2020, pp 621-632
Weller, Matthias	“The 2019 Hague Judgments Convention - The Jurisdictional Filters of the HCCH 2019 Judgments Convention”, Yearbook of Private International Law 21 (2019/2020), pp 279-308
Weller, Matthias	“Das Haager Übereinkommen zur Anerkennung und Vollstreckung ausländischer Urteile”, in Thomas Rauscher (ed.), Europäisches Zivilprozess- und Kollisionsrecht, Munich, 5 th ed., forthcoming
Weller, Matthias	„Die Kontrolle der internationalen Zuständigkeit im Haager Anerkennungs- und Vollstreckungsübereinkommen 2019“, in Christoph Althammer/Christoph Schärfl (eds.), Festschrift für Herbert Roth, Tübingen 2021, pp. 835-855
Wilderspin, Michael; Vysoka, Lenka	“The 2019 Hague Judgments Convention through European lenses”, Nederlands Internationaal Privaatrecht (NIPR) 2020, pp 34-49

Wu, Qiong	"The Overview of the 22 nd Diplomatic Session of the Hague Conference on Private International Law", Chinese Yearbook of International Law 2019, pp. 337-338
Xie, Yili	"Research on the Intellectual Property Infringement System of the Hague Judgments Convention", China-Arab States Science and Technology Forum 2021-09, pp. 190-194
Xu, Guojian	"Comment on Key Issues Concerning Hague Judgment Convention in 2019 ", Journal of Shanghai University of Political Science and Law 35 (2020), pp 1-29
Xu, Guojian	"To Establish an International Legal System for Global Circulation of Court Judgments", Wuhan University International Law Review 2017-05, pp 100-130
Xu, Guojian	"Overview of the Mechanism of Recognition and Enforcement of Judgements Established by HCCH 2019 Judgments Convention", China Journal of Applied Jurisprudence No. 2020-02, pp 65-77
Xu, Guojian	"On the Scope and Limitation of the Global Circulation of Court Judgments: An Analysis on the Application Scope of the 2019 Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters", Chinese Yearbook of Private International Law and Comparative Law 2019-01, pp. 269-299
Yang, Yujie	"On the Rules of indirect Jurisdiction responding to Litigation - Based on Article 5, Paragraph 1, Item 6 of the Hague Convention on the Recognition and Enforcement of Judgments in Civil and Commercial Matters" (Master Thesis China Foreign Affairs University Beijing 2021)
Yekini, Abubakri	"The Hague Judgments Convention and Commonwealth Model Law - A Pragmatic Perspective", Oxford 2021.

Yeo, Terence	“The Hague Judgments Convention - A View from Singapore”, Singapore Academy of Law Journal (e-First) 3 rd August 2020 (available here)
Yuzhakov, D.A.	“Legal Regulation of the Procedures for Enforcement of Decisions of Foreign Courts in Economic Disputes”, Urgent Issues of the Entrepreneurship Law, Civil Litigation and Arbitration (Perm State University) No. 4 (2021), pp. 119-123 (available here)
Zasemkova, Olesya Fedorovna	“ ‘Judicial Convention’ as a New Stage in the Recognition and Enforcement of Foreign Judgments”, Lex Russica 2019-10, pp. 84-103 (available here)
Zasemkova, Olesya Fedorovna	“Recognition and Enforcement of Foreign Judgments in the Context of the Adoption of the « Judicial Convention » 2019”, in Zhuikov V.M., Shchukin A.I. (eds.), Liber Amicorum Natalia Ivanovna Marysheva, pp. 196-211
Zhang, Chunliang; Huang, Shan	“On the Common Courts Rules in Hague Judgments Convention - China’s way for the Judicial Assistance under Belt and Road Initiative”, Journal of Henan University of Economics and Law 2020-05, pp. 103-113
Zhang, Lizhen	“On the Defamation Problem in the Hague Judgments Project: Ever In and Now out of the Scope”, Wuhan University International Law Review 2019-01, pp. 41-58 (available here)
Zhang, Wenliang	“The Finality Requirement of Recognition and Enforcement of Foreign Judgments”, Wuhan University Law Review 2020-02, pp. 19-38
Zhang, Wenliang; Tu, Guangjian	“The Hague Judgments Convention and Mainland China-Hong Kong SAR Judgments Arrangement: Comparison and Prospects for Implementation”, Chinese Journal of International Law 20 (2021), pp. 101-135

Zhang, Wenliang; Tu, Guangjian	“The 1971 and 2019 Hague Judgments Conventions: Compared and Whether China Would Change Its Attitude Towards The Hague”, <i>Journal of International Dispute Settlement (JIDS)</i> , 2020, 00, pp. 1-24
Zhang, Zhengyi; Zhang, Zhen	“Development of the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters and Its Implication to China”, <i>International and Comparative Law Review</i> 2020, pp. 112-131
Zhao, Ning	“Completing a long-awaited puzzle in the landscape of cross-border recognition and enforcement of judgments: An overview of the HCCH 2019 Judgments Convention”, <i>Swiss Review of International and European Law (SRIEL)</i> 30 (2020), pp 345-368
Zirat, Gennadii	“Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters: A new Contribution of the Hague Conference on Private International Law to the Unification of International Civil Procedure”, <i>Ukrainian Journal of International Law</i> 2020-03, pp. 105-112 (available here)

