Conflictoflaws.net is back!

We're very sorry for our disappearance over the last week or so, and we're grateful to those of you who alerted members of our team to the problems in accessing the site. As it transpired, the problem was quite a serious one, and it has involved a great deal of fuss and bother to resolve it. But we are now back, and we're back for good.

Those technical problems, however, have also highlighted the need for conflictoflaws.net to be cared for properly, which I no longer have the time to do. I created this website back in April 2006, with the simple aim of keeping up-to-date on a large and complex subject that I was researching as a postgrad. Since then, the site has grown beyond all measure, and that really is down to the core of committed scholars who keep the content interesting and useful for us all. It is time that we allowed other colleagues to steer the future of this website, and take it forward into the next decade. I'm very pleased to say that Giesela Rühl and Matthias Weller have offered to take on that responsibility, and I wish them every success. I shall be cheering them on from the sidelines as, like all of you, I will remain an avid reader of conflictoflaws.net.

All the best, Martin George

Coming soon: "Conflict of Laws – A Comparative Approach" by Gilles Cuniberti

Professor *Gilles Cuniberti* (University of Luxembourg) has authored a casebook entitled "Conflict of Laws – A Comparative Approach" which will be released this month by Edward Elgar Publishing.

The official abstract kindly provided by the publisher reads as follows:

> “The Conflict of Laws, also known as private international law, is a field of the greatest importance in an increasingly globalized world. The analysis of any legal issue, in a case involving more than one country, must start with an assessment of which court could potentially hear the case and which law it would apply.
>
> Contrary to other manuals or casebooks, which focus on the law of one jurisdiction, this innovative casebook offers a comparative treatment of the field. On each issue, materials from several jurisdictions are discussed and compared. The approach centers on comprehending the common principles of the field, but also highlights the fundamental differences. The goal is to train lawyers who not only will know the law of their own jurisdiction, but also will have an understanding of the key differences existing between the main models, and will thus be able to interact usefully with clients from other jurisdictions.
>
> This casebook systematically presents and compares the laws of four jurisdictions: the United States, the European Union, France and England (where left untouched by EU harmonization). It offers additional insight into rules applicable in China and Japan and also discusses remarkable solutions adopted in a wide range of jurisdictions such as Italy, Germany, the Netherlands, Canada and Tunisia. All materials from non-English speaking jurisdictions have been translated into English.
>
> Key features of the casebook:
> • written by a leading authority in the field
> • carefully selected extracts from primary and secondary sources build a clear picture of the field
> • expert analytical commentary and questions set the extracts in context
> • US, EU, French and English perspectives integrated throughout the text to ensure maximum relevance and encourage students to make comparative assessments
> • numerous references to Chinese and Japanese solutions
> • leads students through the field from beginning to end
> • perfectly pitched for international students and courses with a global outlook.”

Further information, including a table of contents, is available on the publisher's website.

FOREIGN DIRECT INVESTMENT & THE RULE OF LAW: Call for proposals

CALL FOR PROPOSALS FOR A SPECIAL ISSUE OF *ACTA JURIDICA*

The *Acta Juridica* invites proposals for its special issue: Foreign Direct Investment (FDI) & The Rule of Law. Contributors will be invited to attend a Colloquium to be held in **Cape Town** on **27 & 28 July 2017** where the research and findings will be presented with the objectives of determining the common and overlapping themes in linking FDI and the Rule of Law in specific areas of law. It is proposed that the outcomes of the colloquium be published in the 2018 Acta Juridica, to be edited by Debbie Collier, Tracy Gutuza and Silindile Buthelezi of the University of Cape Town.

Following the colloquium the contributors will submit the final papers (maximum of 5000 words) to the editors by **02 October 2017**. We are accepting **proposals in the form of 500-750 word abstracts**. The editors will prepare an introductory chapter and if necessary, commission articles to address specific issues. All the papers will be subjected to a double blind peer review process, overseen by the editors. It is expected that the finalised text would be submitted by **November 2017**.

Submission and Review Timeline

- Proposals including tentative contributor list due **03 March 2017**.
- Contributors will be contacted with final determination about submissions by **03 April 2017**.
- First draft manuscripts submissions are due **30 June 2017**.

- Colloquium to be held **27 & 28 July 2017** at the University of Cape Town, South Africa.
- Final draft manuscript submissions are due **02 October 2017**.

