

# Save the date: University of Bonn/HCCH Conference “The HCCH 2019 Judgments Convention: Cornerstones - Prospects - Outlook”, 9 and 10 September 2022, Bonn University, Germany



Dear Friends and Colleagues,

During the ongoing pandemic, the University of Bonn has remained very careful and did not allow on-site events of a larger scale so far. We have therefore once again made the decision to reschedule our Conference (originally planned for the 25/26 September 2020, and postponed to 13/14 September 2021) now to **Friday and Saturday, 9 and 10 September 2022**. Let's hope the best that the pandemic will have withdrawn to an extent that allows our conference taking place as now planned.

As there are reasonable expectations for the HCCH 2019 Judgments Convention to enter into force by the end of 2022 or early 2023, we are confident - especially with a view to the latest Proposal of the European Commission - that we will experience an even more focused and rewarding discussion of our topic.

The list of speakers includes internationally leading scholars, practitioners and experts from the most excellent Universities, the Hague Conference on Private International Law (HCCH), the United Nations Commission on International Trade Law (UNCITRAL), and the European Commission (DG Trade, DG Justice). The Conference is co-hosted by the Permanent Bureau of the HCCH.

The Organizers kindly ask participants to contribute with EUR 200.- to the costs

of the event and with EUR 50.- to the conference dinner, should they wish to participate. There is a limited capacity for young scholars to contribute with EUR 100.- to the conference (the costs for the dinner remain unchanged).

Please register with sekretariat.weller@jura.uni-bonn.de. Clearly indicate whether you want to benefit from the young scholars' reduction of the conference fees and whether you want to participate in the conference dinner. You will receive an invoice for the respective conference fee and, if applicable, for the conference dinner. Please make sure that we receive your payment at least two weeks in advance. After receiving your payment we will send out a confirmation of your registration. This confirmation will allow you to access the conference hall and the conference dinner.

Please note: Access will only be granted if you are fully vaccinated against Covid-19. Please confirm in your registration that you are, and attach an e-copy of your vaccination document. Please follow further instructions on site, e.g. prepare for producing a current negative test, if required by University or State regulation at that moment. We will keep you updated. Thank you for your cooperation.

Further information:  
<https://www.jura.uni-bonn.de/professur-prof-dr-weller/the-hcch-2019-judgments-convention-cornerstones-prospects-outlook-conference-on-9-and-10-september-2022>

**Dates:** **Friday, 9 September 2022, and Saturday, 10 September 2022**

**Venue:** **Universitätsclub Bonn, Konviktstraße 9, D - 53113 Bonn**

**Registration:** **sekretariat.weller@jura.uni-bonn.de**

**Registration fee:** **€ 200.-**

**Young Scholars rate (limited capacity):** **€ 100.-**

**Dinner:**

**€ 50.-**

## **Programme**

**Friday, 9 September 2022**

**8.30 a.m. Registration**

**9.00 a.m. Welcome notes**

Prof Dr Wulf-Henning Roth, Director of the Zentrum für Europäisches Wirtschaftsrecht, Rheinische Friedrich-Wilhelms-Universität Bonn, Germany

Dr Christophe Bernasconi, Secretary General of the HCCH

### **Part I: Cornerstones**

#### **1. Scope of application**

Prof Dr Xandra Kramer, Erasmus University Rotterdam, Utrecht University, Netherlands

#### **2. Judgments, Recognition, Enforcement**

Prof Dr Wolfgang Hau, Ludwig-Maximilians-Universität Munich, Germany

#### **3. Indirect jurisdiction**

Prof Dr Pietro Franzina, Catholic University of Milan, Italy

#### **4. Grounds for refusal**

Dr Marcos Dotta Salgueiro, Adj. Professor of Private International Law, Law Faculty, UR, Uruguay; Director of International Law Affairs, Ministry of Foreign Affairs, Uruguay

#### **5. Trust management: Establishment of relations between**

## **Contracting States**

Dr João Ribeiro-Bidaoui, First Secretary, HCCH / Dr Cristina Mariottini, Senior Research Fellow at the Max Planck Institute for International, European and Regulatory Law Luxemburg

**1.00 p.m.                      Lunch Break**

## **Part II: Prospects for the World**

### **1. The HCCH System for choice of court agreements: Relationship of the HCCH Judgments Convention 2019 to the HCCH 2005 Convention on Choice of Court Agreements**

Prof Dr Paul Beaumont, University of Stirling, United Kingdom

### **2. The HCCH System and the Brussels System: Relations to the Brussels and Lugano Regime**

Prof Dr Marie-Élodie Ancel, Université Paris-Est Créteil, France

### **3. European Union**

Dr Andreas Stein, Head of Unit, DG JUST - A1 "Civil Justice", European Commission

### **4. Canada, USA**

Professor Linda J. Silberman, Clarence D. Ashley Professor of Law, Co-Director, Center for Transnational Litigation, Arbitration, and Commercial Law, New York University School of Law, USA / Professor Geneviève Saumier, Peter M. Laing Q.C. Professor of Law, McGill Faculty of Law, Canada

### **5. Southeast European Neighbouring and EU Candidate Countries**

Prof Dr Ilija Rumenov, Associate Professor at Ss. Cyril and Methodius University, Skopje, Macedonia

**8.00 p.m.                      Conference Dinner (€ 50.-)**

**Saturday, 10 September 2022**

**9.00 a.m. Part II continued: Prospects for the World**

**6. Middle East and North Africa (including Gulf Cooperation Council)**

Prof Dr Beligh Elbalti, Associate Professor at the Graduate School of Law and Politics at Osaka University, Japan

**7. Sub-Saharan Africa (including Commonwealth of Nations)**

Prof Dr Abubakri Yekini, University of Manchester, United Kingdom / Prof Dr Chukwuma Okoli, Postdoctoral Researcher in Private International Law at the T.M.C. Asser Institute, Netherlands

**8. Southern Common Market (MERCOSUR)**

Prof Dr Verónica Ruiz Abou-Nigm, Director of Internationalisation, Senior Lecturer in International Private Law, School of Law, University of Edinburgh, United Kingdom

**9. Association of Southeast Asian Nations (ASEAN)**

Prof Dr Adeline Chong, Associate Professor of Law, Yong Pung How School of Law, Singapore Management University, Singapore

**10. China (including Belt and Road Initiative)**

Prof Dr Zheng (Sophia) Tang, University of Newcastle, United Kingdom

**1.00 p.m. Lunch Break**

**Part III: Outlook**

**1. Lessons from the Genesis of the Judgments Project**

Dr Ning Zhao, Senior Legal Officer, HCCH

## **2. International Commercial Arbitration and Judicial Cooperation in civil matters: Towards an Integrated Approach**

José Angelo Estrella-Faria, Principal Legal Officer and Head, Legislative Branch, International Trade Law Division, Office of Legal Affairs, United Nations; Former Secretary General of UNIDROIT

## **3. General Synthesis and Future Perspectives**

Hans van Loon, Former Secretary General of the HCCH

Please also consult our Repository HCCH 2019 Judgments Convention for the latest publications and materials on our subject-matter.

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# **Update: HCCH 2019 Judgments Convention Repository**

## HCCH 2019 Judgments Convention Repository

In preparation of the Conference on the HCCH 2019 Judgments Convention on 9/10 September 2022, planned to be 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 20 November 2021: 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

<b>Badr, Yehya Ibrahim</b>	<b>“The Hague 2019 Convention for the Recognition and Enforcement of Foreign Judicial Decisions: A Comparative Study”, International Journal of Doctrine, Judiciary, and Legislation (IJDJL) 3 (2022), forthcoming (soon available here)</b>
Balbi, Francesca	“La circolazione delle decisioni a livello globale: il progetto 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)
Beaumont, Paul	“ <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
Beaumont, Paul R.	“Judgments Convention: Application to Governments”, <i>Netherlands International Law Review (NILR)</i> 67 (2020), pp 121-137

<p><b>Beaumont, Paul; Holliday, Jane (eds.)</b></p>	<p><b>“A Guide to Global Private International Law”, Oxford 2022, forthcoming.</b></p>
<p><b>Biresaw, Samuel Maigreg</b></p>	<p><b>“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).</b></p>
<p><b>Blanquet-Angulo, Alejandra</b></p>	<p><b>“Les Zones d’ombre de la Convention de La Haye du 2 Juillet 2019”, Revue Internationale de Droit Comparé (RIDC), 73 (2021), pp. 53-71</b></p>
<p>Blom, Joost</p>	<p>“The Court Jurisdiction and Proceedings Transfer Act and the Hague Judgments and Jurisdictions Projects”, Osgoode Hall Law Journal 55 (2018), pp 257-304</p>
<p>Bonomi, Andrea</p>	<p>“European Private International Law and Third States”, Praxis des Internationalen Privat- und Verfahrensrechts (IPRax) 2017, pp 184-193</p>
<p>Bonomi, Andrea</p>	<p>“Courage or Caution? - A Critical Overview of the Hague Preliminary Draft on Judgments”, Yearbook of Private International Law 17 (2015/2016), pp 1-31</p>
<p>Bonomi, Andrea; Mariottini, Cristina M.</p>	<p>“(Breaking) News From The Hague: A Game Changer in International Litigation? - Roadmap to the 2019 Hague Judgments Convention”, Yearbook of Private International Law 20 (2018/2019), pp 537-567</p>
<p>Borges Moschen, Valesca Raizer; Marcelino, Helder</p>	<p>“Estado Constitucional Cooperativo e a conficacão do direito internacional privado apontamentos sobre o 'Judgement Project' da Conferência de Haia de Direito Internacional Privado”, Revista Argumentum 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)</p>



