Reminder: Registration deadline for young scholars‘ PIL conference in Bonn

The following reminder has been kindly provided by Dr. Susanne L. Gössl. LL.M. (Tulane), University of Bonn.

This is a short reminder that the registration deadline for the first German young scholars‘ PIL conference on April 6th and 7th 2017 at the University of Bonn (see our previous post here) is approaching.

The conference will be held in German. Its general topic is “Politics and Private International Law”.

Professor Dagmar Coester-Waltjen has kindly agreed to deliver our conference’s opening address. Consolidated in four panels with the topics “Arbitration”, “Procedural Law and Conflict of Laws/Substantial Law”, “Protection of Individual Rights and Conflict of Laws” and “Public Law and Conflict of Laws”, a total of eight presentations and one responsio will address current aspects of the relationship between politics and PIL and invite further discussion.

Participation is free, but a registration is required.

The registration deadline is **February 28th 2017**.

In order to register for the conference, please use this link. Please be aware that the number of participants is limited.

Further information may be found here.

We are looking forward to welcoming many participants to a lively and thought-provoking conference!

Positions Helsinki University

Helsinki University has four open positions for assistant/associate professors and professors, in the area of Law and Digitalization; Law and Globalisation; Transnational European Law and Russian law and administration.

More information is available here.

Comparative Contract Law (a European and Transnational Perspective), 3rd edition

Seven years after the first edition, the third and complete edition of this book edited by Prof. Sixto Sánchez Lorenzo (University of Granada) and published by Thomson-Reuters/Aranzadi has finally been released- the actual date is December 2016.

In two volumes (around 2500 pages, in Spanish) this huge academic work, gathering 24 authors of 51 chapters, provides for a complete analysis of legal families, sources, formation, content, interpretation, performance and breach of contract from a comparative perspective. General and singular aspects of contracts, emphasizing convergences and divergences between national legal systems and their impact in international trade, are dealt with therein. International texts, such as CISG, DCFR, PECL, UNIDROIT and OHADAC Principles are also analyzed in each chapter.

ISBN: 9788491359258

Click here to access the summary.

Reminder: Brexit means Brexit, Seminar in London 26 January

This is a reminder of the Seminar on Brexit and Private International Law at King's College London on 26 January 2017.

The seminar will discuss the risks which Brexit poses for the UK as a centre for dispute resolution of civil and commercial disputes, with particular reference to Jurisdiction/Enforcement; Applicable law; Procedure; and Cross-border Insolvency law.

The Chair is Professor Jonathan Harris QC.

Speakers are:

Sir Richard Aikens: Brick Court Chambers and King's College London

Alexander Layton QC: 20 Essex Street Chambers and King's College London

Dr Manuel Penades Fons: King's College London

It will take place at King's College London – Strand Campus at 6.30 p.m.

For registration and more information, see here.

Rome I Regulation – Magnus/Mankowski Commentary

The advance of the English language article-of-article commentary gathers ever more momentum. The series of European Commentaries on Private International Law (ECPIL), edited by Ulrich Magnus and Peter Mankowski, welcomes the publication of its second volume addressing the Rome I Regulation. It assembles a team of prominent authors from all over Europe. The result is the by far most voluminous English language commentary on the Rome I Regulation, the prime pillar of European private international law and the fundament of cross-border trade with Europe. Its attitude is to aspire at leaving virtually no question unanswered. Parties' choice of law, the tangles of objective connections under Art. 4, consumer contracts, employment contracts, insurance contracts, form and all the other topics of the Rome I Regulation attract the in-depth analysis they truly deserve.

Private International Law: Embracing Diversity (updated)

There is just a month to go for the *Private International Law: Embracing Diversity* event taking place in Edinburgh, organized by the University in cooperation with several other institutions from the UK and abroad. The updated program of this one-day meeting of PIL experts can be downloaded here. Please remember the venue (St. Trinnean's Room, St. Leonard's Hall – University of Edinburgh, EH16 5AY), and also that registration is required at www.law.ed.ac.uk/events (attendance fee: £40.00 per attendee).

Kind Reminder on the EAPO

My colleague Adriani Dori (MPI Luxembourg) kindly reminded me today: the EU Regulation 655/2014 is applicable from Wednesday 18. I thought it worth recalling here as well.