The *Acta Juridica* is an annual thematic journal published by Juta Law in conjunction with the Faculty of Law of the University of Cape Town. It is a peer reviewed and edited journal.

In the context of the need to grow the South African economy, the role of, and the need for, FDI as a source of capital and a contributor to economic growth is both acknowledged and contested. A recent collaborative study on the link between FDI and the Rule of Law by, among others, the Bingham Centre for the Rule of Law and the British Institute of International and Comparative Law indicated that the Rule of Law is an important factor in the decision by corporate investors to undertake investment in a foreign jurisdiction. While the above study considered the role of the Rule of Law across a number of jurisdictions, we propose a consideration in the context of FDI in Africa, with a particular emphasis on South Africa and South African Law, in particular the impact of the Constitution, the legal framework for FDI, and related areas of law including, but not limited to, labour law, tax law, intellectual property law, technology law, international trade law, company law/corporate governance, and competition law. These themes will include the strategic and policy considerations of the particular areas in relation to FDI, the impact of the chosen policy and legislative framework on FDI, the administrative aspects (procedure) of implementing the policy and legislative framework and the impact of FDI.

It is envisaged that the colloquium will consist of three themes: **1. FDI & Economic Growth: Theoretical Perspectives; 2. FDI: International law & Investment Treaties; 3. FDI and the Regulatory Framework in South Africa.** Within these themes, we envisage the following topics (but other proposals are also welcome):

1.What is FDI and when is it desirable?

2.FDI in Africa

3.The link between FDI, the Rule of Law and Economic Development in Economic Theory

4.Bilateral Investment Treaties and FDI relationship through econometric studies: why doinvestors decide to invest

5.International Law protection of foreign investments

6.FDI and Tax Law

7.FDI and Employment Law/Labour standards

8.FDI and Intellectual Property

9.FDI and the Transfer of Technology

10.FDI and Corporate Governance

11.FDI and Regional Development

12.FDI and Transfer Pricing

13.FDI and Competition Law

14.The link between FDI, the Bilateral Investment Treaties and the financial services industry

Proposals should be submitted to the special issue editors: Debbie Collier (debbie.collier@uct.ac.za), Tracy Gutuza (tracy.gutuza@uct.ac.za) or Silindile Buthelezi (silindile.buthelezi@uct.ac.za).

Eleventh José María Cervelló Business Law Prize – Essays on Brexit

The José María Cervelló Chair of IE Law School and the ONTIER law firm announce the “Eleventh José María Cervelló Busines Law Prize”.

The main purpose of the Prize is to promote legal study and research, and to facilitate access to the LLM courses of IE Law School for people who do not have the necessary financial resources.

The prize consists of the award of € 30,000 as follows:
€ 10,000 will be given to the author of the winning essay.
€ 20,000 will be assigned to the José María Cervelló Chair to be applied to its scholarship programme for the study of legal or tax courses at IE Law School.
Up to a maximum of two runner-up awards may be given to essays of sufficient quality to merit that distinction.

The subject of the essays opting for the "Eleventh José María Cervelló Business Law Prize" is: "Brexit: Legal consequences of the departure of the United Kingdom from the EU for businesses. Legal framework of the withdrawal and new Legal Framework, special reference to the problems of transitory law in respect of contracts, corporate operations and litigation"

All essays must be original, unpublished works written in Spanish or English. The length is a minimum of 25 and a maximum of 35 pages. The closing date for entries is **Monday 8th May 2017 at 23:59 p.m. (Madrid, Spain time)**. The award ceremony will take place in June or July 2017, at IE Law School. All participants will be notified in due course.

All persons or Spanish or foreign nationality who are graduates in Law, holding either a pre-Bologna "licenciatura" qualification or a degree (grado) may take part.

For further details (members of the jury; essay format; presentation) click here: Cervello Prize on Brexit

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BILETA 2017 Call for Papers

Dr. Anabela Susana de Sousa Gonçalves, Assistant Professor at the University of Minho, has provided this piece of information to be shared with CoL readers.

BILETA stands for British and Irish Law Education and Technology Association.

The Law School of the University of Minho (Braga, Portugal) will be hosting the BILETA Annual Conference, held from Thursday 20th to Friday 21st of April 2017.

The theme of the conference is: International perspectives on emerging challenges in Law, Technology and Education.

