Freedom of establishment after Polbud: Free transfer of the registered office

Bastian Brunk, research assistant and doctoral student at the Institute for Comparative and Private International Law at the University of Freiburg (Germany), has provided us with the following first thoughts on the CJEU's groundbreaking *Polbud* judgment.

The Judgment

In its judgment in *Polbud* (C-106/16), the CJEU again took the work out of the EU legislature's hands while further developing the freedom of establishment provided for in Articles 49 and 54 TFEU. The case was heard following a request for a preliminary ruling under Article 267 TFEU by the Sad Najwyzszy (Supreme Court of Poland). In short, the CJEU had to decide on the following questions:

(1) Are Articles 49 and 54 TFEU applicable to a transfer of the registered office of a company incorporated under the law of one Member State to the territory of another Member State with the purpose of converting its legal form, when the company has no intention to change the location of its real head office or to conduct real economic activity in the latter Member State?

(2) Is a national legislation that makes the removal of a company from the commercial register and, accordingly, the out-migration of that company conditional upon its liquidation compatible with the freedom of establishment?

Answering these questions, the CJEU made *Polbud*, the company at stake, a liberal gift and strengthened the mobility of companies within the European Single Market. First, the CJEU stated that the freedom of establishment applies to the transfer of the registered office of a company from one Member State to another even if no real business is intended to be conducted in the latter Member State. Secondly, the CJEU ruled out national legislation providing for the mandatory liquidation of a company if the company requests the removal from the initial commercial register in cases of outward migration.

The facts

In September 2011, the shareholders of *Polbud*, a limited liablity company established under Polish law, decided to transfer the company's registered office from Poland to Luxembourg. The resolution made no reference to a simultaneous transfer of either the real head office or the place of real economic activity. Based on that resolution, the registry court in Poland recorded the opening of the liquidation procedure. In May 2013, following a resolution adopted by a shareholder meeting in Luxembourg, the registered office of *Polbud* was transferred to Luxembourg. *Polbud* was renamed to *Consoil Geotechnik* and its legal form was changed to the *Société à responsabilité limitée (S. à r. l.)*, the Luxembourgish private limited liability company. Subsequently, *Polbud* lodged an application with the Polish registry court for its removal from the commercial register. This application was refused to be registered because, as the registry court stated, *Polbud* failed to provide evidence of the successful execution of a liquidation procedure. *Polbud* appealed against this decision, arguing that no liquidation was needed because the company continued to exist as a legal person incorporated under Luxembourgish law.

The precedents

Articles 49 and 54 TFEU provide for the freedom of establishment. According to the CJEU case-law, the concept of "establishment" within the meaning of these Articles is a very broad one, allowing a Union national to participate, on a stable and continuous basis, in the economic life of another Member State and to profit therefrom (CJEU in *Gebhard*, C-55/94, para. 25 and *Almelo*, C-470/04, para. 26). It involves the actual pursuit of an economic activity through a fixed establishment in another Member State for an indefinite period (CJEU in *Factortame and Others*, C-221/89, para. 20 and *Commission v. United Kingdom*, C-246/89, para. 21). In order to claim freedom of establishment, it is generally necessary to have secured a permanent presence in the host Member State (CJEU in *Centro di Musicologia Walter Stauffer*, C-386/04, para. 19 and *Schmelz*, C-97/09, para. 38). This case law can, generally speaking, be translated as "no freedom of establishment without establishment".

On the other hand, the CJEU generously extended the application of Articles 49 and 54 TFEU to letterbox companies without "fixed establishment" and/or "permanent presence" in their home Member State. In *Centros* (C-212/97) the

Court ruled that EU law is applied to the set-up of subsidiaries, branches and agencies in other Member States and, in that regard, it is immaterial that the company was formed in one Member State only for the purpose of establishing itself in another Member State, where its main, or indeed entire, business is to be conducted (*Centros*, para 17).