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, forthcoming, (available here)
Çalışkan, Yusuf; Çalışkan, Zeynep	"2 Temmuz 2019 Tarihli Yabancı Mahkeme Kararlarının Tanınması ve Tenfizine İlişkin Lahey Anlaşmasının Değerlendirilmesi", Public and Private International Law Bulletin 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><b>Celis Aguilar, María Mayela</b></p>	<p><b>“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)”, Revista mexicana de Derecho internacional privado y comprado N°40 (octubre de 2018), pp. 29-51 (available here)</b></p>
<p>Chen, Wendy</p>	<p>“Indirect Jurisdiction over the Recognition and Enforcement of Judgments of Foreign Courts in Compulsory Counterclaims”, Journal of Xingtai University 2019-04, pp. 106-110</p>
<p><b>Choi, Sung-Soo</b></p>	<p><b>“Review of the several issues of the Convention on the Recognition and Enforcement of Foreign Judgments”, Gachon Law Review 14 (2021), pp. 37-68 (available here)</b></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 ?”, Travaux du comité français de Droit international privé, Vol. 2018-2020, forthcoming (Version provisoire de la communication présentée le 4 octobre 2019, available here)</p>
<p>Clover Alcolea, Lucas</p>	<p>“The 2005 Hague Choice of Court and the 2019 Hague Judgments Conventions versus the New York Convention - Rivals, Alternatives or Something Else?”, Mc Gill Journal of Dispute Resolution 6 (2019-2020), pp. 187-214</p>
<p>Coco, Sarah E.</p>	<p>“The Value of a New Judgments Convention for U.S. Litigants”, New York University Law Review 94 (2019), pp 1210-1243</p>
<p>Cong, Junqi</p>	<p>“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)</p>

<p>Contreras Vaca, Francisco José</p>	<p>“Comentarios al Convenio de la Haya del 2 de julio de 2019 sobre Reconcimiento y Ejecución de Sentencias Extranjeras en materia civil y comercial”, Revista mexicana de Derecho internacional privado y comprado N°45 (abril de 2021), pp. 110-127 (available here)</p>
<p>Cuniberti, Gilles</p>	<p>“Signalling the Enforceability of the Forum’s Judgments Abroad”, Rivista di diritto internazionale private e processuale (RDIPP) 56 (2020), pp 33-54</p>
<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>„22ª 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  (22<sup>nd</sup> Diplomatic Session of The Hague Conference and the Convention on Foreign Judgments: First Reflections on the Advantages for Brazil of their Adoption)</p>

<p><b>de Araujo, Nadia; De Nardi, Marcelo</b></p>	<p><b>“International Jurisdiction in Civil or Commercial Matters: HCCH’s New Challenge”, in Magdalena Pfeiffer, Jan Brodec, Petr Bříza, Marta Zavadilová (eds.), Liber Amicorum Monika Pauknerová, Prague 2021, pp. 1-11</b></p>
<p><b>Dlmoska, Fani</b></p>	<p><b>“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</b></p>
<p><b>Đorđević, Slavko</b></p>	<p><b>“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</b></p>
<p><b>Dotta Salgueiro, Marcos</b></p>	<p>“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</p>
<p><b>Douglas, Michael; Keyes, Mary; McKibbin, Sarah; Mortensen, Reid</b></p>	<p>“The HCCH Judgments Convention in Australian Law”, Federal Law Review 47 (2019), pp 420-443</p>
<p><b>Du, Tao</b></p>	<p>“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)</p>
<p><b>Echegaray de Maussion, Carlos Eduardo</b></p>	<p>“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)</p>

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)
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
Franzina, Pietro; Leandro, Antonio	“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)

Fuchs, Felix	“Das Haager Übereinkommen vom 2. Juli 2019 über die Anerkennung und Vollstreckung ausländischer Urteile in Zivil- oder Handelssachen“, <i>Gesellschafts- und Wirtschaftsrecht (GWR)</i> 2019, pp 395-399
Garcimartín, Francisco	“The Judgments Convention: Some Open Questions“, <i>Netherlands International Law Review (NILR)</i> 67 (2020), pp 19-31
Garnett, Richard	“The Judgments Project: fulfilling Assers dream of free-flowing judgments“, in Thomas John, Rishi Gulati, Ben Koehler (eds.), <i>The Elgar Companion to the Hague Conference on Private International Law</i> , Cheltenham/Northampton 2020, pp. 309-321
Goddard, David	„The Judgments Convention - The Current State of Play“, <i>Duke Journal of Comparative &amp; International Law</i> 29 (2019), pp 473-490
<b>Guez, Philippe; de Berard, François; Malet-Deraedt, Fleur; Roccati, Marjolaine; Sinopoli, Laurence; Slim, Hadi; Sotomayor, Marcelo; Train, François-Xavier</b>	<b>“Chronique de droit international privé appliqué aux affaires, <i>Revue de droit des affaires internationales</i> - 1 décembre 2018 au 31 décembre 2019“, <i>Revue de Droit des Affaires Internationales</i> 2020, pp. 237-274</b>
<b>Gugu Bushati, Aida</b>	<b>“Country Report Albania“, 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. 16-41 (available here)</b>

<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>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>
<p>He, Qisheng</p>	<p>"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</p>
<p>Herrup, Paul; Brand, Ronald A.</p>	<p>"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)</p>

Jacobs, Holger	<p>“Der Zwischenstand zum geplanten Haager Anerkennungs- und Vollstreckungsübereinkommen - Der vorläufige Konventionsentwurf 2016“, Zeitschrift für Internationales Privatrecht &amp; Rechtsvergleichung (ZfRV) 2017, pp 24-30</p>
<b>Jacobs, Holger</b>	<p><b>“Das Haager Anerkennungs- und Vollstreckungsübereinkommen vom 2. Juli 2019 - Eine systematische und rechtsvergleichende Untersuchung“, Tübingen 2021</b></p>
Jang, Jiyong	<p>“Conditions and Procedure for Recognition and Enforcement of Foreign Judgments“, Korea Private International Law Journal 2021-01, pp. 399-430</p>
Jang, Junhyok	<p>“The Public Policy Exception Under the New 2019 HCCH Judgments Convention“, Netherlands International Law Review (NILR) 67 (2020), pp 97-111</p>
Jang, Junhyok	<p>“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.</p>
Jang, Junhyok	<p>“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</p>
Jovanovic, Marko	<p>Thou Shall (Not) Pass - Grounds for Refusal of Recognition and Enforcement under the 2019 Hague Judgments Convention, YbPIL 21 (2019/2020), pp. 309 - 332</p>
Jueptner, Eva	<p>“The Hague Jurisdiction Project - what options for the Hague Conference?“, Journal of Private International Law 16 (2020), pp 247-274</p>
Jueptner, Eva	<p>“A Hague Convention on Jurisdiction and Judgments: why did the Judgments Project (1992-2001) fail?“, (Doctoral Thesis, University of Dundee, 2020)</p>



Kasem, Rouzana	<p>“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”, <i>Aberdeen Student Law Review</i> 10 (2020), pp. 69-115</p>
Kessedjian, Catherine	<p>“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?”, <i>Nederlands Internationaal Privaatrecht (NIPR)</i> 2020, pp 19-33</p>
Khanderia, Saloni	<p>„The Hague judgments project: assessing its plausible benefits for the development of the Indian private international law”, <i>Commonwealth Law Bulletin</i> 44 (2018), pp 452-475</p>
Khanderia, Saloni	<p>“The Hague Conference on Private International Law’s Proposed Draft Text on the Recognition and Enforcement of Foreign Judgments: Should South Africa Endorse it?”, <i>Journal of African Law</i> 63 (2019), pp 413-433</p>
Khanderia, Saloni	<p>“The prevalence of ‘jurisdiction’ in the recognition and enforcement of foreign civil and commercial judgments in India and South Africa: a comparative analysis”, <i>Oxford University Commonwealth Law Journal</i> 2021</p>
Kindler, Peter	<p>“Urteilsfreizügigkeit für derogationswidrige Judikate? - Ein rechtspolitischer Zwischenruf auf dem Hintergrund der 2019 HCCH Judgments Convention“, in Christoph Benicke, Stefan Huber (eds.), <i>Festschrift für Herbert Kronke zum 70. Geburtstag</i>, Bielefeld 2020, pp 241-253</p>

<p><b>Kosti?-Mandi?, Maja</b></p>	<p><b>“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)</b></p>
<p>Lee, Gyoocho</p>	<p>“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</p>
<p>Liu, Guiqiang</p>	<p>“Limitation Period for the Enforcement of Foreign Judgments”, China Journal of Applied Jurisprudence 2020-04, pp. 109-124</p>
<p>Liu, Yang; Xiang, Zaisheng</p>	<p>“The No Review of Merit Clause in the Hague Judgments Convention”, Wuhan University International Law Review 2020-05, pp. 44-65</p>
<p>Malachta, Radovan</p>	<p>“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)</p>
<p>Mariottini, Cristina</p>	<p>„Establishment of Treaty Relations under The 2019 Hague Judgments Convention“, YbPIL 21 (2019/2020), pp. 365-380</p>
<p>Mariottini, Cristina</p>	<p>“The Exclusion of Defamation and Privacy from the Scope of the Hague Draft Convention on Judgments, YbPIL 19 (2017/2018), pp 475-486.</p>
<p>Martiny, Dieter</p>	<p>“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</p>

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”, <i>Wisconsin International Law Review</i> 38 (2021), pp. 108-138
Meier, Niklaus	“Notification as a Ground for Refusal”, <i>Netherlands International Law Review (NILR)</i> 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”, <i>Revue Critique de Droit International Privé</i> 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
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