Keynote speakers will be:

- Professor Joe Cannataci: UN Special Rapporteur on the right to privacy
- Professor Jose-Luis Pinar: Professor of Administrative Law, CEU University of Madrid. Former Director of the Spanish Data Protection Agency (2002-2007). Former Vice-Chairman of the European Group of Data Protection Commissioners (Art. 29 Working Party Data Protection) (2003-2007)
- Professor Burkhard Schafer: Professor of Computational Legal Theory, The University of Edinburgh

In relation to this conference postgraduate students have the opportunity to enter two postgrad competitions. To do so they need to submit a *full paper* (6-10,000 words) by the deadline of the 31st of March. Three papers will be chosen to compete for the Google award, which will involve defending the work in a session at the conference and a public vote. The remaining papers will go forward for the BILETA award, to be selected by the BILETA Exec. Please indicate on submission of the abstract whether you aim to enter the competitions.

Abstracts of around 400-500 words are welcome on any area relating to the conference theme, with key areas including:

- Society, Business and Data Protection
- Intellectual Property Rights in the Information Society
- International challenges in IT regulation
- Private International Law solutions for the emerging challenges in Law and Technology
- E-commerce
- Public policies and governance in ICT Law
- Dispute resolution and management in virtual environments
- Technology and criminal investigation

- New technological platforms and education in law
- Smart environments in educational contexts
- Smart cities: ethical and legal challenges
- Multicultural Societies, Integration and ICT Law

The deadline for submission of abstracts has been extended to Friday **the 17th of February 2017. Abstracts should be emailed to: bileta2017@gmail.com**

Please contact Catherine Easton c.easton@lancaster.ac.uk if you have any general queries about the conference.

In addition, BILETA 2017 will feature special panels such as a discussion on the impact of Brexit on the development of UK and EU Information Technology Law

For travelling, accommodation and further relevant details please click here.

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24 February: Unalex conference on Open Issues in EU Private International Law

On Friday, 24 February 2017, the research project "unalex – multilingual information for the uniform interpretation of the instruments of judicial cooperation in civil matters" is organizing a workshop on European International Family Law under the title

"European Open Issues in Private International Law:

Matrimonial and Maintenance Law"

at the University of Genoa.

The unalex project is aimed at the expansion of a multilingual international source

of literature on legal instruments of EU law and of international uniform law. It is based on the already existing unalex portal (http://www.unalex.eu/), a legal information system on European and international uniform law, containing a well equipped collection of international case law, structured *Compendia* and a large number of additional materials.

During the workshop *„unalex open issues“* shall be discussed as a new instrument, stimulating a scientific debate on controversial opinions from different legal systems. In addition the concept of an *Encyclopedia of European family law* will be presented, serving to document relevant legal texts of different Member States.

A primary goal of the unalex project is to interest and to win authors from different European legal systems to create *Compendia* and commentaries and to form a network of authors.

Registration for the conference is possible by sending an e-mail to francesca.maoli@edu.unige.it.

Praxis des Internationalen Privat- und Verfahrensrechts (IPRax) 1/2017: Abstracts

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

H.-P. Mansel/K. Thorn/R. Wagner: **European conflict of laws 2016: Brexit ante portas!**
The article provides an overview of developments in Brussels in the field of judicial cooperation in civil and commercial matters from December 2015 until November 2016. It summarizes current projects and new instruments that are presently making their way through the EU legislative process. It also refers to

the laws enacted at the national level in Germany as a result of new European instruments. Furthermore, the authors look at areas of law where the EU has made use of its external competence. They discuss both important decisions and pending cases before the ECJ as well as important decisions from German courts pertaining to the subject matter of the article. In addition, the article also looks at current projects and the latest developments at the Hague Conference of Private International Law.

P. Mankowski: **Modern Types of Migration in Private International Law**
Migration has become a ubiquitous phenomenon in modern times. Modern immigration law has developed a plethora of possible reactions and has established many different types of migrants. Private international law has to respond to these developments. The decisive watershed is as to whether a migrant has acquired refugee status under the Geneva Refugees Conventions. If so, domicile substitutes for nationality. A mere petition for asylum does not trigger this. But subsidiary protection as an equivalent status introduced by EU asylum law must be placed on equal footing. Where habitual residence is at stake, it does matter whether a residence has been acquired legally or illegally under the auspices of immigration law. Yet for judging whether a habitual residence exists, the extension of permits might be a factor.