The CJEU then used its 2009 *Cartesio* judgment (C-210/06) as an opportunity to, *obiter dictu*, set guidelines for cross-border transfers of seat. It stated that, on the one hand, a Member state has the power to define both the connecting factor required of a company if it is to be regarded as incorporated under the law of that Member State and, as such, capable of enjoying the right of establishment, and that required if the company is to be able subsequently to maintain that status (thus treating companies as legal creatures of their country of origin). On the other hand, freedom of establishment comprises the right of a company to move from one Member State to another. If domestic legislation of the Member State of origin requires the liquidation of the company, thereby preventing it from converting itself into a legal person governed by the law of the target Member State, such a measure cannot be justified under the rules on freedom of establishment (*Cartesio*, paras. 110 ff.).

This jurisdiction was complemented by the CJEU in *Vale* (C-378/10) where the Court clarified the legal position of the Member State of destination. If a Member State allows for the conversion of companies governed by national law, it must also grant the same possibility to foreign EU companies (*Vale*, para. 46). In the absence of relevant EU-law, the target Member State may set up procedural rules to cover the cross-border conversion but must ensure that they are not less favourable than those governing similar domestic situations (principle of equivalence) and that they do not render impossible in practice or excessively difficult the exercise of rights conferred by the European Union legal order (principle of effectiveness) (*Vale*, para. 48).

The Opinion of AG Kokott

In her *Opinion* of 4 May 2017 (see here), AG *Kokott* took up a distinct position emphasizing the need for actual establishment for the application of Articles 49 and 54. This criterion is sufficiently met, as AG *Kokott* states, if, at least, the company *intends* to set up an actual establishment in the sense of conducting at least a nominal economic activity in the target Member State (*Opinion*, para 36).

The AG underlines her position citing the above mentioned CJEU case-law in *Factortame and Others* (C-221/89), *Commission v. United Kingdom* (C-246/89), *Centro di Musicologia Walter Stauffer* (C-386/04) and *Schmelz* (C-97/09). She concludes that the freedom of establishment "*gives economic operators in the European Union the right to choose the location of their economic activity, it does not give them the right to choose the law applicable to them*" (*Opinion*, para. 38).

Implications of the *Polbud* judgment for the internal market

The CJEU now takes a different point of view: Once formed in accordance with the legislation of a Member State, companies enjoy the full range of that freedom. Nothing new, so far, as *Geert van Calster* suggests in his comment (see here). But what makes Polbud (r)evolutionary?

First, the CJEU creates legal certainty in an area that is particularly important for the functioning of the European Single Market. In its *Cartesio* judgment, the Court allowed for the cross-border conversion of EU companies in general but did little to shape the relationship between the involved Member States. Therefore, it was widely thought, that, just like AG *Kokott* propounds, the conversion of a company from one Member State to another required a genuine economic link with the State of destination. In *Polbud*, the CJEU clarifies that the regulatory power of a Member State ends when a company converts itself into a company governed by the law of another Member state. It is for the latter State to determine the legal and/or economic conditions that have to be satisfied by the company in order to bring the conversion into effect (paras 33 ff.). Under Articles 49 and 54 TFEU, the State of origin is only allowed to provide legislation for the protection of public interests (such as the protection of creditors, minority shareholders and employees) but cannot impose mandatory liquidation.

Secondly, the CJEU obliges the State of origin to observe the *principle of equivalence*. This principle, already known from the *Vale* decision (see above), was generally considered as obliging only the target Member State in cross-border conversion cases to legally treat domestic and foreign companies equally. By contrast, the State of origin was only thought to be bound by the general prohibition of restrictions (i.e. the prohibition of rules hampering or rendering less attractive the exercise of fundamental freedoms, see CJEU in *Kraus*, C-19/92, para. 32). In *Polbud*, the CJEU, without being explicit on this point, extends the scope of application of the principle of equivalence to the Member State of origin

by stating that "*the imposition, with respect to such a cross-border conversion, of conditions that are more restrictive than those that apply to the conversion of a company within that Member State itself*" is not acceptable (para. 43).

