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*

SSRN: Recent articles on Private International Law/Conflict of Laws

I thought it might be worth to draw your attention to a couple of interesting papers that I came across on SSRN recently (without any claim of completeness):

On Brexit and Private International Law:

- *Matthias Lehmann & Nihal Dsouza* (University of Bonn), What Brexit Means for the Interpretation and Drafting of Financial Contracts
- *John Armour* (University of Oxford), *Holger Fleischer* (MPI Hamburg), *Vanessa Jane Knapp* (Queen Mary University of London) & *Martin Winner* (Vienna University of Economics and Business), Brexit and Corporate Citizenship
- *Mukarrum Ahmed* (Lancaster University) & *Paul R. Beaumont* (University of Aberdeen), Exclusive Choice of Court Agreements: Some Issues on the Hague Convention on Choice of Court Agreements and its Relationship with the Brussels I Recast Especially Anti-Suit Injunctions, Concurrent

Proceedings and the Implications of Brexit
- *Mukarrum Ahmed* (Lancaster University), Brexit and English Jurisdiction Agreements: The Post-Referendum Legal Landscape

On EU Private International Law:

- *Jean-Sylvestre Bergé* (Université de Lyon), The Gap between Legal Disciplines, Blind Spot of the Research in Law: Remarks on the Operation of Private International Law in the EU Context
- *Evangelos Vassilakaki*s (Aristotle University of Thessaloniki), The Choice of the Law Applicable to the Succession under Regulation 650/2012 – An Outline
- *Laura van Bochove* (Leiden University), Purely Economic Loss in Conflict of Laws: The Case of Tortious Interference with Contract
- *Ilaria Pretelli* (Swiss Institute of Comparative Law), Exclusive and Discretionary Heads of Jurisdiction for Third States and Lugano States: The Way Forward
- *Ugljesa Grusic* (Faculty of Laws, University College London), Long-Term Business Relationships and Implicit Contracts in European Private Law
- *Matthias Haentjens & Dorine Verheij* (Leiden University), Finding Nemo: Locating Financial Losses after Kolassa/Barclays Bank and Profit
- Remus Titiriga (INHA University), Revival of Rabel's Trans-National Characterization for Rules of Conflict? Some Answers in a European Convention
- *Berk Demirkol* (University of Galatasaray), Droit Applicable aux Contrats de Construction (Law Applicable to Construction Contracts)

On non-EU Private International Law:

- *Patrick Borchers* (Creighton University School of Law), Is the Supreme Court Really Going to Regulate Choice of Law Involving States?
- *Akawat Laowonsiri* (Thammasat University), Conflict of Genders in Conflict of Laws: Unresolved Problems in Thailand and Elsewhere
- *Ralf Michaels* (Duke University School of Law) The Conflicts Restatement and the World
- *Jinxin Dong* (China University of Petroleum), On the Internationally Mandatory Rules of the PRC
- *Hannah L. Buxbaum* (Indiana University Bloomington Maurer School of

Law), Transnational Legal Ordering and Regulatory Conflict: Lessons from the Regulation of Cross-Border Derivatives
- *Patrick Borchers* (Creighton University School of Law), An Essay on Predictability in Choice-of-Law Doctrine and Implications for a Third Conflicts Restatement
- *John F. Coyle* (University of North Carolina School of Law), The Canons of Construction for Choice-of-Law Clauses

On International Arbitration

- *Csongor István Nagy* (University of Szeged), Central European Perspectives on Investor-State Arbitration: Practical Experiences and Theoretical Concerns
- *Evangelos Kyveris* (University College London), An In-Depth Analysis on the Conflicting Decisions in Dallah v. Pakistan: Same Law, Same Principles, Different Decisions

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Brexit and Family Law Conference in Cambridge on 27 March 2017

The UK's withdrawal from the EU will precipitate important change in international family law. EU law has increasingly come to define key aspects of both jurisdiction and recognition & enforcement of judgments on divorce, maintenance, and disputes over children, including international child abduction, and provided new frameworks for cross-national cooperation.