C. Mäsch/B. Gausing/M. Peters: **Pseudo-foreign Ltd., PLC and LLP: Limited in liability or rather in longevity? – The Brexit's impact on English corporations having their central administration in Germany**
On 23rd of June 2016, the people of the United Kingdom voted in a referendum against the UK staying in the European Union. If, as can be expected, the withdrawal negotiations under Art. 50 of the EU Treaty will not address the issue of pseudo-English corporations operating in the remaining Member States of the EU, the Brexit will have severe consequences for companies incorporated under English law (e.g. a Ltd., PLC or LLP) having their central administrative seat in Germany. No longer protected by the freedom of establishment within the EU (Art. 49, 54 TFEU) these legal entities will be under German PIL and the so-called Sitztheorie subjected to domestic German company law. They will thus be considered simple partnership companies (German GbR or OHG), losing from one day to the next i.a. their limited liability status – an unexpected and unjustified windfall profit for creditors, a severe blow for the company shareholders. In this paper it will be argued that the outcome can and indeed should be rectified by

resorting to the legal rationale of Art. 7 para 2 EGBGB (Introductory Act to the German Civil Code). This provision preserves the legal capacity of a natural person irrespectively of whether a change in the applicable law stipulates otherwise. Extending that concept to legal entities will create a "grace period" with a fixed duration of three years during which the English law continues to apply to a "German" Ltd., PLC or LLP, giving the shareholders time to decide whether to transform or re-establish their company.

L. Rademacher: **Codification of the Private International Law of Agency – On the Draft Bill Submitted by the Federal Ministry of Justice**

Based on a resolution adopted by the German Council for Private International Law, the German Federal Ministry of Justice and Consumer Protection has submitted a bill to amend the Introductory Act to the German Civil Code (EGBGB) in the to date uncodified area of agency in private international law. This paper provides an overview of the proposed Art. 8 EGBGB and identifies questions of interpretation as well as remaining gaps. The draft provision applies to agents who were authorized by the principal, i.e. neither to statutory agents nor to representatives under company law. The proposal strengthens party autonomy by allowing a choice of law. Absent a choice of law, the applicable law is determined by objective criteria depending on the type of agent. The respective connecting factors, such as the agent's or principal's habitual residence, require perceptibility for the third party. If these requirements are not met, the applicable law residually is determined by the identifiable place of the agent's acts or by the principal's habitual residence. For the most part, the proposal can be characterized as a restatement of previous case law and academic writing.

H. Roth: **Rule and exceptions regarding the review of the European Order of Payment in exceptional cases according to art.20 par. 2 of Reg. (EC) 1896/2006**

According to Art. 20 para. 2 of Reg. (EC) 1896/2006, the European Order of Payment can be reviewed in exceptional cases. This additional legal remedy is only applicable in exceptional cases such as collusion or other malicious use of process. It is not sufficient that the defendant would have been able to detect misrepresentations by the claimant.

M. Pika/M.-P. Weller: **Private Divorces and European Private International Law**

Whilst substantive German family law requires a divorce to be declared in court,

the instant case addresses the effect of a private divorce previously undertaken in Latakia (Arabic Republic of Syria) under Syrian law. Although, from a German perspective, the Syrian Sharia Court's holding has been merely declaratory, the European Court of Justice considered its effect before German courts to be a matter of recognition. Accordingly, it rejected the admissibility of the questions referred to the Court concerning the Rome III Regulation. This ruling indicates the unexpected albeit preferable *obiter dictum* that the Brussels II bis Regulation applies on declaratory decisions concerning private divorces issued by Member States' authorities. Subsequently, the Higher Regional Court Munich initiated a further, almost identical preliminary ruling concerning the Rome III Regulation. However, the key difference is that it now considered the Regulation to be adopted into national law.

A. Spickhoff: **Fraudulent Inducements to Contract in the System of Jurisdiction – Classification of (contractual or legal) basis of claims and accessory jurisdiction**

Manipulation of mileage and concealment of accidental damage belong to the classics of car law and indicate a fraud. But is it possible to qualify a fraudulent misrepresentation in this context as a question of tort with the meaning of art. 7 no. 2 Brussels I Regulation (recast)? German courts deny that with respect to decisions of the European Court of Justice. The author criticizes this rejection.