Finally, recapitulating its jurisdiction in *Daily Mail* and *National Grid Indus* (C-371/10), the CJEU points out that exercising the freedom of establishment for the purpose of enjoying the benefit of the most favourable legislation, does not, in itself, amount to an abuse of rights (para. 62). The Court further explains its position saying that "*the mere fact that a company transfers its registered office from one Member State to another cannot be the basis for a general presumption of fraud and cannot justify a measure that adversely affects the exercise of a fundamental freedom guaranteed by the Treaty*" (para. 63).

Assessment

As already observed, *Polbud* encouragingly facilitates the cross-border mobility of companies but, on the other hand, leaves the reader with open questions.

It was high time to free cross-border conversions from the requirement of a genuine economic link with the Member State of destination. The legal situation before *Polbud*, that allowed letterbox companies to conduct their business in other Member States (which can be compared to initial choice of law) but prevented the formation of letterbox companies through the transfer of an existing company's registered office to another Member State (which can be compared to subsequent choice of law), was somewhat arbitrary from a legal and economic point of view.

On the other hand, the extension of the scope of application of the principle of equivalence to the Member State of origin can only be seen as inconsistent with the legal doctrine of the freedom of establishment provided for in Articles 49 and 54 TFEU. Heretofore, only EU-foreigners could enjoy the right to non-discrimination, whereas, in regard to EU law, Member States were free to impose (relatively) stricter rules to its own citizens. This principle finds its expression, for example, in the above-mentioned treatment of companies as creatures of their state of origin that the CJEU established in its *Cartesio* judgment. As the principle of equivalence corresponds to the prohibition of discrimination, it is even more astonishing that the CJEU permits exemptions for overriding reasons in the public interest. These unwritten exemptions generally apply only in cases of restrictions

of the freedom of movement (see Kraus, para. 32 and *Gebhard*, para. 37). On the contrary, discriminations require the strict observance of the catalogue of justifications set out in Article 52 TFEU. In future decisions, the CJEU should recall this clear distinction and cease to further the linguistic ambiguity.

Conference Report: Annual meeting of the Alumni of the Hague Academy of International Law/Hamburg 2017 – Thorn and Lasthaus on Brexit and Private International Law

By Stephan Walter, Research Fellow at the Research Center for Transnational Commercial Dispute Resolution (TCDR), EBS Law School, Wiesbaden, Germany, and attendee of the 2017 Summer Courses on Private International Law at the Hague Academy of International Law

On 13 October 2017, the Alumni of the Hague Academy of International Law/Hamburg, the German section of Attenders and Alumni of the Hague Academy of International Law, A.A.A., hosted their annual meeting. At the invitation of Professor Karsten Thorn (Bucerius Law School, Hamburg), who lectured a Special Course on "The Protection of Small and Medium Enterprises in Private International Law" at the Academy during the 2016 Summer Courses, the meeting was held at Bucerius Law School, Hamburg. The academic programme consisted of four presentations, two of them dealt with issues of Private International Law after Brexit.

Professor Karsten Thorn's presentation on "European Private International Law after Brexit" was divided into two parts. In the first part he discussed direct legal