Okorley, Solomon	<p>“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: <a href="#">here</a>)</p>
Pasquot Polido, Fabrício B.	<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.), Diversity and integration in Private International Law, Edinburgh 2019, pp. 176-199</p>
Payan, Guillaume	<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.), L’exécution des décisions de justice, Pau 2020, pp 167-183</p>
Pertegás Sender, Marta	<p>“The 2019 Hague Judgments Convention: Its Conclusion and the road ahead”, in Asian Academy of International Law (publ.), Sinergy and Security: the Keys to Sustainable Global Investment: Proceedings of the 2019 Colloquium on International Law, 2019 Hong Kong, pp 181-190</p>
Pertegás, Marta	<p>“Brussels I Recast and the Hague Judgments Project”, in Geert Van Calster (ed.), European Private International Law at 50: Celebrating and Contemplating the 1968 Brussels Convention and its Successors, Cambridge 2018, pp 67-82</p>
Pertegás, Marta	<p>“The 2019 Hague Judgments Convention: The Road Ahead”, in Proceedings of the 16<sup>th</sup> PIL Regional Conference (Tirana, 2019), forthcoming (available <a href="#">here</a>)</p>

Pocar, Fausto	“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
<b>Pocar, Fausto</b>	<b>“Brief Remarks on the Relationship between the Hague Judgments and Choice of Court Conventions”, in in Magdalena Pfeiffer, Jan Brodec, Petr Bříza, Marta Zavadilová (eds.), Liber Amicorum Monika Pauknerová, Prague 2021, pp. 345-353</b>
Poesen, Michiel	“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
<b>Povlaki?, Meliha</b>	<b>“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)</b>
<b>Qerimi, Donikë</b>	<b>“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)</b>
Qian, Zhenqiu	“On the Common Courts Provision under the Draft Hague Convention on the Recognition and Enforcement of Foreign Judgments”, <i>Wuhan University International Law Review</i> 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”, <i>China Journal of Applied Jurisprudence</i> 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”, Netherlands International Law Review 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”, EU and Comparative Law Issues and Challenges Series (ECLIC) 3 (2019), pp 385-4040
<b>Rumenov, Ilija</b>	<b>“Country Report North Macedonia”, 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. 138-179 (available here)</b>
<b>Rumenov, Ilija</b>	<b>“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”, SEELJ Special Edition No. 8 (2021), pp. 9-45</b>

<p>Sachs, Klaus; Weiler, Marcus</p>	<p>“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.), Festschrift für Roderich C. Thümmel zum 65. Geburtstag, Berlin 2020, pp 763-781</p>
<p>Saito, Akira</p>	<p>“Advancing Recognition and Enforcement of Foreign Judgments: Developments of Inter-Court Diplomacy and New Hague Judgments Convention”, Kobe Law Journal 2019-03, pp. 59-110 (available here)</p>
<p>Sánchez Fernández, Sara</p>	<p>“El Convenio de la Haya de Reconocimiento y Ejecución de Sentencias”, Revista Española de Derecho Internacional 73 (2021), pp. 233-252</p>
<p>Saumier, Geneviève</p>	<p>“Submission as a Jurisdictional Basis and the HCCH 2019 Judgments Convention”, Netherlands International Law Review (NILR) 67 (2020), pp 49-65</p>
<p>Schack, Haimo</p>	<p>“Wiedergänger der Haager Konferenz für IPR: Neue Perspektiven eines weltweiten Anerkennungs- und Vollstreckungsübereinkommens?“, Zeitschrift für Europäisches Privatrecht (ZeuP) 2014, pp 824-842</p>
<p>Schack, Haimo</p>	<p>„Das neue Haager Anerkennungs- und Vollstreckungsübereinkommen“, Praxis des Internationalen Privat- und Verfahrensrechts (IPRax) 2020, pp 1-96</p>
<p>Senicheva, Marina</p>	<p>“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)</p>

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	“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)
Silberman, Linda	“Comparative Jurisdiction in the International Context: Will the Proposed Hague Judgments Convention be Stalled?”, DePaul Law Review 52 (2002), pp 319-349
Silberman, Linda	“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)
Solomon, Dennis	“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



Song, Jianli	“ ‘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)
<b>Song, Lianbin; Chen, Xi</b>	<b>“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</b>
Spitz, Lidia	„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
Spitz, Lidia	„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
Stein, Andreas	„Das Haager Anerkennungs- und Vollstreckungsübereinkommen 2019 - Was lange währt, wird endlich gut?“, Praxis des Internationalen Privat- und Verfahrensrechts (IPRax) 2020, pp 197-202
Stewart, David 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
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><b>Part 6: JCA 2020-12, pp. 43-48</b></p> <p><b>Part 7: JCA 2021-02, pp. 50-56</b></p> <p><b>Part 8: JCA 2021-04, pp. 45-51</b></p> <p><b>Part 9: JCA 2021-07, pp. 46-53</b></p> <p><b>Part 10: JCA 2021-09, pp. 40-46</b></p> <p><b>Part 11: JCA 2021-10, pp. 48-54</b></p>
Taquela, María Blanca Noodt ; Abou-Nigm, Verónica Ruiz	“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

Teitz, Louise Ellen	“Another Hague Judgments Convention? - Bucking the Past to Provide for the Future”, <i>Duke Journal of Comparative &amp; International Law</i> 29 (2019), pp 491-511
Tian, Hongjun	“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”, <i>Chinese Yearbook of Private International Law and Comparative Law</i> 2019-01, pp. 300-317
Tian, Xinyue; Qian, Zhenqiu; Wang, Shengzhe	“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”, <i>Chinese Yearbook of Private International Law and Comparative Law</i> 2018-01, pp. 377-388
Trooboff, Peter D.; North, Cara; Nishitani, Yuko; Sastry, Shubha; Chanda, Riccarda	“The Promise and Prospects of the 2019 Hague Convention: Introductory Remarks”, <i>Proceedings of the ASIL Annual Meeting</i> 114 (2020), pp. 345-357
van der Grinten, Paulien; ten Kate, Noura	„Editorial: The 2019 Hague Judgments Convention”, <i>Nederlands Internationaal Privaatrecht (NIPR)</i> 2020, pp 1-3
van Loon, Hans	“Towards a global Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters”, <i>Nederlands Internationaal Privaatrecht (NIPR)</i> 2020, pp 4-18
van Loon, Hans	“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</i> 82 (2019), pp 15-35

van Loon, Hans	“Le <i>Brexit</i> et les conventions de La Haye”, <i>Revue critique de droit international privé (Rev. Crit. DIP)</i> 2019, pp. 353-365
Viegas Liquidato, Vera Lúcia	“Reconhecimento E Homologação De Sentenças Estrangeiras : O Projeto De Convenção Da Conferência da Haia”, <i>Revista de Direito Brasileira</i> 2019-09, pp. 242-256
Wagner, Rolf	“Ein neuer Anlauf zu einem Haager Anerkennungs- und Vollstreckungsübereinkommen“, <i>Praxis des Internationalen Privat- und Verfahrensrechts (IPRax)</i> 2016, pp 97-102
Wang, Quian	“On Intellectual Property Right Provisions in the Draft Hague Convention on the Recognition and Enforcement of Foreign Judgments”, <i>China Legal Science</i> 2018-01, pp. 118-142 (available here)
Weidong, Zhu	“The Recognition and Enforcement of Commercial Judgments Between China and South Africa: Comparison and Convergence”, <i>China Legal Science</i> 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.), <i>Festschrift für Herbert Kronke zum 70. Geburtstag</i> , Bielefeld 2020, pp 621-632
Weller, Matthias	“The 2019 Hague Judgments Convention - The Jurisdictional Filters of the HCCH 2019 Judgments Convention”, <i>Yearbook of Private International Law</i> 21 (2019/2020), pp 279-308
Weller, Matthias	“Das Haager Übereinkommen zur Anerkennung und Vollstreckung ausländischer Urteile”, in Thomas Rauscher (ed.), <i>Europäisches Zivilprozess- und Kollisionsrecht</i> , Munich, 5 <sup>th</sup> 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, forthcoming.
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 <sup>nd</sup> Diplomatic Session of the Hague Conference on Private International Law”, Chinese Yearbook of International Law 2019, pp. 337-338
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
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 <sup>rd</sup> August 2020 (available here)
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”, Journal of International Dispute Settlement (JIDS), 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”, International and Comparative Law Review 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”, Swiss Review of International and European Law (SRIEL) 30 (2020), pp 345-368

<p><b>Zirat, Gennadii</b></p>	<p align="center"><b>“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” Ukrainian Journal of International Law 2020-03, pp. 105-112 (available here)</b></p>
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III. Recordings of Events Related to the HCCH 2019 Judgments Convention

<p>ASADIP; HCCH</p>	<p>“Conferencia Internacional: Convención HCCH 2019 sobre Reconocimiento y Ejecución de Sentencias Extranjeras”, 3 December 2020 (full recording available here and here)</p>
<p>ASIL</p>	<p>“The Promise and Prospects of the 2019 Hague Convention”, 25-26 June 2020 (full recording available here and here)</p>
<p>HCCH</p>	<p>“22<sup>nd</sup> Diplomatic Session of the HCCH: The Adoption of the 2019 Judgments Convention”, 2 July 2020 (short documentary video available here)</p>
<p>JPRI; HCCH; UNIDROIT; UNCITRAL</p>	<p>“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)</p>
<p>UIHJ; HCCH</p>	<p>“3<sup>rd</sup> 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)</p>

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)
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# Virtual Hearing in China’s Smart Court

By Zheng Sophia Tang, Wuhan University (China) and Newcastle University (UK)

Mr Ting Liao, PhD candidate at the Wuhan University Institute of International Law, published a note on the Chinese Smart Court, which attracted a lot of interest and attention. We have responded a few enquires and comments, some relating to the procedure and feasibility of virtual/remote hearing. Based on the questions we have received, this note provides more details on how the virtual hearing is conducted in China.