III. Recordings of Events Related to the HCCH 2019 Judgments Convention

HCCH	“HCCH a Bridged: Innovation in Transnational Litigation - Edition 2021: Enabling Party Autonomy with the HCCH 2005 Choice of Court Convention”, 1 December 2021 (full recording available here)
UIHJ; HCCH	“3 rd training webinar on the Hague Conventions on service of documents (1965) and recognition and enforcement of judgements (2019)”, 15/18 March 2021 (full recording available here in French and here in English)

ASADIP; HCCH	“Conferencia Internacional: Convención HCCH 2019 sobre Reconocimiento y Ejecución de Sentencias Extranjeras”, 3 December 2020 (full recording available here and here)
ASIL	“The Promise and Prospects of the 2019 Hague Convention”, 25-26 June 2020 (full recording available here and here)
JPRI; HCCH; UNIDROIT; UNCITRAL	“2020 Judicial Policy Research Institute International Conference - International Commercial Litigation: Recent Developments and Future Challenges, Session 3: Recognition and Enforcement of Foreign Judgments”, 12 November 2020 (recording available here)
University of Bonn; HCCH	“Pre-Conference Video Roundtable on the HCCH 2019 Judgments Convention: Prospects for Judicial Cooperation in Civil and Commercial Matters between the EU and Third Countries”, 29 October 2020 (full recording available here)
Department of Justice Hong Kong; HCCH	“Inaugural Global Conference - 2019 HCCH Judgments Convention: Global Enforcement of Civil and Commercial Judgments”, 9 September 2019 (recording available here)
HCCH	“22 nd Diplomatic Session of the HCCH: The Adoption of the 2019 Judgments Convention”, 2 July 2020 (short documentary video available here)

Are the Chapter 2 General

Protections in the Australian Consumer Law Mandatory Laws?

Neerav Srivastava, a Ph.D. candidate at Monash University offers an analysis on whether the Chapter 2 general protections in the Australia's Competition and Consumer Act 2010 are mandatory laws.

Online Australian consumer transactions on multinational platforms have grown rapidly. Online Australian consumers contract typically include exclusive jurisdiction clauses (EJC) and foreign choice of law clauses (FCL). The EJC and FCL, respectively, are often in favour of a US jurisdiction. Particularly when an Australian consumer is involved, the EJC might be void or an Australian court may refuse to enforce it.^[1] And the 'consumer guarantees' in Chap 3 of the *Australian Consumer Law* ('ACL') are explicitly 'mandatory laws'^[2] that the contract cannot exclude. It is less clear whether the general protections at Chap 2 of the *ACL* are non-excludable. Unlike the consumer guarantees, it is not stated that the Chap 2 protections are mandatory. As Davies et al and Douglas^[3] rightly point out that *may* imply they are not mandatory. In 'Indie Law For Youtubers: Youtube And The Legality Of Demonetisation' (2021) 42 *Adelaide Law Review* 503, I argue that the Chap 2 protections are mandatory laws.

The Chap 2 protections, which are not limited to consumers, are against:

- misleading or deceptive conduct under s 18
- unconscionable conduct under s 21
- unfair contract terms under s 23

I. PRACTICALLY SIGNIFICANT

If the Chap 2 protections are mandatory laws, that is practically significant. Australian consumers and others can rely on the protections, and multinational platforms need to calibrate their approach accordingly. Australia places a greater emphasis on consumer protection,^[4] whereas the US gives primacy to freedom of contract.^[5] Part 2 may give a different answer to US law. For example, the YouTube business model is built on advertising revenue generated from content uploaded by YouTubers. Under the YouTube contract, advertising revenue is split

between a YouTuber (55%) and YouTube (45%). When a YouTuber does not meet the minimum threshold hours, or YouTube deems content as inappropriate, a YouTuber cannot monetise that content. This is known as demonetisation. On the assumption that the Chap 2 protections apply, the article argues that

- not providing reasons to a Youtuber for demonetisation is unconscionable
- in the US, it has been held that clauses that allow YouTube to unilaterally vary its terms, eg changing its demonetisation policy, are enforceable. Under Chap 2 of the *ACL*, such a clause is probably void.

If that is correct, it is relevant to Australian YouTubers. It may also affect the tactical landscape globally regarding the demonetisation dispute.

II. WHETHER MANDATORY

As to why the Chap 2 protections are mandatory laws, first, the *ACL* does not state that they are not mandatory. The Chap 2 protections have been characterised as rights that cannot be excluded.[6]

The objects of the *ACL*, namely to enhance the welfare of Australians and consumer protection, suggest^[7] that Chap 2 is mandatory. A FCL, sometimes combined with an EJC, may alienate Australian consumers, the weaker party, from legal remedies.[8] Allowing this to proliferate would be inconsistent with the *ACL*'s objects. If Chap 2 is not mandatory, all businesses — Australian and international — could start using FCLs to avoid Chap 2 and render it otiose.

