

# 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)*

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# Conference in Macerata (25 October 2017): Freedom of Movement of Persons in the EU and the Continuity of Family Status - Problems concerning Registered Partnerships and Cohabitation

*(I am grateful to Prof. Fabrizio Marongiu Buonaiuti for providing this presentation of the Macerata conference)*

The European Documentation Centre (EDC) established at the **Department of Law of the University of Macerata** is hosting a Conference (in Italian) on **Wednesday, 25th October 2017**, as part of a programme of initiatives launched by the European Commission's Permanent Representation to Italy for celebrating the 60th Anniversary of the Treaties of Rome: **"60 anni di libertà di circolazione delle persone nell'Unione europea e continuità degli status familiari: la problematica delle unioni civili e delle convivenze"** (60 Years of Freedom of Movement of Persons in the European Union and the Continuity of Family Status: Problems concerning Registered Partnerships and Cohabitation).

The Conference deals with the implications for the freedom of movement of persons within the EU of the problems related to the continuity of family *status* acquired abroad, with particular regard to registered partnerships and cohabitation. A discussion on this topic appears particularly timely, in consideration of the recent adoption by the Italian legislature of both the substantive regulation of registered partnerships (unioni civili) and cohabitation (convivenze) under law No. 76 of 20 May 2016, and the relevant conflict of laws

rules, as set out in Legislative Decree No. 7 of 19 January 2017. The parallel developments taking place at the European Union level will also be taken into consideration, with particular regard to the recent adoption, by the implementation of an enhanced cooperation, of Regulation (EU) No. 1104/2016, concerning jurisdiction, applicable law and the recognition and enforcement of judgments in matters of the property consequences of registered partnerships.

Here is the programme (available as .pdf; all presentations will be delivered in Italian):

### **Introductory remarks**

- *Prof. Francesco Adornato* – Dean of the University of Macerata
- *Prof. Ermanno Calzolaio* – Director of the Department of Law

### **Ist Session: Freedom of Movement of Persons and Continuity of Personal and Family Status**

Chair: *Prof. Angelo Davì*, University of Rome “La Sapienza”

- Registered Partnerships and Freedom of Movement of Persons in the European Space of Freedom, Security and Justice – *Prof. Claudia Morviducci*, University of Rome III
- European Guarantees and Rules concerning Continuity of *Status* as concerns Same-Sex Marriages and Registered Partnerships – *Prof. Francesco Salerno*, University of Ferrara
- Italian Conflict of Laws Rules concerning Registered Partnerships under Legislative Decree No. 7 of 19 January 2017 – *Prof. Cristina Campiglio*, University of Pavia
- Private International Law Rules concerning the Property Consequences of Registered Partnerships under Regulation (EU) No. 1104/2016 – *Prof. Gian Paolo Romano* – University of Geneva

Discussion

### **2nd Session: The Substantive Regulation of Registered Partnerships and Cohabitation in the Italian Legal System and Unsolved Problems**

Chair: *Prof. Enrico del Prato*, University of Rome “La Sapienza”

- The Substantive Regulation of Same-Sex Registered Partnerships under Law No. 76 of 20 May 2016 – *Prof. Michele Sesta*, University of Bologna
- The Substantive Regulation of Cohabitation under Law No. 76 of 20 May 2016 – *Prof. Ubaldo Perfetti*, University of Macerata
- Adoption by Partners of Registered Partnerships – *Prof. Enrico Antonio Emiliozzi*, University of Macerata
- Problems Concerning the Registration of Partnerships Created Abroad in the Italian Civil Status Records – *Dr. Renzo Calvigioni* – National Association of Civil Status Officials


Discussion

Concluding Remarks

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# **Litigación Internacional en la Unión Europea II – Calvo/Carrascosa/Caamiña**

*Litigación internacional en la Unión Europea II- Ley aplicable a los contratos internacionales. Comentario al reglamento Roma I (International litigation in the European Union II. The law applicable to international contracts. Commentary to the Rome I Regulation)* represents the second issue of a collection of treatises on European private international law.

The first part discusses the role and impact of the New Lex Mercatoria in  international trade, with a comprehensive study of the Rome I Regulation on the law applicable to contractual obligations.

In the second part an analysis of more than one hundred international trade contracts is undertaken, with special attention to the structure of each contract and the applicable law. International sale of goods, countertrade, donations, international loan, agency contracts, factoring, confirming, crowdfunding,

consulting, due diligence, leasing, supply, construction, deposit, management, outsourcing, catering, cash-pooling, engineering, guarantee contracts, timesharing, fiduciary contracts, franchising, distribution contracts, bank contracts, stock contracts, company contracts, joint venture and many others contracts are examined from a private international law perspective. The book also incorporates specific chapters on international consumer contracts and international labor contracts. Besides, special attention is paid to international insurance contracts.