K. Siehr: **In the Labyrinth of European Private International Law. Recognition and Enforcement of a Foreign Decision on Parental Responsibility without Appointment of a Guardian of the Child Abroad**

A Hungarian woman and a German man got married. In 2010 a child was born. Two years later the marriage broke down and divorce proceedings were instituted by the wife in Hungary. The couple signed an agreement according to which the child should live with the mother and the father had visitation rights until the final divorce decree had been handed down and the right of custody had to be determined by the court. The father wrongfully retained the child in Germany after having exercised his visitation rights. The mother turned to a court in Hungary which, by provisional measures, decided that rights of custody should be exclusively exercised by the mother and the father had to return the child to Hungary. German courts of three instances recognized and enforced the Hungarian decree to return the child according to Art. 23 and 31 (2) Brussels IIbis-Regulation. The *Bundesgerichtshof* (BGH) as the final instance decided that

the Hungarian court had jurisdiction under Art. 8–14 Brussels IIbis-Regulation and did not apply national remedies under Art. 20 Brussels IIbis-Regulation. In German law, the hearing of the child was neither necessary nor possible and therefore the Hungarian return order did not violate German public policy under Art. 23 (a) or (b) Brussels IIbis-Regulation.

H. Dörner: **Better too late than never – The classification of § 1371 Sect. 1 German Civil Code as relating to matrimonial property in German and European Private International Law**

After more than 40 years of discussion the German Federal Supreme Court finally (and rightly so) has classified § 1371 Sect. 1 of the German Civil Code as relating to matrimonial property. However, the judgment came too late as the European Succession Regulation No 650/2012 OJ 2012 L 201/07 started to apply on 17 August 2015 thus reopening the question of classification in a new context. The author argues that a matrimonial property classification of § 1371 Sect. 1 German Civil Code under European rules is still appropriate. He discusses two problems of assimilation resulting from such a classification considering how the instrument of assimilation has to be handled after the regulation came into force. Furthermore, he points out that a matrimonial property classification creates a set of new problems which have to be solved in the near future (e.g. documentation of the surviving spouse's share in the European Certificate of Succession, application of different matrimonial property regimes depending of the Member state in question).

H. Buxbaum: **RICO's Extraterritorial Application: RJR Nabisco, Inc. v. European Community**

In 2000, the European Community filed a lawsuit against RJR Nabisco (RJR) in U.S. federal court, alleging violations of the Racketeer Influenced and Corrupt Organizations Act (RICO). After more than fifteen years and a number of intermediate judicial decisions, the litigation came to its likely close in 2016 with the U.S. Supreme Court's ruling in *RJR Nabisco, Inc.* v. *European Community*. The Court held that RICO's private cause of action does not extend to claims based on injuries suffered outside the United States, denying the European Community any recovery. The case was the third in recent years in which the Supreme Court applied the "presumption against extraterritoriality," a tool of statutory interpretation, to determine the geographic reach of a U.S. federal law. Together, these opinions have effected a shift in the Court's jurisprudence toward

more expansive application of the presumption – a shift whose effect is to constrain quite significantly the application of U.S. regulatory law in cross-border cases. The Court's opinion in RJR proceeds in two parts. The first addresses the geographic scope of RICO's substantive provisions, analyzing whether the statute's prohibition of certain forms of conduct applies to acts occurring outside the United States. The second addresses the private cause of action created by the statute, asking whether it permits a plaintiff to recover compensation for injury suffered outside the United States. After beginning with a brief overview of the lawsuit, this essay discusses each of these parts in turn.

T. Lutzi: **Special Jurisdiction in Matters Relating to Individual Contracts of Employment and Tort for Cases of Unlawful Enticement of Customers**
A claim brought against two former employees, who had allegedly misappropriated customer data of the claimant, and against a competitor, who had allegedly used said data to entice some of the claimant's customers, provided the Austrian *Oberster Gerichtshof* with an opportunity to interpret the rules on special jurisdiction for matters relating to individual contracts of employment in Art. 18–21 of the Brussels I Regulation (Art. 20–23 of the recast) and for matters relating to tort in Art. 5 No. 3 of the Brussels I Regulation (Art. 7 (2) of the recast). Regarding the former, the court defined the scope of Art. 18–21 by applying the formula developed by the European Court of Justice in *Brogsitter* concerning the distinction between Art. 5 No. 1 and 3 (Art. 7 (1) and (2) of the recast); regarding the latter, the court allowed the claim to be brought at the claimant's seat as this was the place where their capacity to do business was impaired. Both decisions should be welcomed.