Further there is a public dimension to the Chap 2 protections,[9] in that they are subject to regulatory enforcement. It can be ordered that pecuniary penalties be paid to the government and compensation be awarded to non-parties. In this respect, Chap 3 is similar to criminal laws, which are generally understood to have a strict territorial application.[10]

As for policy being 'particularly' important where there is an inequality of bargaining power, both ss 21[11] and 23 are specifically directed at redressing inequality.^[12]

Regarding the specific provisions:

- Authority on, at least, s 18 suggests that it is mandatory.[13]

- Section 21 on unconscionable conduct has been held to be a mandatory law, although that conclusion was not a detailed judicial consideration.[14] In any event, it is arguable that ‘conduct’ is broader than a contract, and parties cannot exclude ‘conduct’ provisions.[15] Unconscionability is determined by reference to ‘norms’ of Australian society and is, therefore, not an issue exclusively between the parties.^[16]
- Whether s 23 on unfair contract terms is a mandatory law is debatable.^[17] At common law, the proper law governs all aspects of a contractual obligation, including its validity. The counterargument is that s 23 is a statutory regime that supersedes the common law. As a matter of policy, Australia is one of the few jurisdictions to extend unfair terms protection to small businesses expressly, for example, a YouTuber. An interpretation that s 23 can be disapplied by a FCL would be problematic. A FCL designed to evade the operation of ss 21 or 23 might itself be unconscionable or unfair.[18] If s 23 is not mandatory, Australian consumers may not have the benefit of an important protection. Section 23 also has a public interest element, in that under s 250 the regulator can apply to have a term declared unfair. On balance, it is more likely than not that s 21 is a mandatory law.

The Chap 2 protections are an integral part of the Australian legal landscape and the market culture. This piece argues that the Chap 2 protections *are* mandatory laws. Whether or not that is correct, as a matter of policy, they should be.

FOOTNOTES

[1] A possibility implicitly left open by *Epic Games Inc v Apple Inc* [2021] FCA 338, [17]. See too *Knight v Adventure Associates Pty Ltd* [1999] NSWSC 861, [32]–[36] (Master Malpass); *Quinlan v Safe International Försäkrings AB* [2005] FCA 1362, [46] (Nicholson J), *Home Ice Cream Pty Ltd v McNabb Technologies LLC* [2018] FCA 1033, [19].

[2] ‘laws the respect for which is regarded by a country as so crucial for safeguarding public interests (political, social, or economic organization) that they are applicable to any contract falling within their scope, regardless of the law which might otherwise be applied’. See Adrian Briggs, *The Conflict of Laws* (Oxford University Press, 3rd ed, 2013) 248.

- [3] M Davies et al, *Nygh's Conflict of Laws in Australia* (LexisNexis Butterworths, 10th ed, 2019) 492 [19.48], Michael Douglas, 'Choice of Law in the Age of Statutes: A Defence of Statutory Interpretation After *Valve*' in Michael Douglas et al (eds), *Commercial Issues in Private International Law: A Common Law Perspective* (Hart Publishing, 2019) 201, 226-7.
- [4] Richard Garnett, 'Arbitration of Cross-Border Consumer Transactions in Australia: A Way Forward?' (2017) 39(4) *Sydney Law Review* 569, 570, 599.
- [5] *Sweet v Google Inc* (ND Cal, Case No 17-cv-03953-EMC, 7 March 2018).
- [6] *Home Ice Cream Pty Ltd v McNabb Technologies LLC* [2018] FCA 1033, [19].
- [7] M Davies et al, *Nygh's Conflict of Laws in Australia* (LexisNexis Butterworths, 10th ed, 2019) 470-2 [19.10].
- [8] See, eg, *Océano Grupo Editorial SA v Murciano Quintero* (C-240/98) [2000] ECR I-4963.
- [9] *Epic Games Inc v Apple Inc* (2021) 392 ALR 66, 72 [23] (Middleton, Jagot and Moshinsky JJ).
- [10] John Goldring, 'Globalisation and Consumer Protection Laws' (2008) 8(1) *Macquarie Law Journal* 79, 87-8
- [11] Historically, the essence of unconscionability is the exploitation of a weaker party. *Australian Securities and Investments Commission v Kobelt* (2019) 267 CLR 1, 36 [81] (Gageler J) ('*ASIC v Kobelt*').
- [12] M Davies et al, *Nygh's Conflict of Laws in Australia* (LexisNexis Butterworths, 10th ed, 2019) 470-2 [19.10], 492 [19.48].
- [13] *Home Ice Cream Pty Ltd v McNabb Technologies LLC* [2018] FCA 1033, [19].
- [14] *Epic Games Inc v Apple Inc* [2021] FCA 338, [19] (Perram J). On appeal, the Full Court of the Federal Court of Australia exercised its discretion afresh and refused the stay: *Epic Games Inc v Apple Inc* (2021) 392 ALR 66. That said, Perram J's conclusion that s 21 was a mandatory law was not challenged on appeal.