Monograph on Intellectual Property Rights and Applicable Law, by Javier Maseda Rodríguez

It is my pleasure to give notice of a recently published monograph of my colleague Dr. Javier Maseda Rodríguez (Associate Professor of private international law at the University of Santiago de Compostela, Spain), entitled

La ley aplicable a la titularidad original de los derechos de propiedad intelectual sobre las obras creadas en el marco de una relación laboral (The law applicable to the initial ownership of intellectual property rights of works created in the context of an employment relationship).

This monograph aims to identify the applicable law to the initial ownership of intellectual property rights to works created in the context of an employment relationship. The topic is indeed a classic one for private international law scholars with an interest in intellectual property. Still, it remains a hot issue, as shown in a book that compiles with a comparative intent normative, practical and doctrinal positions on the subject, explaining at the same time the reception in Spanish law of regulations alien to the Spanish tradition – such as Art. 11 (2) English *Copyright, Designs and Patent Act* 1988, Art. 7 Dutch IPL or the *works made for hire* from sect. 201.b, par. 17, American *Copyright Act 1976.*

The research undertaken by Dr. Maseda Rodríguez evinces the controversy raised by the ascription of the initial ownership of intellectual property rights to a specific work, in light of the different responses given by legal systems –and this, in spite of the rapprochement among systems thanks to rules like the *Berne Convention for the Protection of Literary and Artistic Works of September 9, 1886*-, both in general and with respect to works created in the context of an employment relationship. Hence the comparative law analysis, providing support for the different viewpoints as to the applicable law: on the one hand, the continental systems of *droit d'auteur*, which identify the employee as the author and therefore as original holder of economic and moral rights (art. 1, 5.1, 51 y 97.4 Spanish LPI). On the other, the *copyright* systems, which consider the entrepreneur/employer, who facilitates the creation by investing in the product, as *author*, and therefore as original holder of all rights, economic and moral (art. 11 (2) English *Copyright, Designs and Patent Act* 1988, the art. 7 Dutch IPL or *works made for hire* of the sect. 201.b, par. 17, American *Copyright Act 1976*).

The absence of any material notion of *author* facilitates to address the question of the original ownership of intellectual property rights from a pure conflict-of-law rules perspective. Dr. Maseda approaches the issue from two points of view -employment and intellectual property-, regulated by different applicable rules –the *lex laboris* and the law regulating intellectual property rights. The *pros* and *cons* of both solutions are discussed; so is their respective implementation, which is explained decoupling moral and economic intellectual property rights, as their different nature result in different problems.

Regarding the implementation of the *lex laboris* to the original ownership of economic intellectual property rights the following three issues are tackled with in the monograph: first, the reception of *copyright* rules into Spanish law; secondly, the problems generated by the availability of economic intellectual property rights by its original owner; thirdly, the restrictions to the *lex laboris* (protection of the salaried creator: limits to party autonomy, and the recourse to the *lois de police* or the international public policy regarding the original ownership of economic intellectual property rights).

Concerning the implementation of the *lex loci protectionis* to the original ownership of moral rights, the author examines the case of claims *for* the Spanish territory and *for* a foreign country. From this point of departure he addresses the reception of foreign norms regulating authorship and/or the initial ownership of

moral intellectual property rights in favor of the employer; and the compatibility with the Spanish public policy of the waiver of moral rights in favor of the employer (for instance through by way of a clause in the employment contract).

Finally, the coexistence of both regulations –the *lex laboris* and the *lex loci protectionis*– is also addressed, with a special emphasis on the conciliation of the conflicting interests between employer and employee.

Dr. Javier Maseda Rodríguez's monograph is the sixteenth volume within the series *De conflictu legum,* a compilation of monographs especially devoted to private international law with a specific focus on civil procedural international law, conflict of law rules and international commercial law.

"And as the fog gets clearer…" – May on Brexit

In her long-awaited speech on what Brexit actually means for the future application of the *acquis communautaire* in the United Kingdom, British Prime Minister *Theresa May*, on 17 January, 2017, stressed that the objective of legal certainty is crucial. She further elaborated:

"We will provide certainty wherever we can. We are about to enter a negotiation. That means there will be give and take. There will have to be compromises. It will require imagination on both sides. And not everybody will be able to know everything at every stage. But I recognise how important it is to provide business, the public sector, and everybody with as much certainty as possible as we move through the process. So where we can offer that certainty, we will do so. […] **And it is why, as we repeal the European Communities Act, we will convert the 'acquis' – the body of existing EU law – into British law.** This will give the country maximum certainty as we leave the EU. The same rules and laws will apply on the day after Brexit as they did before. And it will be for the British Parliament to decide on any changes to that law after full scrutiny and proper Parliamentary debate."