## 1. Background

The fast development of virtual hearing and its wide use in practice in China are attributed to the Covid-19 pandemic. The pandemic causes serious disruption to litigation. China is a country that has adopted the toughest prevention and controlling measures. Entrance restriction, lockdown, quarantine and social distancing challenge the court process and case management. In the meantime, this challenge offers the Chinese courts a chance to reform and modernize their judicial systems by utilizing modern technology. Since suspending limitation period may lead to backlog and delay, more Chinese courts favour the virtual proceedings. This strategy improves judicial efficiency and helps parties’ access to justice in the unusual circumstances.

Before the pandemic, Chinese courts have already started their exploration of



online proceedings. In 2015, the Provisions of the SPC on Several Issues Concerning Registration and Filing of Cases provides the People's courts should provide litigation services including online filing.[1] In the same year, the SPC published the Civil Procedural Law Interpretation, which states that the parties can make agreement on the form of hearing, including virtual hearing utilizing visual and audio transfer technology. The parties can make application and the court can decide whether to approve.[2] Although online trial from filing to hearing is permitted by law, but it was rarely used in practice due to the tradition and social psychology. The adoption of virtual proceedings for cases with large value was even rarer. The relevant procedure and technology were also taking time to progress and maturase.

Because the pandemic and the controlling measures make serious disruption to traditional form of litigation, online trial becomes more frequently used and develops to a more advanced stage. The SPC provides macro policy instructions that Chinese courts should actively utilize online litigation platform, such as China Movable Micro Court, which allows the parties to conduct litigation through mobile, and Litigation Service Website to carry out comprehensive online litigation activities, including filing, mediation, evidence exchange, hearing, judgment, and service of procedure.[3] While more administrative and technological efforts have been put in, and the pandemic made no better alternatives, more trials were done online. For example, between Feb and Nov 2020, 959 hearings (16.42%) and 5020 mediations were carried out online in the Qianhai Court. Between Feb and July 2020, courts in Beijing conducted average 1,300-1,500 virtual hearings per day.

Some important cases were also tried online. For example, *Boa Barges As v Nanjing Yichun Shipbuilding* concerned a dispute worth nearly \$50,000,000.[4] The contract originally included a clause to resolve disputes in London Court of International Arbitration (LCIA) and to apply English law. However, the pandemic outbreak in the UK in March 2020. The parties entered into a supplementary agreement in May 2020 to submit the dispute to Nanjing Maritime Court and apply Chinese law. Chinese commentators believe the change of chosen forum and governing law demonstrates the parties' trust on Chinese international judicial system and courts' capacity. Nanjing Maritime Court followed the SPC instruction by allowing the foreign party to postpone submitting authorization notarization and authentication, and conducted online mediation. In China,

mediation is part of the formal litigation procedure. The parties settled by mediation within 27 days.

In 2021, the SPC published the Online Litigation Regulations for the People's Courts, including detailed rules for how online litigation should be conducted.[5] This Regulations provides five principles for online litigation, including fairness and efficiency, freedom of choice, protection of rights, convenience and security.[6] This Regulations provides further clarification of certain key procedural issues and provide unified micro-guidance which helps the local courts to operate in the same standards and according to the same rule.

## 2. Initiation of virtual hearing

Virtual proceedings may lead to several controversies. Firstly, how are the virtual proceedings initiated? Could the court propose by its own motive, or should the parties reach agreement? What if a physical trial is not possible due to the pandemic control, both the court and the claimant want a virtual trial, but the defendant refuse to consent? In such a case, would a virtual trial in the absence of the defendant an infringement of the defendant's due process right and should not be enforced abroad? What if the defendant and the court agree to go ahead with a virtual trial, but the claimant refuses? Would a default judgment in the absence of the claimant infringe the claimant's due process right?

The Online Litigation Regulations provides clear guidance. Online litigation should follow the principle of freedom of choice. In other words, parties should give consent to the online procedure and cannot be forced by the court.[7] If a party voluntarily chooses online litigation, the court can conduct litigation procedure online. If all the parties agree on online litigation, the relevant procedure can be conducted online. If some parties agree on online litigation while others not, the court can conduct the procedure half online for parties who give consent and half offline for other parties.[8] However, what if a party cannot physically participate in the offline litigation because of the pandemic, and this party also refuses online litigation? This party certainly can apply for suspension or postponement of procedure. However, if this party has no legitimate reason to refuse online litigation like technical problems or the lack of computer literacy, would not the court consider such a refusal unreasonable? Does it mean a person may use the refusal rights to delay otherwise legitimate procedure to the detriment of the other party? Would the refusal turn to be a torpedo action? Does

this strict autonomy approach meet the purpose of good faith and judicial efficiency? Although the freedom of choice is important, would it necessary to provide some flexibility by allowing the court to assess special circumstances of a case? It seems that this strict consent condition is based on the traditional attitude against online litigation. This attitude makes offline litigation a priority and online litigation an exception, which will only be used by parties' choice. This approach does not provide online litigation true equal footing as offline litigation, and still reflect the social psychological concern over the use of modern technology in the court room. Although the pandemic speed the development of online litigation in China, it is treated as an exceptional emergency measure and the emphasis on it may fade away gradually after the pandemic is ending, unless the social psychology is also changed after a longer period of successful use of online litigation.

### 3. Public hearing

Would virtual hearing satisfy the standard of public hearing? Certainly, there is no legal restriction preventing public access to the hearing.[9] Furthermore, the Online Litigation Regulations provides that online litigation must be made public pursuant to law and judicial interpretation, unless the case concerns national security, state secrets, individual privacy, or the case concerns a minor, commercial secrets and divorce where the parties apply for the hearing not be made public.[10] However, how to make online hearing public is a technical question. If the virtual hearing is organised online, without an openly published "link", no public will be able to access the virtual court room and the trial is "secret" as a matter of fact. This may practically evade the public hearing requirement.

Chinese online litigation has taken into account the public hearing requirement. Both SPC litigation service website and the Movable Micro Court make open hearing an integral part of the platform. The public can register and create an account for free to log in the platform. After log in, the public can find all available services in the webpage, including Hearing Livestream. After click in, the public can find the case that they want to watch by searching the court or browse the "Live Courtroom Today". There are also recorded hearing for the public to watch. In contrast to traditional hearing, the only extra requirement for the public to access to the court is registration, which requires the verification of ID through triple security check: uploading the scan/photo of an ID card, verifying

the mobile number via security code and facial recognition.

It shows that Chinese virtual hearing has been developed to a mature stage, which meets the requirement of due process protection and public hearing. Chinese virtual hearing has been systematically updated with the quick equipment of modern technologies and well-established online platform. This platform is made available to the local courts to use through the institutional power of the centre. Virtual hearing in China, thus, will not cause challenge in terms of public hearing.

#### 4. Evidence

Although blockchain technology can prove the authenticity of digital evidence, many original evidence exists offline. The parties need to upload an electronic copy of those evidence through the “Exchange evidence and cross-examination” session of the smart court platform, and other parties can raise queries and challenges. During trial, the litigation parties display the original evidence to the court and other parties through the video camera. If the court and other parties raise no challenges in the pre-trial online cross-examination stage and in the hearing, the evidence may be admitted. It, of course, raises issues of credibility, because electronic copy may be tampered with and the image displayed by video may not be clear and cannot be touched, smelled and felt for a proper evaluation. Courts may adopt other measures to tackle this problem. For example, some courts require original evidence to be posted to the court if the court and other parties are not satisfied of the distance examination of evidence. Other courts may organise offline cross-examination of the evidence by convening a pre-trial meeting. However, in doing so, the value of the online trial will be reduced, making the trial process lengthier and more inefficient.

The practical difficulty also exists in witness sequestration. Article 74 of the “Several Provisions of the Supreme People’s Court on Evidence in Civil Litigations” provides witnesses in civil proceedings shall not be in court during other witnesses’ testimony, so they cannot hear what other witnesses say.[11] This is a measure to prevent fabrication, collusion, contamination and inaccuracy. However, in virtual hearings, it is difficult for judges to completely avoid witnesses from listening to other witnesses’ testimony online. There is no proper institutional and technical measure to address this problem and it remains one of the fallbacks in the virtual litigation.

[1] Provisions of the SPC on Several Issues Concerning Registration and Filing of Cases, Fa Shi [2015] No8, Art 14.

[2] The SPC Interpretation of the Application of the PRC Civil Procedure Law, Art 295.

[3] Notice of the SPC about Strengthening and Regulating Online Litigation during the Prevention and Controlling of the Covid-19 Pandemic, Fa [2020] 49, Art 1.

[4] The Supreme People's Court issued the sixth of ten typical cases of national maritime trials in 2020: BOABARGESAS v Nanjing Yichun Shipbuilding Co., Ltd. Ship.

[5] SPC, Online Litigation Regulations for the People's Court, Fa Shi [2021] No 12.

[6] Art 2.

[7] Art 2(2).

[8] Art 4.

[10] Art 27.

[11] Fa Shi [2019] 19.

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# How Emerging Technologies

# Shape the Face of Chinese Courts?

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## A. Technology in the Context of Judicial Reform

According to Max Weber, “the modern judge is a vending machine into which the pleadings are inserted together with the fee, and which then disgorges the judgment together with the reasons mechanically derived from the code.” [1]Max Weber’s conjecture is a metaphor for the vital connotation of intelligence. The key elements of intelligence are people, data and technology. So, how these elements are utilized in the judicial system?