[15] Analogical support for a 'conduct' analysis can be found from cases on s 18 like *Australian Competition and Consumer Commission v Valve Corporation [No 3]* (2016) 337 ALR 647 (Edelman J, at first instance). In *Valve* it was reiterated that the test for s 18 was objective. See 689 [212]-[213]. A contractual term might neutralise the misleading or deceptive conduct, but it cannot be contracted out of. See *Medical Benefits Fund of Australia Ltd v Cassidy* (2003) 135 FCR 1, 17 [37] (Stone J, Moore J agreeing at 4 [1], Mansfield J agreeing at 11 [17]); *Downey v Carlson Hotels Asia Pacific Pty Ltd* [2005] QCA 199, 29-30 [83] (Keane JA, Williams JA agreeing at [1], Atkinson J agreeing at [145]).

[16] *Australian Competition and Consumer Commission v Get Qualified Australia Pty Ltd (in liq) [No 2]* [2017] FCA 709, [60]-[62] (Beach J).

[17] M Davies et al, *Nygh's Conflict of Laws in Australia* (LexisNexis Butterworths, 10th ed, 2019) 463 [19.1], 492 [19.48].

[18] M Davies et al, *Nygh's Conflict of Laws in Australia* (LexisNexis Butterworths, 10th ed, 2019) 470-2 [19.10]. While a consumer might be able to challenge a proper law of contract clause on the grounds of unconscionability, it would be harder for a commercial party to do so.

Excess of authority as a ground of refusal for an AAA award in Greece

Introduction

The case arises from a long-running family dispute of the parties over the distribution of assets left by their late brother in the USA. Z. is the sister, and M. the brother of the deceased. Over the course of several years, the parties entered into a series of agreements with an eye towards efficiently dividing the assets and providing for the effective management of the properties and businesses included in the estate. All attempts to settle the dispute amicably failed. Eventually, the

case was decided in favour of Z. by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules. The efforts of M. to vacate the award failed. As a next step, Z. sought recognition and enforcement of the US award in Greece. First and second instance courts decided in favour of Z. Upon second appeal (cassation) of M., the Supreme Court ruled that the Athens Court of Appeal failed to examine two grounds of appeal raised by M. The case was sent back to the appellate court [Supreme Court nr. 635/20.5.2021]

Stage 1: USA

The parties entered into an agreement known as the “U.S. Agreement,” which set out a process for: (1) an accounting of the affairs of the . . . [U.S. Companies] during the relevant time period leading to a report detailing [an] auditor’s findings; (2) . . . [setting] a period in which the Parties would ‘confer amicably and in good faith to agree on the amount of any distributions or payments that should be made in order to’ realize the objective of equal distribution of the assets or their proceeds and of the earnings of the assets in the relevant period; (3) [and making] a determination as a result of this process as to ‘the extent to which [either Party] has received a disproportionate share of prior income or other distributions in respect of [the U.S. Companies] and the amount of such excess benefit.

The U.S. Agreement further provided that, if the parties failed to agree on the amount of the Party Distribution by way of the auditor’s report, “the amount of the D. Distribution, the P. Distribution, the T. D. and/or the Party Distribution as applicable shall be determined by an arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules,” subject to confirmation by any court having appropriate jurisdiction.

The audit contemplated in the U.S. Agreement was never completed, and the parties were unable to come to reach an agreement on the amount of the Party Distribution. After several years of litigation in both federal and state courts, Z. instituted the subject arbitration in 2009. The arbitration panel issued its Final Award on March 20, 2014, finding in favor of Z. in the amount of approximately \$10.8 million, inclusive of approximately \$4.8 million of prejudgment interest.

1. filed a petition to vacate the Final Award on June 16, 2014, and on August

29, 2014, he filed the instant motion in support of that petition. The Petitioner's Arguments for Vacatur were the following:

2. a) Failure to Determine the U.S. Company Distributions.
3. b) Manifest Disregard of the Law and Agreement - "Redefining" the Term "Received".
4. c) Award of Prejudgment Interest as Exceeding Authority.

The Southern District Of New York decided that the Petitioner's motion to vacate the arbitration panel's Final Award is denied and Respondent's cross-motion to confirm the award is granted.

Stage 2: Greece

The application to recognize and enforce the US award was granted by the Athens Court of 1st Instance [nr. 443/2018, published in: *Epitheorissi Politikis Dikonomias (Civil Procedure Law Review) 2017, 643 et seq, note Kastanidis*]. The appeal against the first instance court was dismissed [Athens Court of Appeal 5625/2018, unreported]. The final appeal was successful. The Supreme Court ruled that the appellate court did not examine two cassation grounds:

1. No reference is made in the judgment of the Athens CoA in regards to the lack of an arbitration agreement, as evidenced by points 1-9 of the US Agreement, which refer to an arbitral *determination*, not an award.
2. No reference is made in the judgment of the Athens CoA in regards to the excess of authority by the arbitrators.

As a result, the Supreme Court reversed the judgment of the Athens CoA, and ordered Z. to pay the costs of the proceedings.