At the same time, *May* promised that "we will take back control of our laws and **bring an end to the jurisdiction of the European Court of Justice** in Britain."

(The full text of the speech is available here.)

This unilateral approach seems to imply that the EU Regulations on Private International Law shall apply as part of the anglicized "acquis" even after the Brexit becomes effective. This would be rather easy to achieve for the Rome I Regulation. In addition, a British version of Rome II could replace the Private International Law (Miscellaneous Provisions) Act of 1995, except for defamation cases and other exemptions from Rome II's scope. At the end of the day, nothing would change very much for choice of law in British courts, apart from the fact that the Court of Justice of the European Union could no longer rule on British requests for a preliminary reference. Transplanting Brussels I*bis* and other EU procedural instruments into autonomous British law would be more difficult, however. Of course, the UK is free to unilaterally extend the liberal Brussels regime on recognition and enforcement to judgments passed by continental courts even after Brexit. It is hard to imagine, though, that the remaining EU Member States would voluntarily reciprocate this favour by treating the UK as a *de facto* Member State of the Brussels I*bis* Regulation. Merely applying the same procedural rules in substance would not suffice for remaining in the Brussels I*bis* camp if the UK, at the same time, rejects the jurisdiction of the CJEU (which it will certainly do, according to *May*). Thus, the only viable solution to preserve the procedural acquis seems to consist in the UK either becoming a Member State of the Lugano Convention of 2007 or in concluding a special parallel agreement similar to that already existing between Denmark and the EU (minus the possibility of a preliminary reference, of course). Since only the latter option would allow British courts to apply the innovations brought by the Brussels I recast compared with the former Brussels and the current Lugano regime, it should clearly be the preferred strategy from the UK point of view – but it cannot be achieved unilaterally by the British legislature.

The Book: Corporate Entities at the Market and European Dimensions

This book is a collection of papers presented at the 24th traditional conference **Corporate Entities at the Market and European Dimensions**. The conference was organized on 19-21 May 2016 in Portoroz, Slovenija, by the Institute for Commercial Law Maribor and the Faculty of Law of the University of Maribor. It was co-financed by the European Commission within the project Remedies concerning Enforcement of Foreign Judgements according to Brussels I Recast. The e-version is available for browse or download here. Many interesting topics of private international law are dealt with under the title in particular related to the implementation of the Brussels I bis Regulation. The list of papers includes:

A General Overview of Enforcement in Commercial and Civil Matters in Austria
Philipp Anzenberger

A General Overview of Enforcement in Commercial and Civil Matters in Lithuania
Darius Bolzanas & Egidija Tamosi?nien? & Dalia Vasarien?

Changed Circumstances in Slovene Case Law
Klemen Drnovsek

A General Overview of Enforcement in Commercial and Civil Matters in Italy
Andrea Giussani

Law Aspects of Servitization
Janja Hojnik

Removal of Exequatur in England and Wales
Wendy Kennett

Cross Border Service of Documents – Partical Aspects and Case Law
Urska Kezmah

Diputes regarding the use of distributable profits and ensuring a minimum

dividend and balance shee-financial aspects of canceled resolutions d.d.
Marijan Kocbek & Saša Prelic

Subscribers Liabilities to Subcontractor Under Directive 2014/24/EU and ZJN-3
Vesna Kranjc

Certan Open Issues Regarding the Refusal of Enforcement Under the Brussels I Regulation in Slovenia
Jerca Kramberger Skerl

Owerview of the Croatian Enforcement System With Focus on the Remedies
Ivana Kunda

Selected Issues of Recognition and Enforcement of Foreign Judgments from the Prespective of EU Member States
Ji?i Valdhans & Tereza Kyselovská

Editing Working Relationships of Companies Directors (Managerial Staff)
Darja Sencur Pecek

The Order Problem of the Acquisition of Derivative rights in the Event of Realestate Owner Bankruptcy
Renato Vrencur

The Brussel Regulation Recast – Abolishing the Exequatur Maintaining the Exequatur Function?
Christian Wolf

Cross-border Legal Representation as Seen in a Case Study
Sascha Verovnik