Generally, a significant number of courts are experimenting with the use of internet, artificial intelligence and blockchain for case filling, investigation and evidence obtaining, trials and the initiation of ADR procedures. The so-called smart justice projects are commenced in many countries. China has also made significant progress in this domain. In addition to accelerating the use of the internet technology, the Supreme People’s Court of China has demonstrated its ambition to use AI and blockchain to solve problems in the judicial proceedings.[2]

## B. Smart Court in China: An Overview

In China, the smart justice is a big project contains smart court, smart judicial administration and smart procuratorate. The smart court is the core of the entire smart justice project. “The Opinions of the Supreme People’s Court on Accelerating the Construction of Smart Courts” encourages people’s courts around the country to apply AI to provide smarter litigation and legal literacy services to the public, while reducing the burden of non-judicial matters for court staff as much as possible.

The construction of China’s smart courts involves more than 3,000 courts, more than 10,000 detached tribunals and more than 4,000 collaborative departments, containing tens of thousands of information systems such as information infrastructure, application systems, data resources, network security and operation and maintenance, etc. The entire smart court information system is

particularly big and complex.

The smart court is a functional service platform for the informatization of the people's courts. The platform integrates several cutting-edge technological capabilities, including face recognition identity verification, multi-way audio and video call functions, voice recognition functions and non-tax fee payment functions. These functions are tailor-made capability packages for courts, and they can be used in a variety of scenarios such as identity verification, online documents accessing, remote mediation, remote proceedings, enforcement, court hearing records and internal things. Through the smart platform, any court can easily access to the capabilities, and quickly get successful experiences from any other courts in China.

## **C. Examples of Good Practice**

### **1. Provide Litigation Information and Services**

Peoples' Courts in nine provinces or municipalities, including Beijing, Shanghai and Guangdong, have officially launched artificial intelligence terminals in their litigation service halls. Through these AI terminals, the public can access information about litigation and judicial procedures, as well as basic information about judges or court staff. The AI terminals can also automatically create judicial documents based on the information provided by the parties. More importantly, the AI can provide the parties risk analysis before filing a lawsuit. For example, artificial intelligence machines in courts in Beijing, Shanghai and Jiangsu can assess the possible outcome of litigation for the parties. The results are based on the AI's analysis of more than 7,000 Chinese laws and regulations stored in its system, as well as numerous judicial precedents. At the same time, the AI machine can also suggest alternative dispute resolution options. For example, when an arbitration clause is present, the system will suggest arbitration, in divorce cases, if one of the parties unable to appear in people's court, then the smart system shall advise online mediation.

In addition to parties, as to the service for the court proceeding itself, the new generation of technology[3] is used in the smart proceeding and is deeply integrated with it. These technologies provide effective support for judges' decision making, and provide accurate portraits of natural persons, legal persons, cases, lawyers and other subjects. They also provide fast, convenient and multi-

dimensional search and query services and automatic report services for difficult cases.

## **2. Transfer of Case Materials**

Some People's Courts in Shenzhen, Shanghai and Jiangsu have set up artificial intelligence service terminals for parties to scan and submit electronic copies of materials to the court. This initiative can speed up the process of evidence submission and classification of evidence. In addition, digital transmission can also speed up the handover of case materials between different courts, especially in appellate cases where the court of first instance must transfer the case materials to the appellate court.

## **3. Evidence Collection and Preservation**

Technically speaking, the blockchain and its extensions can be used to secure electronic data and prevent tampering during the entire cycle of electronic data production, collection, transfer and storage, thus providing an effective means of investigation for relevant organizations. Comparing to traditional investigation methods, blockchain technology is suitable as an important subsidiary way to electronic data collection and preservation. This is because the blockchain's timestamp can be used to mark the time when the electronic data was created, and the signature from the person's private key can be used to verify the party's genuine intent. The traceable characteristics of blockchain can facilitate the collection and identification of electronic data.[4]

In judicial practice, for example, the electronic evidence platform is on the homepage of Court's litigation services website of Zhengzhou Intermediate People's. It is possible to obtain evidence and make preservation on judicial blockchain of the court. This platform providing services such as evidence verification, evidence preservation, e-discovery and blockchain-based public disclosure. The evidence, such as electronic contracts, can be uploaded directly via the webpage, and the abstract of electronic data can be recorded in the blockchain in real time. Furthermore, this judicial blockchain has three tiers (pictured below). The first tier is the client side, which helps parties submit evidence, complaints and other services. The second tier is the server side, which provides trusted blockchain services such as real-name certification, timestamping and data storage. The third tier is the judicial side, which uses



blockchain technology to form a consortium chain of judicial authentication, notaries and the court itself as nodes to form a comprehensive blockchain network of judicial proceedings.[5] In other words, people's court shall be regarded as the key node on the chain, which can solve the contradiction between decentralization and the concentration of judicial authority, and this kind of blockchain is therefore more suitable for electronic evidence preservation.

Secondly, for lawyers, the validity of electronic lawyer investigation orders can be verified through judicial blockchain, a technology that significantly enhances the credibility of investigation orders and the convenience of investigations. For example? in Jilin Province, the entire process of application, approval, issuance, utilization and feedback of an investigation order is processed online. Lawyers firstly apply for an investigation order online, and after the judge approves it, the platform shall create an electronic investigation order and automatically uploads it to the judicial blockchain for storage, while sending it to lawyers in the form of electronic service. Lawyers shall hold the electronic investigation order to target entities to collect evidence. Those entities can scan the QR code on the order, and login to the judicial blockchain platform to verify the order. Then they shall provide the corresponding investigation evidence materials in accordance with the content of the investigation order.[6]

In addition, it should be noted that Article 11 of the "Provisions of the Supreme People's Court on Several Issues Concerning the Trial of Cases by Internet Courts", which came into force in 2018, explicitly recognizes data carriers on the blockchain as evidence in civil proceedings for the first time, but their validity needs to be verified by the courts.

The issue of blockchain evidence has already caused discussion among judges, particularly regarding the use of blockchain-based evidence in cases. For instance, what criteria should courts adopt to read such data? Approaches in judicial practice vary. Currently, there is no consistent approach in people's court as to whether blockchain evidence needs to be submitted as original evidence. In certain recent cases, such as (2019) Jing 0491 Min Chu No. 805 Case and (2020) Jing 04 Min Zhong No. 309 Case, the court's considerations for the determination of blockchain evidence are inconsistent.

#### **4. Case Management**

People's Courts in Shanghai and Shenzhen are piloting an artificial intelligence-assisted case management system that can analyze and automatically collate similar judicial precedents for judges to refer to. The system is also able to analyze errors in judgments drafted by judges by comparing the evidence in current cases with that in precedent cases. This will help maintain uniformity in judicial decisions. Currently, the system for criminal cases has been put into use, while the system for civil and administrative cases is still being tested in pilot stage.

## **5. Online Proceedings**

Chinese courts had already adopted online proceedings in individual cases before 2018. The Supreme People's Court had released the Provisions of the Supreme People's Court on Certain Issues Concerning the Hearing of Cases in Internet Courts. From 1 January 2020 to 31 May 2021, 12.197 million cases were filed online by courts nationwide, with online filing accounting for 28.3% of all cases filed; 6.513 million total online mediation, 6.142,900 successful mediation cases before litigation; 1.288 million online court proceedings 33.833 million electronic service of documents.[7]

Recently, the Supreme Court, some provincial courts and municipal courts have also issued rules on "online proceedings". The Supreme People's Court has issued the Online Litigation Regulations for the People's Court 2021 which stipulates online litigation should follow the five principles, namely fairness and efficiency, legitimate and voluntary principle, protection of rights, principle of safety and reliability. This regulation emphasizes the principles of application of technology, strictly adhere to technology neutrality, to ensure that technology is reliable. [8]Furthermore, in 2021 the Supreme People's Court has issued the Several Regulations on Providing Online Filing Services for Cross-border Litigants, relying on the provision of online filing for cross-border litigants through the China mobile micro court. Based on Tencent's cloud technology, the Micro Court can also be linked to the most used communication tool in China, namely WeChat. Using the micro courts mini programs allows for a dozen functions such as public services, litigation, enforcement and personal case management.[9]

## **6. Framework of the Litigation Services Network**

The litigation service network is an important carrier for the court to conduct

business and litigation services on the Internet, providing convenient and efficient online litigation services for parties and litigation agents, greatly facilitating the public's litigation, while strengthening the supervision and management of the court's litigation services, enhancing the quality of litigation services and improving the standardization of litigation services. The picture shows the functioning and operation mechanism of a litigation services network.[10]

[1] See Max Weber, *On Law in Economy and Society* (Edward Shils and Max Rheinstein trans., Harvard University Press 1954).

[2] For example, in 2019, the Supreme People's Court of China approved several documents such as "The Report on the Promotion of China Mobile Micro Courts", "The Report on the Construction of the Smart Court Laboratory", and "The General Idea of Comprehensively Promoting the Construction of Judicial Artificial Intelligence".

[3] Including big data, cloud computing, knowledge mapping, text mining, optical character recognition (OCR), natural language processing (NLP) etc.

[4] See Trusted Blockchain Initiatives, *White Paper on Blockchain Preservation of Judicial Evidence* (2019).

[5] See Zhengzhou Court Judicial Service Website <<http://www.zzfysfw.gov.cn/zjy/>> accessed 09 Nov. 2021; A consortium chain is a blockchain system that is open to a specific set of organizations, and this licensing mechanism then brings a potential hub to the blockchain, and The node access system in a consortium chain means that it already grants a certain level of trust to the nodes.. see also Internet court of Hangzhou <<https://blockchain.netcourt.gov.cn/first>>accessed 09 Nov. 2021.