The third part of the book addresses the international contracts drafting techniques with a focus on clauses which are usually included therein.

Several annexes with the best case-law in the field of international contracts and the most commonly used clauses complement the book.

Publishers: Thomson Reuters Aranzadi, 2017, 897 pages.

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## **Issue 2017.3 of Dutch Journal on Private International Law (NIPR)**

The third issue of 2017 of the Dutch Journal on Private International Law, *Nederlands Internationaal Privaatrecht*, contains contributions on the consequences of Brexit for the future of private international law in the UK and the EU27, the ex post evaluations of legislative actions in the European Union, the Recast of the Brussels IIA Regulation, and cross-border evidence preservation measures under Brussels I-bis.

**Xandra Kramer, 'Editorial: NIPR: over Nederlands, Europees en wereldwijd IPR/NIPR: on Dutch, European, and global PIL', p. 407-410.**

**Jonathan Fitchen, 'The PIL consequences of Brexit', p. 411-432.**

*The UK's triggering of Article 50 TEU poses problems for the future of private*

*international law in the UK and in the EU27. The UK's departure from the EU will end the mutual application of European private international law within the UK's legal systems and will affect the application of that EU law by the EU27 in matters concerning the UK as a new third State. After setting the problem in context, this article provides a political background to the events that led to the Brexit referendum of 2016 and to the UK's June 2017 general election; thereafter it illustrates certain problems posed by the threat of 'cliff-edges' arising as a consequence of a 'disorderly' UK exit from the European Union, finally it offers various possibilities concerning the future of private international law in the UK and in the EU. It is argued that if the beneficial aspects of the progress achieved for all European citizens by European private international law are to be salvaged from the Brexit process, both the UK and the EU must each consider most urgently the need for a realistic and undogmatic policy on the future of each other's private international law that reflects the political reality that, though the UK will soon be a third State relative to the EU27, many natural and legal persons will remain connected with the EU27 despite Brexit. It is argued that each side might usefully consider the unifying goals underlying private international law.*

**Giesela Rühl, '(Ex post) Evaluation of legislative actions in the European Union: the example of private international law', p. 433-461.**

*Over the last decades systematic ex post evaluations of legislative actions have become an integral part of the European law making process. The present article analyses the European Commission's evaluation practice in the field of private international law and offers recommendations for its improvement.*

**Thalia Kruger, 'Brussels IIa Recast moving forward', p. 462-476.**

*The Brussels IIa Regulation (EC 2201/2003) is currently subject to revision. This is a long and cumbersome process. The European Commission published its report on the Regulation's operation in April 2014 and its Proposal for a Recast in June 2016. The European Parliament and the Council are currently discussing the proposed amendments. In order for the Recast to be enacted, unanimity in the Council is required. This article discusses some of the issues currently on the table. These include children's rights, matters of jurisdiction and parallel proceedings in parental responsibility disputes, international child*

*abduction, the abolition of exequatur, the coordination with the 1996 Hague Child Protection Convention, mediation, and information on foreign law.*

**Tess Bens, ‘Grensoverschrijdend bewijsbeslag’, p. 477-494.**

*This article analyses whether the revised Brussels I Regulation (‘Recast’) allows the Dutch courts to order provisional measures intended to obtain or preserve evidence located in another Member State. Recital 25 of the Recast explicitly states that the notion of provisional measures includes these type of orders. The author discusses whether Dutch measures to preserve evidence qualify as provisional measures under the Recast. Possible substantive barriers to granting these measures, such as the Evidence Regulation and territorial limitations, are taken into account in making this assessment. The author further argues that there are – in principle – no obstacles for the Dutch courts to order provisional measures aimed at obtaining or preserving evidence located in another Member State. The problems seem to begin at the enforcement stage. To illustrate this point, the author discusses the possibility of coordinating the moment of serving the order and the moment of enforcing the measure in order to retain the element of surprise and the adaptation of the measure for enforcement in France and Germany. As yet there is not a clear answer as to how the enforcement of these kind of measures in a different Member State will function in practice. Moreover, the problems described equally apply to the enforcement of other provisional measures under the Recast and can be expected to give rise to more questions in the future.*

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## **24 November: unalex-Conference at the University of Innsbruck**

Readers of our blog will recall that Prof. Dr. Andreas Schwartz from the University of Innsbruck will host the final conference of the EU-project “unalex – multilingual information for the uniform interpretation of the instruments of

judicial cooperation in civil matters“ in Innsbruck on 24 November (see our earlier post).

The full and final programme (including information as regards registration and accommodation) is now available [here](#), [here](#), and [here](#).