Comments

An issue that was not examined by the Supreme Court was the conduct of M. during the arbitral proceedings, and the grounds invoked for vacating the AAA award. There is no evidence that M. challenged the authority of the arbitration panel to issue an award. In addition, the arguments for vacatur do not challenge the panel's authority, save the award of Prejudgment Interest under (c), which was dismissed by the Greek instance courts as contrary to the principle of non-revision on the merits.

The question has been addressed by legal scholarship as follows:

One issue that is not dealt with in the Convention is what happens if a party to an arbitration is aware of a defect in the arbitration procedure but does not object in the course of the arbitration. The same issue arises in connection with jurisdictional objections that are raised at the enforcement stage for the first time. The general principle of good faith (also sometimes referred to as waiver or estoppel), that applies to procedural as well as to substantive matters, should prevent parties from keeping points up their sleeves [ICCA Guide to the NYC, 2011, p. 81].

The Federal Arbitrazh (Commercial) Court for the Northwestern District in the Russian Federation considered that an objection of lack of arbitral jurisdiction that had not been raised in the arbitration could not be raised for the first time in the enforcement proceedings; The Spanish Supreme Court said that it could not understand that the respondent “now rejects the arbitration agreement on grounds it could have raised in the arbitration” [ICCA Guide to the NYC, 2011, p. 82]

It is generally accepted that the party resisting enforcement of the award may, under certain circumstances, be barred from raising a defense under Article V(1)(c) in the exequatur proceedings. Preclusion may, in particular, occur if the party resisting enforcement has taken part in the arbitral proceedings without objecting to the jurisdiction or competence of the arbitral tribunal when it had the opportunity to do so [Wolff/(Borris/Hennecke), New York Convention, Second Edition, 2019, p. 340 nr. 257].

Conclusion

It is not entirely clear whether the judgment of the Athens Court of Appeal did in fact fail to take into account the grounds aforementioned. As mentioned above, the judgment has not been published in the legal press. However, the extracts reproduced in the ruling of the Supreme Court allow the reader to have some doubts. In any event, the case will be re-examined by the Court of Appeal, and most probably, will end up again before the Supreme Court...

New Journal: “The Italian Review of International and Comparative Law”

Brill launched a new Journal, The Italian Review of International and Comparative Law, which is managed by a group of professors from the University of Naples and the Scuola Superiore Sant’Anna in Pisa.

The aim of the Journal is to publish contributions on International law, private International law, EU law and comparative law. In this regard, see the recently launched a call for papers on “The European Union and International Arbitration”.

Out now: Zeitschrift für vergleichende Rechtswissenschaft (ZVglRWiss) 120 (2021) No. 4

The most recent issue of the German Journal of Comparative Law (Zeitschrift für Vergleichende Rechtswissenschaft) features the following articles on private international and comparative law:

Jürgen Samtleben: Internationales Privatrecht in Guatemala

Guatemala’s rules on private international law of Guatemala are found in the Law of Judicial Organization of 1989. But conflict-of-law questions are also regulated in other laws. All these legislative texts are based on older laws, since Guatemala has a rich legal tradition on this subject. It is only against the background of this

tradition that one can understand the meaning of the laws actually in force. The article discusses the different aspects of Guatemalan private international law, which today is generally based on the principle of domicile. The law of 1989 introduces two innovations which are worth emphasizing: the application of foreign law ex officio and the principle of party autonomy for international contracts.

Christoph Wendelstein: Eigenes und Fremdes im Kollisionsrecht

The article sheds light on the relationship between the conflict of laws and the substantive laws (potentially) called upon to apply. In doing so, the question is addressed whether the substantive law influences the conflict of laws. The focus is on the question of characterisation, which traditionally represents a kind of crystallization point between conflict of laws and substantive law. If the conflict of laws rules apply to foreign substantive law, the question may arise as to whether this completely displaces the own domestic substantive law or whether it is still relevant in some way. This refers to the ordre public and the overriding mandatory provisions (Eingriffsnormen), which are also object of the study. The focus lies on their functioning.

Jean Mohamed: Die aktienrechtliche actio pro socio im globalen Kontext - Zur Abgrenzung von materiellem Recht und Verfahrensrecht im anglo-amerikanischen Rechtskreis am Beispiel der derivative action in New York

The German procedure for the admission of corporate claims (derivative claims), a special institution based on stock corporation law for the so-called actio pro socio, has taken a long journey all the way to New York at present. In keeping with the verse by Frank Sinatra: "If I can make it here, I'll make it anywhere", the subject is whether an international movement of the shareholder action - i. e. claims of the corporation asserted in the shareholder's own name - may be imminent. In the New York proceeding *Zahava Rosenfeld, derivatively as a shareholder of Deutsche Bank AG and on behalf of Deutsche Bank AG v. Paul Achleitner et al.*, the conflict of laws matches the German system known in § 148 of the German Stock Corporation Act with the New York's (and the US) concept of the related derivative suit, also known as derivative action or derivative claim.