[6] See e.g., a pilot project of the Supreme People's Court of China, the Jilin Intermediate People's Court proposed the Trusted Operation Application Scene: Full Process Assurance for Litigation Services (Electronic Lawyer Investigation Order); see also People's Court Daily, *Piloting the "judicial chain" and multipions practice of Jilin's smart court construction* <<http://legal.people.com.cn/n1/2020/1124/c42510-31942250.html>>accessed 08 Nov. 2021.

[7] See Chinanews <

<https://www.chinanews.com/gn/2021/06-17/9501170.shtml>>accessed 08 Nov. 2021.

[8] SPC of PRC, Report about Online Litigation Regulation for the People's Court< <http://www.court.gov.cn/zixun-xiangqing-317061.html>>accessed 08 Nov. 2021.

[9] See e.g., Xinhuanet < [http://www.xinhuanet.com/legal/2020-05/07/c\\_1125953941.htm](http://www.xinhuanet.com/legal/2020-05/07/c_1125953941.htm)>accessed 08 Nov. 2021.

[10] Xu Jianfeng et.al., *Introduction to Smart Court System Engineering* (People's Court Press 2021).

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## AMEDIP: The programme of the XLIV Seminar is now available

**XLIV SEMINARIO NACIONAL DE DERECHO INTERNACIONAL PRIVADO Y COMPARADO**

HOMENAJE A:

PERSPECTIVAS PARA EL DERECHO INTERNACIONAL PRIVADO EN UNA SOCIEDAD POST-PANDEMIA

17 a 19 de noviembre de 2021

DR. JOSÉ LUIS SIQUEIROS PRIETO

DR. RODOLFO CRUZ MIRAMONTES

DRA. MARÍA ELENA MANSILLA Y MEJÍA

WWW.AMEDIP.ORG

AMEDIPMX

The programme of the XLIV Seminar of the *Mexican Academy of Private International and Comparative Law* (AMEDIP) is now available here. As previously announced, the XLIV Seminar will take place online from **17 to 19 November 2021**.

During this seminar, AMEDIP will pay tribute to the late Mexican professors José

Luis Siqueiros Prieto, Rodolfo Cruz Miramontes and María Elena Mansilla y Mejía. Professors Siqueiros Prieto and Mansilla y Mejía were deeply involved in the negotiations - at different stages - of the HCCH Judgments Project and the HCCH 2005 Choice of Court Convention, among other international and regional Conventions.

Among the topics to be discussed are the impact of the pandemic on international family law, legal aspects surrounding vaccines, human rights and private international law, international contracts, arbitration and other selected topics. Speakers come from several Latin American States and a few from Europe: Mexico, Argentina, Brazil, Chile, El Salvador, the Netherlands, Peru, Spain and Uruguay.

Participation is free of charge. The language of the seminar will be Spanish.

The meeting will be held via Zoom. The access details are the following:

<https://us02web.zoom.us/j/5554563931?pwd=WE9uemJpeWpXQUo1elRPVjRMV0tvdz09>

Meeting ID: 555 456 3931

Password: 00000

For more information, see AMEDIP's website and its Facebook page

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**Lex & Forum: Third issue - A special on the limits of private autonomy in the EU**



The third issue of the **Lex & Forum** is dedicated to the topic of the limits of private autonomy in the EU. The preface was prepared by Professor Emeritus and President of the International Hellenic University *Athanassios Kaissis*. The central topic of the present issue (Focus) is further elaborated by the contributions of Professor *Spyros Tsantinis* on the importance of private autonomy in European and international procedural law, and of Dr. *Konstantinos Voulgarakis* on the protection mechanisms in the case of choice of court agreements. Furthermore, Dr. *Stefanos Karameros* is analyzing the extension of the choice of court agreements in case of privies in law or privies in blood, after the *Kauno Miesto* decision.

The Focus of this issue is further enriched by the contributions of Judge *Dimitrios Titsias* on private autonomy in family law, and of Judge *Antonios Vathrakokoilis* on the choice of applicable law by the diseased according to the EU Regulation No 650/2012. The Focus also contains the analysis of Professor *Komninos Komninos* on the execution of judgments on investment arbitration within the EU after the *Achmea* case and the examination of Dr. *Nikolaos Zaprianos* on the applicable law in online consumer disputes.

The Focus is further enriched by selected case law and, amongst others, the judgment No 362/2020 of the Herakleion Court of First Instance on the subjection of hotel contract cases under the exclusive jurisdiction of immovable property, with a case note by *Anastasia Kalantzi*, the judgment No 13.2.2020, n. 3561 by the Italian Cassazione Civile (S.U.), on the relationship between the provisions of the Montreal Convention and a prorogation agreement in case of airplane transport, with a case note by Judge *Ioannis Valmantonis*, and the case 3 Ob 127-20b of the Oberster Gerichtshof on the scenario of parallel non-exclusive prorogation and arbitration clauses, with a case note by Dr. *Ioannis Revolidis*. Finally, the Focus is concluded by Dr. Apostolos Anthimos's case note on the Greek Supreme Court (Areios Pagos) judgment No 767/2019, regarding the execution of an American judgment that lost its validity domestically.

The scientific topics of the present issue consist of the contribution of Professor *Paris Arvanitakis* on the issue of asymmetrical choice of court agreements.

Lex&Forum is renewing its appointment with its readers in the upcoming issue,

dedicated to the latest updates concerning the Hague Convention for the unification of private international law, especially after the EU's succession.

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# **Praxis des Internationalen Privat- und Verfahrensrechts (IPRax) 6/2021: Abstracts**

The latest issue of the „Praxis des Internationalen Privat- und Verfahrensrechts (IPRax)“ features the following articles:

(These abstracts can also be found at the IPRax-website under the following link: <https://www.iprax.de/en/contents/>)

## ***T. Maxian Rusche: Available actions in the German courts against the abuse of intra-EU investor-State arbitration proceedings***

The Court of Justice of the European Union ruled in *Achmea* that intra-EU investment arbitration violates fundamental rules of EU law. However, arbitration tribunals have revolted against that judgment, and consider in constant manner that they remain competent to decide cases brought by EU investors against EU Member States. German law offers an interesting option for States to defend themselves against new intra-EU investment arbitration cases. Based on § 1032 paragraph 2 Civil Procedure Code, the German judge can decide on the validity of the arbitration agreement if a case is brought prior to the constitution of the arbitration tribunal. Recently, Croatia has successfully used that possibility in an UNCITRAL arbitration initiated by an Austrian investor on the basis of the Croatia-Austria BIT. The Netherlands have recently brought two cases in ICSID arbitrations based on the Energy Charter Treaty. If the investor refuses to comply with a finding that there is no valid arbitration agreement, Member States can seek an anti-arbitration injunction.

## *F.M. Wilke:* **German Conflict of Laws Rules for Electronic Securities**

In June 2021, Germany introduced the option of electronic securities, doing away with the traditional principle that securities must be incorporated in a piece of paper. The blockchain-ready Electronic Securities Act (Gesetz über elektronische Wertpapiere: eWpG) comes with its own conflict of laws provision. This paper addresses the subject matter, connecting factors, and questions of the applicable law of said rule. One main challenge consists in reconciling the new rule with an existing (much-discussed, yet still quite opaque) conflict of laws provision in the Securities Account Act. While the connecting factor of state supervision of an electronic securities register may appear relatively straightforward, it is shown that it can actually lead to gaps or an accumulation of applicable laws. While the Electronic Securities Act contains a solution for the former issue, the latter proves more complicated. Finally, it is not obvious whether the new rule allows a renvoi. The author tentatively suggests a positive answer in this regard.

## *M. Pika:* **The Choice of Law for Arbitration Agreements**

Ever since 2009, when the German choice-of-law provisions for contracts were removed and the Rome I Regulation with its carve-out for arbitration agreements entered into force, the choice of law for arbitration agreements has been debated in Germany. On 26 November 2020, the German Federal Court of Justice addressed this matter, albeit inconclusively. The court held that the enforcement provision Article V (1) lit. a New York Convention applies already before or during arbitral proceedings. Pursuant to this provision, the arbitration agreement is governed by the law chosen by the parties and, subsidiarily, the law of the seat. This leads to an internationally well-known follow-up problem: whether the parties, when choosing the law applicable to the main contract, have impliedly chosen the law applicable to the arbitration agreement. This matter was left open by the Federal Court of Justice.