Vacancies: 2 PhD Positions at the University of Jena

Professor Dr. Giesela Rühl, University of Jena, is seeking to fill two positions as PhD students/research assistants (Wissenschaftliche Mitarbeiter) as of 1 May/1 June 2017.

Successful candidates should hold a first law degree (ideally, but not necessarily: First German State Examination) ranking in the top 10-15 % and be interested in the international dimensions of private law, in particular private international and/or European private law. A good command of German and English (spoken and written) is expected. Moot Court experience is very welcome.

The positions are half-time (50%) and will be paid according to salary scale E-13 TV-L. They will initially run for three years, with an option to renew. Responsibilities include the support of Professor Rühl in research and teaching as well a independent teaching obligations (2 hours per week during term time).

The University of Jena is an equal opportunity employer. Applications from qualified women are particularly welcome. Candidates with disabilities will b given preference in case of equal qualification.

If you are interested in this position, please send your application (cover letter, cv, relevant documents, notably copy of law degree) to Regina Franzl (r.franzl@recht.uni-jena.de) by March 1, 2017.

More detailed information is available here.

Revista Española de Derecho Internacional 2017-1

The new issue of the Revista Española de Derecho Internacional, *RED*I, has just been released both in digital and printed form. It includes the following PIL articles:

Santiago Álvarez González, *What Conflict Rule Should Be Adopted To Determine The Law Applicable To Preliminary Questions On Which The Succession May Depend?*

> Abstract: This paper deals with the classic topic of «incidental or preliminary question» in the conflicts of laws. The start point is the question nº 13 of the

Green Paper Succession and wills. There is no consensus on the answer to the incidental question- which is understandable, as this is indeed the begin of every theoretical problem. However, there is no consensus either around the concept of incidental question. And this is something that precludes any proper discussion. As a way out the author proposes to reject the theory (rectius: the theories) of the preliminary question and to adopt a case by case approach. This *ad hoc* approach is based, among other, upon the multiple rules and exceptions (many of them very reasonable) proposed by authors, especially in German doctrine. In some cases «recognition» (and not conflicts of laws) can be the most appropriate approach; in others any one of the classic proposals (…) will provide with the better answer, depending on the circumstances and the most preponderant interest involved; it is also possible to avoid the problem through a proper «characterization» of the situation. The main shortcoming of this proposal – the fact that it puts legal certainty at a risk- is a fully manageable one; and in any case it is a proposal not weaker than the current heterogeneous scenario.

Rafael Arenas García, *The European Legislator And The Private International Law Of Companies In The EU*

Abstract: Luxembourg Court's case law has shown that the freedom of establishment granted by the EU law affects not only the substantive company law of the Member States, but also the conflict of laws rules in matters relating to companies. In the absence of secondary legislation relating to the law governing companies in the EU, and in order to improve legal certainty it would be desirable that the European legislator draw up rules aimed to determine which will be the lex societatis governing companies incorporated in EU countries. This regulation should also concretize the matters ruled by this lex societatis and the change of the lex societatis as a result of the transfer of the registered office of the company. Among the subjects covered by this regulation it should necessarily be included the company's legal capacity and the directors' liability. It would be also necessary to delimitate the scope of the specific corporate regulation and that relating with insolvency proceedings.

Pedro de Miguel Asensio, *Jurisdiction And Applicable Law In The New Eu General Data Protection Regulation*

Abstract: The new EU General Data Protection Regulation brings about a deep transformation of the previous legal framework based on the mere approximation of laws. As regards the cross-border dimension, it amends the territorial scope of application of EU data protection law to clarify that it covers the processing of data of subjects who are in the Union by a controller or a processor not established in the Union where the processing activities are related to offering goods or services to such data subjects. This article discusses the rationale that supports the new approach and the relevant criteria for its interpretation. Unlike the previous regime, the provisions of the Regulation on its territorial scope do not determine the competent national supervisory authority. The Regulation includes specific provisions on the distribution of competences between the supervisory authorities of the Member States with regard to cross-border situations. Such rules play also an important role concerning the right to a judicial remedy against a supervisory authority. Additionally, new special jurisdiction rules are established concerning private claims by data subjects against a controller or processor as a result of the infringement of the rights granted to them by the Regulation. Such rules are of special significance with respect to the right to compensation where a damage results from an infringement of the Data Protection Regulation. One of the main objectives of this article is to clarify the issues raised by the relationship of the new special rules on jurisdiction and related proceedings with other provisions, such as those of the Brussels I (Recast) Regulation. The shortcomings of EU conflict rules in the area of private enforcement of data protection law and the interplay between the new Regulation and the general EU framework on conflict of laws are also discussed.