Given the potential risks involved, it seems highly relevant from a legal, academic, and political point of view to discuss and model this quite complex but so far barely studied issue. In the following, the global procedural rules of derivative actions will therefore be discussed.

David B. Adler: Extraterritoriale US-Discovery für Schieds- und Gerichtsverfahren im Ausland

For decades, 28 U.S.C. § 1782(a) has offered a powerful tool for parties to obtain discovery through U.S. courts for use in foreign proceedings. Referring to the statute's twin goals to provide "efficient assistance to participants in international litigation and encourag[e] foreign countries by example to provide similar assistance to our courts", U.S. courts have time and again demonstrated that they are willing to readily grant respective discovery requests from foreign applicants. While the U.S. Supreme Court has answered various questions regarding the applicability and scope of § 1782(a) in its *Intel Corp. v. Advanced Micro Devices, Inc.* decision, two key issues remained undecided. The first issue U.S. courts have been grappling with, and which has been an ongoing topic of interest among international arbitration practitioners and scholars for several decades, is whether the statute allows parties of foreign private arbitration proceedings to seek discovery via § 1782(a), or if § 1782(a) is limited to parties that seek support for a foreign court or administrative proceedings. The second issue concerns the extraterritorial reach of § 1782(a). Courts have issued diverging rulings on whether Section 1782 allows an applicant to seek the production of documents that are located outside the U.S. and on whether § 1782(a) contains a per se bar to its extraterritorial application. This article analyzes the recent appellate decisions of the United States Court of Appeals for the Second, Fourth and Sixth Circuit - which are the first appellate rulings since *Intel* to weigh in on these issues in detail. This article further discusses whether there should be a per se bar to the extraterritorial application of Section 1782 and explains the broad implications that the recent appellate courts' decisions on both issues have for foreign litigants and entities that are subject to the United States' jurisdiction.

**Mexican Journal of Private
International and Comparative
Law - issue No 46 is out**

Revista Mexicana

DERECHO INTERNACIONAL
PRIVADO Y COMPARADO



N° 46, Octubre 2021

Academia Mexicana de
Derecho Internacional
Privado y Comparado

The Mexican Academy of Private International and Comparative Law (AMEDIP) has published issue No 46 of the *Revista Mexicana de Derecho Internacional Privado y Comparado* (Mexican Journal of Private International and Comparative Law). It is available [here](#).

[Click here](#) to access the Journal page.

A call for papers has been issued for the next number, whose theme will be “Matrimonio poliamoroso en el Derecho internacional privado”. Contributions must be sent before 25 February 2022 to the following email address: < graham@jamesgraham.legal >. For more information, see the last page of the current issue.

Below is the table of contents of No 46:

ÍNDICE

LA VOZ DEL COMITÉ EDITORIAL

DOCTRINA

LA EVOLUCIÓN DEL DERECHO INTERNACIONAL PRIVADO EN NICARAGUA /
Jürgen Samtleben

BRIEF REMARKS ON THE INTERPRETATION OF DOMESTIC CRIMINAL LAW IN
INVESTMENT ARBITRATION / **Fausto Pocar**

LA CONTRATACIÓN INTERNACIONAL EN EL DIPR / **Leonel Pereznieto Castro**

AUTONOMÍA DE LA VOLUNTAD Y LEX IMPERATIVA / **Symeon C. Symeonides**
- *traducción al español / Spanish translation*

TRYING TO SQUARE THE CIRCLE: COMPARATIVE REMARKS ON THE RIGHTS
OF THE SURVIVING SPOUSE ON INTESTACY / **Jan Peter Schmidt**

CHILE, PROPUESTAS DE CAMBIO EN SUS NORMAS EN DERECHO APLICABLE
A LOS CONTRATOS INTERNACIONALES / **Jaime Gallegos Zúñiga**

LA EXCEPCIÓN DE GRAVE RIESGO PARA LA SALUD POR COVID 19 EN LA
SUSTRACCIÓN INTERNACIONAL DE MENORES / **Ana Fernández Pérez**

JURISPRUDENCIA

RECUSACIÓN DE UN ÁRBITRO

BIENVENIDO A DOS TESIS, UNA JURISPRUDENCIAL, SOBRE EL DERECHO
INTERNACIONAL Y EL DERECHO INTERNO / **Leonel Pereznieto Castro**

EL RECONOCIMIENTO EN LOS TRIBUNALES DE LOS ESTADOS UNIDOS DE

LAS SENTENCIAS DICTADAS POR LOS TRIBUNALES MEXICANOS / **Richard B. Perrenot** - Traducción: Jorge Alberto Silva y José C. Suarez Arias

RESEÑAS

La convention d'arbitrage dans les nouvelles puissances économiques

(Bruselas, Bruylant, 2021, 890 pp.)

Texto y Contexto. Ley General de Derecho Internacional Privado N.º 19.920

(Uruguay, FCU, 2021, 280 pp.)