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# Cuadernos de Derecho Transnacional vol. 9 (2)

*Cuadernos de Derecho Transnacional*, vol. 9, nr. 2, has just been released. *Cuadernos* is a bi-annual electronic law journal specialized in International Private Law, Uniform Law and Private Comparative Law, open to contributions in different languages. It is edited by the Private International Law Department of the University Carlos III, Madrid.

All contents can be freely downloaded. Here is the index of the section “Estudios”:

Miguel Gómez Jene, *El convenio arbitral: statu quo* (The arbitration agreement: statu quo)

Hilda Aguilar Grieder, *Problemas de Derecho Internacional Privado en la contratación de seguros: especial referencia a la reciente directiva (UE) 2016/97 sobre la distribución de seguros* (Private International Law problems of the international insurance contracts: the new directive (UE) 2016/1997 about distribution of insurance)

Isabel Antón Juárez, *La oposición del régimen económico matrimonial y la protección del tercero en Derecho Internacional Privado* (The opposition of the matrimonial property regime and the protection of the third party in Private International Law)

Ilaria Aquironi, *L’addebito della separazione nel diritto internazionale privato dell’Unione Europea* (Judicial decisions as to the causes of separation under EU private international law)

Naiara Arriola Echaniz, *La Unión Europea y la Organización Mundial del Comercio: comenzando un diálogo proto- constitucional* (The European Union and the World Trade Organization: a budding proto-constitutional dialogue)

Irene Blázquez Rodríguez, *Libre circulación de personas y Derecho Internacional Privado: un análisis a la luz de la jurisprudencia del Tribunal de Justicia de la Unión Europea* (Free movement of persons and International Private Law: an analysis in the light of the case law of the European Court of Justice)

María Asunción Cebrián Salvat, *La competencia judicial internacional residual en materia contractual en España* (The Spanish rules of residual jurisdiction in matters related to contract)

Silvia Pilar Badiola Coca, *Algunas consideraciones sobre el régimen de la responsabilidad civil del porteador en la legislación marítima de Emiratos Árabes Unidos* (Some considerations regarding the maritime carrier liability under the United Arab Emirates maritime law)

Clara Isabel Cordero Álvarez, *Incidencia de las normas imperativas en los contratos internacionales: especial referencia a las normas de terceros estados desde una aproximación europea* (Overriding mandatory provisions in international contracts: a special reference to foreign overriding mandatory provisions from a European approach)

Eva de Götzen, *Recognition of same-sex marriages, overcoming gender barriers in Italy and the Italian law no. 76/2016 on civil unions. First remarks* (Riconoscimento dei matrimoni omosessuali, superamento delle barriere di genere in Italia e legge n. 76/2016 sulle unioni civili. Prime riflessioni)

Carlos Manuel Díez Soto, *Algunas cuestiones a propósito del derecho de participación del autor de una obra de arte original sobre el precio de reventa (droit de suite)* (Some questions concerning the artist's resale right (droit de suite))

Dorothy Estrada Tanck, *Protección de las personas migrantes indocumentadas en España con arreglo al Derecho Internacional y Europeo de los derechos humanos* (Protection of undocumented migrant persons in Spain under international and European human rights law)

Ádám Fuglinszky, *Hungarian law and practice of civil partnerships with special regard to same-sex couples* (Das Ungarische Recht und praxis von lebenspartnerschaften mit besonderer rücksicht auf gleichgeschlechtliche pare)

Natividad Goñi Urriza, *El sometimiento de las adquisiciones minoritarias que no otorgan el control a las normas sobre el control de las concentraciones* (The control under merger rules of acquisitions of non-controlling minority shareholdings)

Luis Ignacio Gordillo Pérez, *El TJUE y el Derecho Internacional: la defensa de su propia autonomía como principio constitucional básico* (The CJEU and International Law: the defence of its own autonomy as a basic constitutional principle)

Thais Guerrero Padrón, *Sobre los funcionarios de la Unión Europea y su régimen de seguridad social: los tributos como cotizaciones sociales a efectos del TJUE* (Issues about officials of the European Union and its social security regime: taxes as social contributions to the effects of the CJEU)

Carlos María López Espadafor, *Lagunas en el Derecho Tributario de la Unión Europea* (Gaps in the tax law of the European Union)

Isabel Lorente Martínez, *Brexit y cláusulas de sumisión en los contratos internacionales* (Brexit and prorrogation clauses in international contracts)

Diana Marín Consarnau, *Las uniones registradas en España como beneficiarias del derecho de la UE a propósito de la Directiva 2004/38/CE y del Reglamento (UE) 2016/1104* (Spanish “registered partnerships” as beneficiaries of EU law according to the Directive 2004/38 (EC) and the Regulation (EU) 2016/1104)