consequences of Brexit on Private International Law in relations between the United Kingdom (in particular England) and Germany. He highlighted the importance of Union Law and especially the duties to recognise derived from the fundamental freedoms for the rise of England as a legal hub. Therefore, Brexit would have grave consequences for the attractiveness of England in a number of legal areas. This would apply, for example, to company law. Whereas under Union Law the recognition of a company established in accordance with the law of one Member State must not be refused by another Member State, each Member State would apply its own rules on this issue post-Brexit. This could also impact companies established before Brexit, although it was disputed whether this would infringe their legitimate expectations and if so, whether this protection was subject to a certain time limit. In any event, the companies should act rather sooner than later to avoid any legal uncertainty. Comparable issues would arise in insolvency law. First and foremost, there would be – in contrast to the current legal situation – no duty for a Member State's court to recognise a decision of an English court on the existence of the centre of the debtor's main interests (COMI) in England anymore. Again, each Member State would apply its national rules on the recognition of foreign insolvency proceedings. Secondly, an English scheme of arrangement, a court-approved private debt restructuring solution, would likely not be recognised by the Member States after Brexit. By contrast, fewer negative consequences would arise with regard to the right to a name because even now Article 21 TFEU only guaranteed the recognition of a name rightfully obtained in the EU citizen's State of nationality or residence and this freedom is further limited by the Constitution of the recognising Member State. Finally, he highlighted the negative impact of Brexit on procedural law. Post-Brexit, English decisions will no longer benefit from mutual trust in the EU Member States. A revival of bilateral treaties with Member States or instruments of the Hague Conference could only serve as sectoral solutions. Under these conditions, he presumed an increased usage of arbitration in the UK post-Brexit, not least because the United Kingdom is a Contracting State to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. Moreover, he pointed out that English courts would return to traditional instruments of the English procedural law such as anti-suit injunctions. The second part of his presentation dealt with indirect consequences of Brexit on the European Private International Law. Firstly, he submitted that a number of provisions in EU legislation can be regarded as legal transplants from English law. This applies, e.g., to Article 9 paragraph 3 Rome I Regulation and Article 6 lit. a EU Succession

Regulation. In his opinion, post-Brexit at least the former provision will be discarded after a revision of the respective EU legislation. Secondly, he turned to the question of the usage of English as working language of the EU bodies. He stated that most EU legislation was drafted in English. Because legal English was very different to the legal language used in all other Member States this was still noticeable in the official translations. Therefore, English shaped the spirit of the EU legislation. Although he believed that English would still be the dominant language in the EU bodies after Brexit, he argued that the continental legal thinking could gain more significance.

In her presentation on "Pluralism of Legal Sources with regard to International Choice of Court Agreements", Caroline Lasthaus (Bucerius Law School, Hamburg) examined – after a brief overview of the interplay between the German autonomous national rules on jurisdiction, the Brussels I Regulation Recast, the 2007 Lugano Convention and the 2005 Hague Choice of Court Convention –options of the United Kingdom to foster the enforcement of choice of court agreements in favour of UK courts post-Brexit. An accession to the 2007 Lugano Convention would require either the membership of the United Kingdom in the European Free Trade Association or a unanimous agreement of the Contracting Parties. However, both options were, in her opinion, unlikely. Furthermore, the rules of the 2007 Lugano Convention would be outdated and the United Kingdom would have to accept the CJEU's jurisdiction over questions of interpretation of the Convention. Therefore, she scrutinised whether an accession to the 2005 Hague Choice of Court Convention could be a suitable solution. The accession itself would not raise any difficulties, since the United Kingdom could accede to the Convention unilaterally. Hence, the decisive question was whether the Convention would serve the needs of the United Kingdom. Lasthaus argued that neither the applicability of the Convention only to international exclusive choice of court agreements nor the exclusion of agreements with a consumer would make the Convention less attractive for the United Kingdom. Moreover, both the Brussels I Regulation Recast and the 2005 Hague Choice of Court Convention would allow the choice of a neutral forum. However, she stressed that the Convention was rather strict with regard to the formal requirements of an agreement, whereas the Brussels I Regulation Recast followed a much more flexible approach. Even though a violation of formal requirements would not lead to the agreement to be null and void by virtue of the Convention, the Convention's rules on recognition and enforcement would not apply to judgements rendered

based on such an agreement. Finally, one crucial downside of the Convention would be the necessity of an exequatur procedure with regard to the judgements rendered based on a choice of court agreement. This would lead to higher costs for the litigants and to a longer procedure. As a result, she conceded that an accession to the 2005 Hague Choice of Court Convention could not mend all the consequences of the non-applicability of the Brussels I Regulation Recast post-Brexit. Nonetheless, an accession would still make sense for the United Kingdom and could also boost the conclusion of a worldwide Convention on the recognition and enforcement of foreign judgements.