## *F. Rieländer:* **Joinder of proceedings and international jurisdiction over consumer contracts: A complex interplay between the Brussels Regime**



## **and domestic law of civil procedure**

Whether the “international nature” of a contractual relationship between two parties to a dispute established in the same Member State might possibly stem from a separate contract between the claimant and a foreign party, for the purposes of determining jurisdiction according to the Brussels Ibis Regulation, continues to be a contentious issue ever since the ECJ ruling on the Maletic case (C-478/12). Particularly illuminating are two recent decisions given by the Bayerisches Oberstes Landesgericht. Whilst the Court, understandably enough, did not wish to deviate from the case law of the ECJ, it probably unnecessarily extended the purview of the dubious Maletic judgment in Case 1 AR 31/20. With regard to division of labour on part of the defendants there is no need for an overly expansive interpretation of the term “other contracting party” within the meaning of Article 18(1) Brussels Ibis Regulation because the “international element” of a contractual relationship between a consumer and a trader established in the Member State of the consumer’s domicile simply derives from the subject-matter of the proceedings where the contractual obligation of the trader is to be performed in another State. Taken in conjunction with its decision in Case 1 AR 56/20, the Court seemingly favours a subject-matter-related test of “international character”, while the Court at the same time, in Case 1 AR 31/20, respectfully adopts the authoritative interpretation of the ECJ in Maletic. Simply for the sake of clarity, it should be mentioned that even if the legal relationship between a consumer and one of the defendants, considered alone, bears no international character, a subsequent joinder of proceedings at the legal venue of the consumer’s place of residence is nonetheless possible pursuant to § 36(1) No 3 ZPO (German Code of Civil Procedure) if jurisdiction is established in relation to at least one of the defendants according to Article 18(1) Brussels Ibis Regulation and the general place of jurisdiction of all other defendants is situated in the Federal Republic of Germany

### ***M. Andrae: For the application of Art. 13 (3) No. 2 EGBGB, taking into account the spirit and purpose of the law against child marriage***

Art. 13 (3) No. 2 EGBGB (Introductory Law to the Civil Code) stipulates that a marriage can be annulled under German law if the person engaged to be married was 16 but not 18 years of age at the time of the marriage. The legal norm relates

to a marriage where foreign law governs the ability to marry and where the marriage has been effectively concluded under this law. The rule has rightly been heavily criticized in the scientific literature. As long as the legal norm is applicable law, it should be interpreted in a restrictive manner, as far as the wording and the purpose of the law against child marriage allow. The article focuses on the intertemporal problem. In addition, it is discussed whether the legal norm is to be applied universally or only if there is a sufficient domestic reference. The article follows the restrictive interpretation of the BGH of Section 1314 (1) No. 1 BGB, insofar as it concerns marriages that are covered by Art. 13 (3) No. 2 EGBGB. According to this, the court can reject the annulment of the marriage in individual cases, if all aspects of the protection of minors speak against it.

#### ***D. Looschelders: Cross-border enforcement of agreements on the Islamic dower (mahr) and recognition of family court rulings in German-Iranian legal relations***

The cross-border enforcement of agreements on the Islamic dower (mahr) can present significant difficulties in German-Iranian legal relations. These difficulties are compounded by the fact that mutual recognition of family court rulings is not readily guaranteed. Against this background, the decision of the Higher Regional Court of Celle deals with the recognition of an Iranian family court ruling concerning a claim for recovery of the Islamic dower. The Higher Regional Court of Hamburg on the other hand discusses in its decision whether a husband can sue his wife for participation in a divorce under Iranian religious law as contained in their divorce settlement agreement on the occasion of a divorce by a German court. The recognition of a judicial divorce is not per se excluded in Iran; however, the husband required his wife's participation due to Iranian religious laws in order for her waiver on the Islamic dower to gain legal effectiveness under Iranian law. The court rejected the claim as it drew upon the state divorce monopoly contained in Art. 17 (3) EGBGB (Introductory Act to the German Civil Code) and § 1564 BGB (German Civil Code). Consequently, despite the waiver declared in Germany, the respondent is free to assert her claim for recovery of the Islamic dower in Iran.

***M. Andrae: HMP: Maintenance Obligations between ex-spouses if the parties lived together as an unmarried couple for a long time before the marriage***

The main focus is on the relationship between Art. 3 (general rule on applicable law) and Art. 5. (special rule with respect to spouses and ex-spouses) of the 2007 Hague Maintenance Protocol. The following legal issues are discussed: Are maintenance obligations arising out of unmarried relationships included within scope of the HMP? Is Art. 5 HMP to be interpreted as an exception in relation to Art. 3 HMP? How is the phrase “closer connection with the marriage” in the Art. 5 HMP to be interpreted? Should a period of time in an unmarried relationship before a marriage be taken into account in relation to Art. 5 HUP? What is the significance of the last common habitual residence during the marriage with regard to the escape clause if the parties previously lived in different countries for professional reasons?

***C. von Bary: Recognition of a Foreign Adoption of an Adult***

In its decision on the recognition of a foreign adoption of an adult, the German Federal Court of Justice addresses questions concerning procedure and public policy. The special provisions for proceedings in adoption matters do not apply in recognition proceedings, which has consequences for the remedies available. Considering the effect on the ground for refusal of recognition due to a lack of participation (§ 109(1) No. 2 FamFG), courts only have to hear the other children of the adopting person rather than them being a party to the proceedings. The Court also sets strict criteria for a violation of public policy in the case of a foreign adoption of an adult. It only amounts to a violation of public policy when the parties deliberately seek to evade the prerequisites under German law by going abroad, which seems to imply that there are no fundamental principles specific to the adoption of an adult.

***H. Roth: Enforcement issues due to a decision repealed in the State of origin***

The decision of the German Federal Court of Justice was handed down pursuant

to intertemporal civil procedure law and also to the Brussels I Regulation, which requires a declaration of enforceability for enforcement in another Member State. The court rightly upheld its settled case-law that a decision subsequently repealed in the State of origin cannot be authorized for enforcement. The ruling of the German Federal Court of Justice has significance for future cases examined on the basis of the new Brussels Ia Regulation, which states that enforcement can occur in another Member State without a declaration of enforceability. If the decision in the State of origin is subsequently repealed, a debtor in the executing State can choose for this fact to be taken into account either in the refusal of enforcement proceedings pursuant to Articles 46 et seq. Brussels Ia Regulation or in the execution itself by the competent executing body pursuant to Section 1116 of the German Code of Civil Procedure (ZPO).

***O. Remien: Étroitement liée? - On jurisdiction for a damages action against an arbitrator after setting-aside of the award and artt. 1 (2) (d) and 7 (1) (b) Brussels Ibis-Regulation***

In Saad Buzwair Automotive Co, Cour d'appel and Tribunal Judiciaire de Paris were of opposite opinions on the question which courts are competent to decide on a damages action against an arbitrator after setting-aside of the award. In an ICC arbitration with seat in Paris but hearings and domicile of the three arbitrators in Germany, the Qatari claimant had been unsuccessful against the Emirati respondent, but later the award had been set aside by the Cour d'appel de Paris and this setting-aside been confirmed by the Cour de cassation. The Qatari company sued one of the German arbitrators for damages before the Paris courts. The first instance Tribunal Judiciaire found that the arbitration exception of art. 1 (2) (d) Brussels Ibis did not apply to the action for damages based on an alleged breach of the arbitrator's contract; further, it held that the place of performance under art. 7 (1) (b) Brussels Ibis was in Germany where the arbitrators lived and had acted. The Cour d'appel disagreed, the leitmotiv being that the damages action is closely connected (étroitement liée) to the arbitration. It found that the arbitration exception applied, so that the Brussels Ibis Regulation was inapplicable, and that under the autonomous French place of performance rule the place of performance was in Paris. After recalling the importance of the arbitrator's contract this note distinguishes the damages action against the arbitrator from the arbitration between the original parties, points out that the

courts of the seat of the arbitration are not necessarily competent for damages actions against an arbitrator and stresses the negative consequence of the ruling of the Cour d'appel - an eventual judgment awarding damages would not fall under the Brussels Ibis Regulation and thus not necessarily be enforceable in other Member States! Further, it is unclear whether the arbitration exception would also apply to an action for payment of the arbitrator's fees. Finally, the situation where an arbitral award is not set-aside, perhaps even cannot be set aside, by the courts of the seat but where its enforcement is denied in another state is taken account of and can in case of a damages action lead to the competence of a court other than that of the seat of the arbitration. As to the place of performance, the two courts apply similar autonomous French respectively EU-rules, but with diverging results: the Cour d'appel stressing again the close connection, the Tribunal Judiciaire applying a more concrete fact-based approach. In sum, there are good arguments in favour of the decision of the Tribunal Judiciaire and a judgment of the ECJ on these questions would be welcome.

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## **Out now: Liber Amicorum Monika Pauknerová**

On October 18, 2021 Professor Monika Pauknerová, professor for private international law and international trade law at Charles University in Prague, Czech Republic, celebrated a significant jubilee. Colleagues and friends from many countries contributed to a liber amicorum to her honour:

Magdalena Pfeiffer, Jan Brodec, Petr Bríza and Marta Zavadilová (eds.). *Liber Amicorum Monika Pauknerová*. Praha: Wolters Kluwer ČR, 2021, 552 p. ISBN 978-80-7676-186-5. The publication contains 47 contributions in English, Czech and Slovak, most of them on private international law.

Liber Amicorum

Monika Pauknerová

# Liber Amicorum

 Wolters Kluwer

## TABLE OF CONTENT

*Nadia de Araujo and Marcelo De Nardi*

International Jurisdiction in Civil or Commercial Matters: HCCH's New Challenge

*Jürgen Basedow*

International Transport Conventions and the European Union

*Paul Beaumont and Jayne Holliday*

Habitual Residence in Child Abduction Cases: The Hybrid Approach Is Now the Norm but How Much Weight Should Be Given to Parental Intention?

*Alexander J. Belohlávek*

Conflicting Interpretations of International Treaties

*Karel Beran*

Cím se liší „právní entita“ od právnické osoby (úvaha nad „jinou než fyzickou osobou“ podle § 30 odst. 1 z. m. p. s.)

*Michael Bogdan*

Article 36 of the EU Insolvency Regulation and the Treatment of General Priority Rights

*Jan Brodec*

Vliv lex loci arbitri na průběh mezinárodní obchodní arbitráže

*Petr Bríza*

Determination of the Law Applicable to a Share Transfer Agreement: Are All Doubts Dispelled after the TVP Case?

*Giuditta Cordero-Moss*

Private International Law in Arbitration

*Elizabeth B Crawford and Janeen M Carruthers*

The Incurious Curia

*Stanislava Cerná*

Stát jako ovládající osoba

*Lucie Dolanská Bányaiová*

Jak moc musí být cizí rozsudek vykonatelný?

*Katerina Eichlerová*

EMCA - inspirace (nejen) při vymezení požadavků na označení pobočky

*Richard Fentiman*

Foreign Law as Local Law: a Case of Mistaken Identity?