DOCUMENTOS

CONTRATOS ENTRE COMERCIANTES CON PARTE CONTRACTUALMENTE DÉBIL (PROPUESTA AL COMITÉ JURÍDICO INTERAMERICANO)

(presentado por la doctora Cecilia Fresnedo de Aguirre)

Third Issue of Journal of Private International Law for 2021

The third issue of the *Journal of Private International Law* for 2021 was released today. It features the following articles:

Jonannes Ungerer, "Explicit legislative characterisation of overriding mandatory provisions in EU Directives: Seeking for but struggling to achieve legal certainty"

Traditionally, the judiciary has been tasked with characterising a provision in EU secondary law as an overriding mandatory provision ("OMP") in the sense of Art 9(1) Rome I Regulation. This paradigm has however shifted recently as the legislator has started setting out such OMP characterisation explicitly, which this

paper addresses with regard to EU Directives. The analysis of two Directives on unfair trading practices in the food supply chain and on the resolution of financial institutions reveals that their explicit legislative characterisations of OMPs can benefit legal certainty if properly drafted by the EU and correctly transposed into national law by the Member States. These requirements have not yet been fully met as there are inconsistencies and confusion with only domestically mandatory provisions, which need to be resolved. More generally, the paper elucidates the tensions of competence between legislators and courts on both the EU and national levels due to the explicit legislative characterisation. It also considers the side effects on pre-existing and future provisions in Directives without explicit legislative characterisation. Finally, it acknowledges that the extraterritorial effect of OMPs is intensified and therefore requires the legislator to seek international alignment.

Patrick Ostendorf, “The choice of foreign law in (predominantly) domestic contracts and the controversial quest for a genuine international element: potential for future judicial conflicts between the UK and the EU?”

The valid choice of a (foreign) governing law in commercial contracts presupposes, pursuant to EU private international law, a genuine international element to the transaction in question. Given that the underlying rationale of this requirement stipulated in Article 3(3) of the Rome I Regulation has yet to be fully explored, the normative foundations as to the properties that a genuine international element must possess remain unsettled. The particularly low threshold applied by more recent English case law in favour of almost unfettered party autonomy in choice of law at first glance avoids legal uncertainty. However, such a liberal interpretation not only robs Article 3(3) Rome I Regulation almost entirely of its meaning but also appears to be rooted in a basic misunderstanding of both the function and rationale of Article 3(3) Rome I Regulation in the overall system of EU private international law. Consequently, legal tensions with courts based in EU member states maintaining a more restrictive approach may become inevitable in the future due to Brexit.

Darius Chan & Jim Yang Teo, “Re-formulating the test for ascertaining the proper

law of an arbitration agreement: a comparative common law analysis”

Following two recent decisions from the apex courts in England and Singapore on the appropriate methodology to ascertain the proper law of an arbitration agreement, the positions in these two leading arbitration destinations have now converged in some respects. But other issues of conceptual and practical significance have not been fully addressed, including the extent to which the true nature of the inquiry into whether the parties had made a choice of law is in substance an exercise in contractual interpretation, the applicability of a validation principle, and the extent to which the choice of a neutral seat may affect the court’s determination of the proper law of the arbitration agreement. We propose a re-formulation of the common law’s traditional three-stage test for determining the proper law of an arbitration agreement that can be applied by courts and tribunals alike.

Amin Dawwas, “*Dépeçage* of contract in choice of law: Hague Principles and Arab laws compared”

This paper discusses the extent to which the parties may use their freedom to choose the law governing their contract under the Hague Principles on Choice of Law in International Commercial Contracts and Arab laws, namely whether they can make a partial or multiple choice of laws. While this question is straightforwardly answered in the affirmative by the Hague Principles, it is debatable under (most) Arab laws. After discussion of the definition of *dépeçage* of contract, this paper presents the provisions of *dépeçage* of contract under comparative and international law, including the Hague Principles, and then under Arab laws. It concludes that Arab conflict of laws rules concerning contract should be reformed according to the best practices embodied in this regard by the Hague Principles.

Jan Ciaptacz, “*Actio pauliana* under the Brussels Ia Regulation – a challenge for principles, objectives and policies of EU private international law”

The paper discusses international jurisdiction in cases based on *actio pauliana* under the Brussels Ia Regulation, especially with regard to the

principles, objectives and policies of EU private international law. It concentrates on the assessment of various heads of jurisdiction that could possibly apply to *actio pauliana*. To that end, the CJEU case law was thoroughly analysed alongside international legal scholarship. As to the jurisdictional characterisation of *actio pauliana*, the primary role should be assigned to teleological and systematic considerations. *Actio pauliana* can neither be characterised as an issue relating to torts nor as a right *in rem* in immovable property. Contrary to the recent position adopted by the CJEU, it should also be deemed not to fall within matters relating to a contract. The characterisation of *actio pauliana* as a provisional measure or an enforcement mechanism for jurisdictional purposes is equally incorrect.