Both presentations were followed by lively discussions among the speakers and participants. It was agreed that the implementation of existing EU legislation into domestic law could not cushion the consequences of Brexit, especially because the fundamental freedoms would no longer apply to the United Kingdom. Additionally, it became clear once more that the final outcome of Brexit is still uncertain. In this vein, it is noteworthy from a Private International Law point of view that there was some disagreement on whether the United Kingdom would need to accede to the Convention at all or if it would still be a Contracting State of the Convention after Brexit by way of a succession of State.

Conference on International Sales, London, 16-17 April 2018

King's College School of Law is organising a conference on **Unity and Diversity in the Law of the International Sale of Goods.** This conference will bring together prominent academics and practitioners from all over the world to discuss pressing issues pertaining to international sales transactions.The focus will be on the UN Convention on Contracts for the International Sale of Goods. The speakers will explore the current state of the law of sale of goods by examining how sales contracts, particularly those used in international trade, are governed in the modern world. The central theme concerns two competing forces within the sale of goods law:

- Those leading to disintegration,
- Those pushing towards uniformity, consolidation and standardisation.

The conference will take place on 16-17th of April 2018 at King's College London. For more information and the programme, please click here.

For the registration page, please click here.

Conferenza annuale: Corti europee e giudici nazionali

On 30 October 2017 the Jean Monnet Module on European Civil Procedure will host its annual conference on 'Corti europee e giudici nazionali' in Milan. The conference language is Italian. For further information see here.

Cross-Border Business Crisis: a Conference in Rome

On 3-4 November 2017 the LUISS «Guido Carli» University School of Law, with the support of the International Law Association (Italian Branch) and the auspices of the International Insolvency Institute, will host in Rome a conference on «Cross-Border Business Crisis: International and European Horizons».

Three bilingual (English/Italian) sessions are scheduled: I) International and European Policies on Business Crisis (Chairperson: Luciano Panzani); II) Regulation 2015/848 within the European System of Private International Law (Chairperson: Stefania Bariatti); III) Cross-Border Insolvency and Italian Legal Order: Old and New Challenges (Chairperson: Sergio M. Carbone).

Speakers include academics and practitioners (Massimo V. Benedettelli, Giorgio Corno, Domenico Damascelli, Luigi Fumagalli, Anna Gardella, Lucio Ghia, Francisco J. Garcimartín Alférez, Antonio Leandro, Maria Chiara Malaguti, Fabrizio Marongiu Buonaiuti, Alberto Mazzoni, Paul Omar, Antonio Tullio, Robert van Galen, Francesca Villata, Ivo-Meinert Willrodt).

Most of them are members of the ILA-Italy Study Group on «Cross-Border Insolvency and National Legal Orders» and will discuss the findings of their research during the conference.

Program and details on registration are available here

Out now: Encyclopedia of Private International Law!

Hard to believe, but true: The Encyclopedia of Private International Law, published by Edward Elgar and edited by Jürgen Basedow (Max Planck Institute Hamburg), Franco Ferrari (NYU Law School), Pedro de Miguel Asensio (Universidad Complutense de Madrid) and me, has finally been released end of September. Bringing together more than 180 authors from 57 countries the Encyclopedia sheds light on the current state of Private International Law around the globe and provides insights into how the discipline has been affected by globalization and increased regional integration over the last decades.

The Encyclopedia is available both in print and via Elgaronline and consists of four volumes. The first two volumes describe topical aspects of Private International Law in form of 247 alphabetically sorted entries. The third volume describes the Private International Law regimes of 80 countries in form of national reports. The fourth volume contains a collection of national codifications and provisions of Private International Law in English translation. More information is available here and here.

I take the opportunity to thank everybody who has helped to make the

Encyclopedia come true, notably the authors and translators (many of them editors or readers of this blog), my fellow editors, my team at the University of Jena and last but not least the team over at Edward Elgar!

Should you be interested in receiving a review copy please send an email to reviews@e-elgar.co.uk.

Court of Appeal allows in England claims against English-based multinational for overseas human rights violations

Written by Ekaterina Aristova, PhD in Law Candidate, University of Cambridge

On 14 October 2017, the London's Court of Appeal passed its long awaited decision in *Lungowe v Vedanta* confirming that foreign citizens can pursue in England legal claims against English-based multinationals for their overseas activities.