Fabrizio Marongiu Buonaiuti, *La disciplina della giurisdizione nel Regolamento (UE) n. 2016/679 concernente il trattamento dei dati personali e il suo coordinamento con la disciplina contenuta nel regolamento “Bruxelles I-bis”* (Jurisdiction under Regulation (EU) no. 2016/679 concerning the processing of personal data and its coordination with the “Brussels I-bis” regulation)

Alfonso Ortega Giménez, *El fenómeno de la inmigración y el problema de los denominados “matrimonios de conveniencia” en España* (The phenomenon of immigration and the problem of the denominated “convenience marriages” in Spain)

Marta Requejo Isidro, *La protección del menor no acompañado solicitante de asilo: entre Estado competente y Estado responsable* (The protection of unaccompanied minors asylum-seekers: between competent state and responsible state)

Mercedes Sánchez Ruiz, *La regulación europea actual sobre emplazamiento de producto y la propuesta de reforma de la directiva de servicios de comunicación audiovisual* (The current European rules governing product placement and the new legislative proposal amending the audiovisual media services directive)

Stella Solernou Sanz, *Los límites a la autonomía privada en el marco del contrato de transporte de mercancías por carretera* (Limits on private autonomy in the framework of the contract for carriage of goods by road)

Lenka Válková, *The interplay between jurisdictional rules established in the EU legal instruments in the field of family law: testing functionality through simultaneous application with domestic law* (L'interazione tra le regole di giurisdizione all'interno degli strumenti giuridici dell'UE nell'ambito del diritto di famiglia: la prova del funzionamento attraverso l'applicazione simultanea del diritto nazionale)

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# **Out Now: The Nature and Enforcement of Choice of Court**

# Agreements - A Comparative Study - By Mukarrum Ahmed


This intriguing book examines the fundamental juridical nature, classification and enforcement of choice of court agreements in international commercial litigation. It integrates the comparative and doctrinal analysis of choice of court agreements under the Brussels I Recast Regulation, the Hague Convention on Choice of Court Agreements ('Hague Convention') and the English common law jurisdictional regime into a theoretical framework. In this regard, the book analyses the impact of a multilateral and regulatory conception of private international law on the private law enforcement of choice of court agreements before the English courts – highly recommendable for all who are interested in choice of court agreements!

For more information see [here](#).

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## **Book: Marrella, “Manuale di diritto del commercio internazionale”**

Prof. *Fabrizio Marrella*, Chair of International Law (“Cà Foscari” University of Venice & LUISS University of Rome) has recently published “Manuale di diritto del commercio internazionale” (CEDAM, 2017). A presentation has been kindly provided by the author (the complete TOC is available on the publisher’s website):

*Following the success of previous publication by the same Author, this book provides the first University textbook of International Business Law in Italian designed to introduce students and practitioners to this fundamental field of law. It classifies different sources of law affecting transnational business* 

*operations according to their origin and legal system (National – i.e. Italian, European Union, Intergovernmental and non national – i.e. new lex mercatoria and the Unidroit Principles for international Commercial Contracts, as well as identifies the different actors in the field (companies, States, Intergovernmental Organizations, Non Governmental Organizations).*

*In such a framework, rules of International Economic Law (from WTO to the new EU Customs Code, from economic treaties to embargos) provides the setting into which the core contract are operational. Thus, the main perspective of the book is that of Private International Law by which different rules are applied according to their sphere of application. Among the topics discussed, there are the main transnational business contracts (i.e. sales, transport, payment methods, insurance, agency and distribution contracts, intellectual property, trade finance, bank guarantees, foreign direct investments) and the most prominent dispute resolution mechanisms such as Arbitration and ADRs.*

*The book takes into proper account, inter alia, the Unidroit Principles for International Commercial Contracts 2016; EU Regulation n. 1215/2012 (Regulation Brussels Ia) and the new ICC Arbitration Rules 2017.*

Title: F. Marrella, “Manuale di diritto del commercio internazionale”, Padua, CEDAM, 2017.

ISBN: 978-88-13-36293-5. Price: EUR 55. Pages: XXXII-800. Available at CEDAM.

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## **HCCH internship applications for the March-May 2018 period are now open**

Internship applications at the Permanent Bureau of the Hague Conference on


Private International Law (HCCH – Hague office) are now open for the March-May 2018 period and will close at midnight (Central European Time) on Friday 1st December 2017.

The duration of the internship will be two to three months. Applications must comply with the requirements set out in the following link: <https://www.hcch.net/en/recruitment/internships>.

Internships offered by the HCCH are not remunerated.

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## Conflict of Laws.net selected as one of the “Top 100 UK Law Blogs”

We are pleased to report that Conflict of Laws.net has recently been selected as one of the **Top 100 UK Law Blogs** on the web. As you can see here, we have been ranked 33th. 

We thank all our editors and contributors for their commitment and, of course, our readers who have made this success possible.