Harry Stratton, "Against renvoi in commercial law"

The doctrine of renvoi is rightly described as "a subject loved by academics, hated by students and ignored (when noticed) by practising lawyers (including judges)". This article argues that the students have much the better of the argument. English commercial law has rightly rejected renvoi as a general rule, because it multiplies the expense and complexity of proceedings, while doing little to deter forum-shopping and enable enforcement. It should go even further to reject renvoi in questions of immovable property, because the special justification that this enables enforcement of English judgments against foreign land ignores the fact that title or possession of such land is generally not justiciable in English courts and such judgments will not be enforced irrespective of whether renvoi is applied.

Yun Zhao, "The Singapore mediation convention: A version of the New York convention for mediation?"

Settlement agreements have traditionally been enforced as binding contracts under national rules, a situation considered less than ideal for the promotion of mediation. Drawing on the experience of the 1958 New York Convention on international arbitration, the 2019 Singapore Mediation Convention provides for the enforcement of settlement agreements in international commercial disputes. Based on its provisions and the characteristics and procedures of mediation, this

article discusses the impact of the Singapore Mediation Convention on the promotion of mediation and its acceptance by the international community. It is argued that the achievements of the New York Convention do not necessarily promise the same success for the Singapore Mediation Convention.

Jakub Pawliczak, "Reformed Polish court proceedings for the return of a child under the 1980 Hague Convention in the light of the Brussels IIb Regulation"

In recent years a significant increase in applications sent to Polish institutions to obtain the return of abducted children under the 1980 Hague Abduction Convention can be observed. Simultaneously, Poland has struggled with a problem of excessively long court proceedings in those cases and the lack of specialisation among family judges. Taking these difficulties into consideration, in 2018 the Polish Parliament introduced a reform aimed at improving the effectiveness of the court proceedings for the return of abducted children. The work on the amendment of the Polish legal regulations was carried out in parallel to the EU legislative process in the field of international child abduction. Although the Polish reform had been introduced before Council Regulation (EU) 2019/1111 of 25 June 2019 (Brussels IIb) was adopted, the 2016 proposal for this Regulation had been known to the national legislature. When discussing the amended Polish legal regulations, it should be considered whether they meet their goals and whether they are in line with the new EU law.

Elaine O'Callaghan, "Return travel and Covid-19 as a grave risk of harm in Hague Child Abduction Convention cases"

Since February, 2020, courts have been faced with many novel arguments concerning the Covid-19 pandemic in return proceedings under the "grave risk exception" provided in Article 13(1)(b) of the 1980 Hague Convention. This article presents an analysis of judgments delivered by courts internationally which concern arguments regarding the safety of international travel in return proceedings during the Covid-19 pandemic. While courts have largely taken a restrictive approach, important clarity has been provided regarding the risk of contracting Covid-19 as against the grave risk of harm, as well as other factors such as ensuring a prompt return despite practical impediments raised by

Covid-19 and about quarantine requirements in the context of return orders. Given that the pandemic is ongoing, it is important to reflect on this case law and anticipate possible future issues.

Chukwudi Paschal Ojiegbe, "The overview of private international law in Nigeria" (Review Article)

EUI Conference on Appellate Review and Rule of Law In International Trade and Investment Law

Tomorrow, **20 January 2022**, the Department of Law of the European University Institute organizes a Conference on Appellate Review and Rule of Law In International Trade and Investment Law. The event will take place in a hybrid format that may be attended online via zoom or offline in person at the Badia Fiesolana-Refettorio.

The organizers characterise the purpose of the Conference as follows:

“Do regulatory competition, geopolitical rivalries, climate change, regionalism and plurilateral agreements risk undermining the UN and WTO legal orders and sustainable development objectives? How should the EU respond? This conference aims to create an interactive and targeted discussion on these intricate questions, with presentations by esteemed scholars in international economic law and policy

Why is it that the EU promotes judicialization and appellate review in trade and investment relations while the US government has unilaterally disrupted the

appellate review system of the World Trade Organization and seeks to limit judicial remedies in trade and investment agreements? Is appellate review necessary for protecting rule of law, sustainable development and prevention of trade, investment and climate conflicts? Answers to these questions are influenced by the prevailing conceptions of international economic law. Commercial law conceptions and Anglo-Saxon neo-liberalism often prioritize private autonomy and business-driven arbitration and market regulation. Authoritarian governments tend to prioritize state sovereignty and intergovernmental dispute settlements. European ordo-liberalism emphasizes the need for embedding economic markets into multilevel human and constitutional rights and judicial remedies.

This conference aims to create an interactive and targeted discussion on these intricate questions, with presentations by esteemed scholars in international economic law and policy. The International Economic Law and Policy Working Group is therefore delighted to invite you to join this discussion on Thursday, 20th January 2022 at 14.30 (CET).

Speakers:

Professor Ernst-Ulrich Petersmann, European University Institute,

Professor Fabrizio Marrella, Ca' Foscari University of Venice,

Dr Maria Laura Marceddu, European University Institute, and

Professor Bernard Hoekman, European University Institute”

This event is open to all. Please register via the following link by Wednesday, 19th January 2022, indicating whether you would like to attend the event in person or online. The Zoom link as well as the participants allowed to attend the event in person will be shared with registered participants prior to the event.”

For the programme and further information on the EUI Conference please consult the attached programme as well as the event’s website.