In 2015, Zambian villagers commenced proceedings against Vedanta, an English-based mining corporation, and its indirect Zambian subsidiary, KCM, alleging responsibility of both companies for the environmental pollution arising out of the operation in Zambia of the Nchanga Copper Mine by KCM. In 2016, the High Court allowed claims against both companies to be heard in England. The overall analysis of the judgement (see the author's earlier post on this blog) suggested that (1) claims against the parent company on the breach of duty of care in relation to the overseas operations of the foreign subsidiary can be heard in the English courts and (2) the existence of an arguable claim against the English-domiciled parent company also establishes jurisdiction of the English courts over the subsidiary even if the factual basis of the case occurs almost exclusively in the foreign state. The Court of Appeal has entirely upheld a High Court ruling.

Vedanta has focused their argument on the fact that Article 4 of the Brussels I Regulation Recast does not automatically allow an English-domiciled parent company to be sued in England and, despite the CJEU's ruling in *Owusu v Jackson*, there is always discretion as to whether the English court should allow the claims to be tried in England. In response, the three appeal judges were very clear in confirming the univocal effect of *Owusu* decision which precludes English courts from declining a mandatory jurisdiction to try claims against the English-domiciled defendant. Logically, analysis further moved to KCM's applications. KCM as a foreign defendant was brought into proceedings on the basis of a 'necessary or proper party' gateway under the English traditional rules of jurisdictions. It allows service out of the jurisdiction subject to two additional conditions: (1) there is between the claimant and English-domiciled defendant a real issue which it is reasonable for the court to try; and (2) England is the proper forum for trying the claims. Unsurprisingly, an initial question of whether uncustomary claims alleging liability of the local parent company for overseas damages are viable in England was a major stumbling block for the corporate defendants.

First of all, Lord Justice Simon, who delivered a leading judgement, confirmed that absence of the reported cases on the breach of duty of care by the parent company owed to the persons affected by its subsidiary's operations does not automatically render such a claim unarguable. He then relied on several well-known English cases to derive basic principles for the imposition of such duty of care on the parent company: (1) The three-part test of foreseeability, proximity and reasonableness set out in *Caparo Industries Plc v Dickman* constitutes a starting point of the analysis; 2) A duty of care may be owed, in appropriate circumstances, to the employees of the parent company and those directly affected by the subsidiary's operations; 3) Such a duty of care arises when the parent company has taken direct responsibility for devising a material health and safety policy the adequacy of which is the subject of the claim, or controls the operations which give rise to the claim; 4) Some of the circumstances in which the existence of the duty of care may, or may not, be established can be traced in *Chandler v Cape* and *Thompson v The Renwick Group*; 5) It is necessary to determine whether the parent company was well placed, because of its knowledge and expertise to protect the claimants; proving that parent company and the subsidiary run the same business is not sufficient; (6) The evidence sufficient to establish the duty may not be available at the early stages of the case. Following

these principles, it was concluded that, irrespective of the strength or the weakness of the claim against the parent company (as opposed to the claim against the subsidiary as an operator of the mine) and in light of the supporting evidence already presented by the claimants, the claim against Vedanta cannot be dismissed as not properly arguable.

The Court of Appeal's decision is particularly interesting for two reasons. The first issue relates to how its conclusions should be approached in the context of similar environmental litigation against English-based multinational in *Okpabi v Shell*. Earlier this year, Fraser J, sitting as a judge in the Technology and Construction Court, ruled that a claim against English-based parent company and the Nigerian subsidiary of the Shell group for oil pollution in Nigeria will not proceed in the English courts. The judge himself did not make any conclusions which would question the ultimate decision reached by the two instances in *Lungowe v Vedanta*. More importantly, his analysis fairly suggests that determination of the parent company liability should be approached on a case-by-case basis weighing the particular characteristics of the corporate organisation of the group and the nexus between the parent company and its subsidiaries (see the author's earlier post on this blog). Nevertheless, the reasoning of Fraser J could be criticised for the scrupulousness of identifying whether sufficient evidence on each factor of the duty of care test was presented by the claimants at such an early stage of the proceedings. The jurisdictional inquiry into existence of an arguable claim against the parent company should not substitute the determination of the substantive argument and the trial itself. This approach was rightly emphasised by the Court of Appeal in *Vedanta*. By contrast, thorough analysis of the liability argument carried by Fraser J in *Okpabi v Shell* is arguably very close to the resolution of the case on the merits. The decision was appealed by the claimants, the Nigerian citizens, on these very grounds.