Fernando Esteban de la Rosa, *Consumer Complaints' Regime In The New European Law On Alternative And Online Consumer Dispute Resolution*

Abstract: The global nature of online consumer trade has given rise to new strategies guaranteeing consumer rights, such as enabling online dispute resolution. The new European law, namely Directive 2013/11/EU and Regulation 524/2013/EU, has boosted regional acceptance of this trend. The present study analyses the impact of the new European legislation on the system of private international law. The study reveals, on the one hand, the need to make systematic adjustments in order to achieve a spatial scope of

application for the principle of liberty according with the EU legislator´s intention, to devoid the interpretation excluding the reference to foreign consumer arbitration or to integrate some regulatory gaps inherent to the newly established system. On the other hand, it focuses on the need to verify whether the current regime complies with the requirements derived from the recognition of the right proclaimed by art. 47 ECFR and art. 19 TEU. In this perspective the study contains de lege ferenda solutions intertwined with the peculiarities of the online management of cross-border claims via the European platform.

Elena Rodríguez Pineau, *Regulation Brussels IIbis Recast: Reflections On The Role Of European Private International Law*

Abstract: Ten years after the Regulation (EC) 2201/2003 entered into force, and bearing in mind the jurisprudence of the European Court of Justice on the Regulation, the Commission believes that the time is ripe for a Regulation recast. Thus, in 2016 the Commission has presented its proposal. The text identifies six basic problems that are deemed to be in need of a thorough revision: international child abduction, the disposal of exequatur, the enforcement of foreign decisions, cooperation between authorities, cross-border placement of children and the hearing of the child. As the proposal highlights, the recast would aim at better protecting the best interest of the child. However, many of the new rules included entail direct harmonisation of procedural rules of Member States, which will result in a deeper integration that will foster the principles of mutual recognition and mutual trust among Member States. This article deals with the novelties of the Brussels II recast (both as to the six items previously identified as well as other new elements of the Regulation) and tackles the tension between the protection of the best interest of the child and the reinforcement of the principle of mutual recognition in the European area of civil justice.

All papers are in Spanish. The whole summary (thus Public International Law papers, contributions to the *Foro* and a selection of recently published books with a critical comment) can be downloaded here.

Call for Participation in a Questionnaire on Dispute Resolution Clauses

Guest post by Maryam Salehijam:

There is a lack of clarity regarding the obligations that arise from dispute resolution agreements with a mediation/conciliation component. In order to reduce this uncertainty, a chapter of the BOF funded PhD research of Maryam Salehijam (supervisor: Professor Maud Piers) from the Transnational Law Center at the University of Ghent focuses on the question "What are the parties' obligation under an ADR agreement?" To answer this question, the research is divided into two stages, the first stage involves a questionnaire that assesses the familiarity of legal professionals –including lawyers and third-party neutrals- in selected jurisdictions* with dispute resolution clauses calling for non-binding ADR mechanisms such as mediation/conciliation. Moreover, the questionnaire provides willing participants the opportunity to copy and paste a model or previously utilized dispute resolution clause. In the second stage, the clauses gathered as well as clauses extracted from other sources will be content coded using the software NVivo in order to determine which obligations tend to be reoccurring in the majority of the clauses under analysis.

The questionnaire targets individuals who have experience with commercial dispute resolution. The participation in the short questionnaire will require minimum effort, as most questions only require a simple mouse-click. Please note that the information entered in the survey is kept anonymous unless indicated to the contrary by the participants. Moreover, as the analysis takes place on an aggregated level, the findings will not disclose personally identifiable information. Accordingly, the information provided will only serve scientific purposes.

To complete the questionnaire, please click on the following link:**http://lawsurv.ugent.be/limesurvey/index.php/678366?lang=en** (closing date 29th of April 2017).

Thank you for taking this request into consideration.

**Austria, Australia, England & Wales, Germany, Singapore, the Netherlands, and the United States*