*Zuzana Fišerová*

Zamyšlení nad kolizní úpravou pro rozvod manželství s mezinárodním prvkem aneb nastal čas, aby ČR přistoupila k nařízení ?ím III?

*Cristina González Beilfuss*

Prorogation of Jurisdiction in Parental Responsibility Matters under Regulation (EU) No. 2019/1111

*Trevor Hartley*

The Concept of a Consumer under Brussels I: the Petruchová Case

*Elena Júdová*

Špeciálne režimy v európskom medzinárodnom práve súkromnom

*Zdenek Kapitán*

Mezinárodní pravomoc českých soudu ve věcech péče o děti založená na státním občanství

*Catherine Kessedjian*

Mediation for Disputes in Investment Matters

*Zdenek Kühn*

Vztah české Ústavy k mezinárodnímu právu

*Ivana Kunda*

Overriding Mandatory Provisions before the CJEU: Takaways or Getaways?

*Tuula Linna*

Sustainability and Insolvency Proceedings

*Alena Macková a Filip Crncevic*

Systém mimosoudního řešení sporu spotřebitel? v CR perspektivou ADR

*Peter Mankowski*

Presumptions, Escape Clauses and Protective Regimes under the Rome I Regulation

*Milan Müller*

Mezinárodní postoupení pohledávek a jeho účinky na třetí strany ve světle připravované nové evropské právní úpravy

*Hans Ulrich Jessurun d'Oliveira*

"Latent" Citizens. What Do They Tell Us about the Concept of Citizenship?

*Jan Ondrej*

Smlouvy o mezinárodní přepravě se zamerením na Úmluvu o prepravní



smlouve v mezinárodní silnicí nákladní dopravě a její provádění v právu ČR

*Daniel Patek*

Účinky (nekalé) soutěže

*Marta Pertegás Sender*

Cross-Border Liability Cases in the European Union: No Good Match with the Special Jurisdiction Rules of the Brussels I Regulation?

*Magdalena Pfeiffer*

The Cinderella Treatment of Foreign Arbitral Awards in the Czech Enforcement Procedure

*Fausto Pocar*

Brief Remarks on the Relationship between the Hague Judgments and Choice of Court Conventions

*Helena Prášková*

Konsenzuální a smírná řešení rozporu ve veřejné správě

*Ilaria Pretelli*

Three Patterns, One Law: Plea for a Reinterpretation of The Hague Child Abduction Convention To Protect Children from Exposure to Sexism, Misogyny and Violence Against Women

*Elena Rodríguez Pineau*

Parallel Litigation in Proceedings Relating to Data Protection

*Nadežda Rozehnalová*

Cesta k současnému uchopení imperativních předpisů

*Kvetoslav Ružicka*

Náklady stran v rozhodcím řízení

*Pavel Simon*

Potíže spojené s určením místní příslušného soudu ve sporech s mezinárodním prvkem aneb o zbytečnosti § 11 odst. 3 o. s. ?.

*Michal Skrejpek*

Commercium inter gentes

*Josef Staša*

Cel?eprávní procesní mix po cesku

*Pavel Svoboda*

Trnitá cesta ke kodexu unijního správního práva procesního

*Pavel Šturma*

Pojem due diligence v mezinárodním investicním právu

*Zbynek Švarc*

Odpovednost dopravce za škodu v mezinárodní silnicní preprave zboží

*Michal Tomášek*

Nejpríznivejší sudište japonských šógunu

*Aukje A.H. van Hoek*

The Declaratory Judgment—between Remedy and Procedural Technique

*Spyridon Vrellis*

Family Reunification in Greek Immigration Law

*Marta Zavadilová*

Kulhající manželství osob stejného pohlaví

For further information see [here](#).

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**The Time is Ripe? Proposed  
Regulation of Third Party  
Litigation Funding in the**

# European Union

## **The Time is Ripe? Proposed Regulation of Third Party Litigation Funding in the European Union**

*Written by Adrian Cordina, PhD researcher at Erasmus School of Law, project member of the Vici project 'Affordable Access to Justice' which deals with costs and funding of civil litigation, financed by the Dutch Research Council (NWO).*

The question of how to fund litigation is an essential precondition for civil justice systems. While in some countries like Australia third party litigation funding (TPLF) has been developing for decades, in Europe too TPLF is now on the rise, particularly in international arbitration and collective actions. This has also caught the attention of the European legislator.

On the 17th of June 2021 the European Parliament Committee on Legal Affairs published a Draft Report with recommendations to the Commission on Responsible Private Funding of Litigation (TPLF). This follows the February 2021 European Parliament Research Service Study on the same matter. TPLF is the funding of litigation by an external third party in return for a share of the proceeds in case of success and is a growing commercial practice. The Draft highlights that TPLF in the EU is however currently operating in a 'regulatory vacuum', as it is not only present in consumer collective redress cases, in which case specific funding rules have already been enacted through the Directive (EU) 2020/1828 on representative actions for the protection of the collective interests of consumers [Representative Actions Directive (RAD)].

While recognising the role TPLF plays in facilitating access to justice where otherwise not available due to the costs and risks of litigation, the Draft attempts to provide proposals on how to tackle the risks and concerns TPLF gives rise to. It focuses especially on the conflicts of interest between the litigation funders and the claimants, more specifically on the economic interest of the funder, which could drive the funder to demand excessive shares of the proceeds and to control the litigation process.

Similarly to the RAD, the Draft contains recommendations that it should be ensured that decisions in the relevant legal proceedings, including decisions on settlement, are not influenced in any way by the litigation funders and that courts

or administrative authorities be empowered to require disclosure of information on third-party litigation funding.

Amongst the main recommendations which go beyond the funding rules in the RAD is that of establishing a system of supervisory authorities in each Member State which permits TPLF. These would grant authorisations and require that litigation funders comply with minimum criteria of governance, transparency, capital adequacy and observance of a fiduciary duty to claimants. Article 5 also proposes that third-party funding agreements need to comply with the laws of the Member State of the litigation proceedings or of the claimant, which could create problems if claimants and/or intended beneficiaries are from different Member States, from outside the EU or if one Member State prohibits TPLF in cross-border litigation.

It also contains recommendations on funding agreements being worded transparently, clearly and in simple language, on capping the return rate to the litigation funder at 40%, and on, subject to exceptions, preventing litigation funders from withdrawing funding midway through proceedings.

The debate on TPLF in Europe has only in recent years started to take the limelight in civil justice academia (see e.g. Kramer & Tillema 2020; Tzankova & Kramer 2021). That this topic is garnering attention is also evidenced by the September 2021 survey commissioned by the U.S. Chamber Institute for Legal Reform on Consumer Attitudes on TPLF and its regulation in the EU. While the complex matter of TPLF is in need of further research and reflection, considering developments in legal practice perhaps now indeed the time is also ripe for regulatory discussions.

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## **Interesting Transnational Cases**

# from the U.S. Supreme Court's "Long Conference," Earlier this Week

The Supreme Court's so-called "Long Conference" was held on Monday. At this meeting of the Justices to start the Court's new Term, they decide among the thousands of petitions that have piled up over the summer recess which ones warrant the Court's review. Looking at the petitions discussed in this conference can be a bellwether for the types of issues percolating through the U.S. courts. Here, I will provide a summary of a few that might be interesting to readers of this site.

First and foremost, regular court-watchers will see a rerun from last term, when the Court decided to resolve a stubborn split of authority regarding discovery pursuant to 28 U.S.C. 1782 and whether it can be invoked in support of a private, commercial arbitration. The case granted from last term (**Servotronics, Inc. v. Rolls-Royce PLC**) settled before it could be argued and decided, but the same issue has come forward again. The petition in **ZF Automotive US v. Luxshare Ltd.**, from the Sixth Circuit, again asks "[w]hether 28 U.S.C. § 1782(a), which permits litigants to invoke the authority of United States courts to render assistance in gathering evidence for use in 'a foreign or international tribunal,' encompasses private commercial arbitral tribunals, as the U.S. Courts of Appeals for the 4th and 6th Circuits have held, or excludes such tribunals, as the U.S. Courts of Appeals for the 2nd, 5th and 7th Circuits have held."

Another common component of nearly every Supreme Court term are cases involving the Foreign Sovereign Immunities Act. This year is no different—and it is another case of World War II-era stolen artwork. This year, the petition in **Cassirer v. Thyssen-Bornemisza Collection Foundation** asks "[w]hether a federal court hearing state law claims brought under the Foreign Sovereign Immunities Act must apply the forum state's choice-of-law rules to determine what substantive law governs the claims at issue, or whether it may apply federal common law." This issue presents another split of authority on federal statutory interpretation, with the Ninth Circuit in conflict with the Second, Fifth, Sixth and D.C. Circuits.

The Federal Arbitration Act is another frequent flyer on the Supreme Court docket. Among several petitions regarding this Act is an interesting decision from the highest court in Delaware, which seemingly split from the decisions of two federal appellate courts and failed to apply the Supreme Court's increasingly stringent guidance to enforce arbitration agreements. The question presented in **Eni USA Gas Marketing LLC v. Gulf LNG Energy, LLC** is, in essence, whether the Federal Arbitration Act allows a court to disregard a broadly-written arbitration clause—which vests the question of arbitrability to the arbitrators—simply because one party asserts that the claim to be arbitrated constitutes a “collateral attack” on a prior award.

Some of these petitions may be granted—statistically, most will not. But even if they are denied, their inclusion here demonstrates the discord that exists among the U.S. court on issues that touch upon international litigation, arbitration, and foreign sovereign relations.

For a full accounting of the most promising cases discussed at the “long conference,” and links to the pleadings in the cases discussed above, see the exhaustive treatment done here by SCOTUSBlog.