The second set of issues arises from the Court of Appeal's reluctance to engage in the discussion of the regulatory significance of the litigation against major transnational corporations for their overseas operations in the English courts. In the course of appeal's hearing Vedanta argued that allowing cases against English multinationals in their home state was not in the public interest. The judgement itself refrained to consider whether public interest factors have any impact on the jurisdictional inquiry in the disputes concerned with the private interests of the litigants. Therefore, foreign direct liability claims against powerful

corporate groups were placed in the context of conventional theoretical public/private divide of the rules of private international law. The Parliament and the Government have at least twice engaged into discussion of the UK role in promoting responsibility and ensuring accountability of its companies in the course of 2009 and 2017 human rights and business inquiries. Further increase in the number of legal claims against English-based transnational corporations brought by the foreign citizens in the English courts may revive interest in the role of the discipline of private international law to take part in the global governance debate.

Conference: The well-being of children in international child abduction cases, Antwerp, 23-24 November

Child Focus, the University of Antwerp, Center IKO, CFPE-Enfants Disparus, Missing Children Europe and the French Central Authority invite you to the final conference of their research project, EWELL, co-funded by the European Commission.

The project partners conducted a large scale research study on the psychological effects of international child abduction on the well-being of abducted children. Their results will be presented at the final conference. This will be conbined with workshops on topics of psychology and law (including Brussels IIa).

The full programme is available here.

This conference is free of charge, but registration is required.

Travel and accommodation expenses will not be reimbursed.

Postdoctoral fellowships in commercial private international law / international commercial law, Johannesburg

Postdoctoral fellowships in commercial private international law / international commercial law are available at the Research Centre for Private International Law in Emerging Countries at the University of Johannesburg.

See the application form here.

The submission link is here.

The closing date is **31 October 2017**.

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Prix du Livre Juridique awarded to

Éléments d'histoire du droit international privé

On Saturday, October 7, Professor Bertrand Ancel's *Éléments d'histoire du droit international privé* , already presented here, was awarded the Prix du livre juridique at the Salon du livre juridique du Conseil Constitutionnel.

As Professor Ancel said in his thank you speech, *Éléments d'histoire du droit international privé* is the fruit of more than fifteen years of teaching in the history of private international law. Bertrand Ancel was an associate in private law and criminal sciences, specializing in civil law, comparative private law and private international law, but was not prepared to teach legal history. He has devoted himself to the writing of these *Éléments* out of passion for an area whose knowledge embraces both Greco-Roman Antiquity and the Middle Ages and the contemporary world. Written on the eve of the twenty-first century, the book is an extension of the great works in French by Armand Lainé, Eduard Maurits Meijers and Max Gutzwiller prior to the Second World War, to which *Elements of History of Private International Law* pays tribute. Thus aggregated, *Éléments* give an innovative view of the history of private international law.

Provided with appendices and an extensive bibliography, this work of more than six hundred pages allows to read "l'inlassable réflexion doctrinale et les leçons d'une expérience sans cesse renouvelée des cas concrets". It is dedicated especially to master's students to whom this reflection offers a look at the positive data – essentially case law- and doctrinal constructions. Without history, it remains difficult to understand all the subtleties of private law: "la démarche historique restitue l'expérience" and "l'histoire est ici encore plus qu'ailleurs l'antidote du dogmatisme et l'indispensable auxiliaire de qui entreprend de connaître le droit international privé d'aujourd'hui". The reader will also find the most important judicial decisions and the most significant doctrinal comments.

Source: Université Paris II (Panthéon-Assas)