Child & Family Law Quarterly and Cambridge Family Law will, therefore, host a joint seminar on 27 March 2017. International experts and practitioners will discuss the impacts of 'Brexit' on family law, from a range of national and European perspectives, and reflect on the future of international family law practice in the UK.

Academic speakers include:

- Nigel Lowe, University of Cardiff
- Anatol Dutta, University of Regensburg, Germany
- Paul Beaumont, University of Aberdeen
- Helen Stalford, University of Liverpool
- Janeen Carruthers, University of Glasgow
- Ruth Lamont, University of Manchester
- Elizabeth Crawford, University of Glasgow

Panel discussion participants include

- Rebecca Bailey-Harris, 1 Hare Court
- David Hodson, International Family Law Group
- Rachael Kelsey, Sheehan Kelsey Oswald, Edinburgh
- Gavin Smith, 1 Hare Court

Conference registration fees:

- £ 150 for practitioners
- £ 100 for academics/Civil Servants/NGO
- £ 25 for students

For more details, registration, accommodation and dinner tickets: www.fambrexit.law.cam.ac.uk/

Book: Human Rights in Business

Just published by Routledge, the book **Human Rights in Business: Removal of Barriers to Access to Justice in the European Union** presensts the final results of the project which received a 2013 Civil Justice

Action Grant from the European Commission Directorate General for Justice. The book is edited by Juan José Álvarez Álvarez Rubio and Katerina Yiannibas and includes a long list of reknown contributors from academia, legal practice and civil society. The begining of the official description from the book reads:

> *The capacity to abuse, or in general affect the enjoyment of human, labour and environmental rights has risen with the increased social and economic power that multinational companies wield in the global economy. At the same time, it appears that it is difficult to regulate the activities of multinational companies in such a way that they conform to international human, labour and environmental rights standards. This has partially to do with the organization of companies into groups of separate legal persons, incorporated in different states, as well as with the complexity of the corporate supply chain. Absent a business and human rights treaty, a more coherent legal and policy approach is required.*

It is available for free download as an eBook:

– To download from the book's page on the Routledge website, choose "Other eBook Options" button for download options.
– To download the free ebook from Amazon, click here.
– To download the free ebook from iTunes, click here.

Belgium signs the 2000 Adults Convention

Belgium has today signed the 2000 Hague Convention on the International Protection of Adults.

This Convention is currently in force in nine States: Austria, the Czech Republic, Estonia, Finland, France, Germany, Monaco, Scotland and Switzerland. It has been signed but not yet ratified by nine other States, now including Belgium.

For more information see the website of the Hague Conference on Private International Law.

New publication: Human Rights in Business Removal of Barriers to Access to Justice in the European Union

This new book, edited by Juan José Álvarez Rubio and Katerina Yiannibas, addresses the fact that the increased social and economic power of multinational parties has augmented their capacity to affect human, labour and environmental rights.

The book's publicity reads:

Faced with the challenge of how to effectively access the right to remedy in the European Union for human rights abuses committed by EU companies in non-EU states, a diverse research consortium of academic and legal institutions was formed. The consortium, coordinated by the Globernance Institute for Democratic Governance, became the recipient of a 2013 Civil Justice Action Grant from the European Commission Directorate General for Justice. A mandate was thus issued for research, training and dissemination so as to bring visibility to the challenge posed and moreover, to provide some solutions for the removal of barriers to judicial and non-judicial remedy for victims of business-related human rights abuses in non-EU states. The project commenced in September 2014 and over the course of two years the consortium conducted research along four specific lines in parallel with various training sessions across EU Member States.

The research conducted focused primarily on judicial remedies, both jurisdictional barriers and applicable law barriers; non-judicial remedies, both to company-based grievance. The results of this research endeavour make up the content of

this report whose aim is to provide a scholarly foundation for policy proposals by identifying specific challenges relevant to access to justice in the European Union and to provide recommendations on how to remove legal and practical barriers so as to provide access to remedy for victims of business-related human rights abuses in non-EU states.

More information is available on the Routledge's site.

Conflict of Laws Section: Call for Papers and Panels for 2017 SLS Annual Conference at University College Dublin

Professor Andrew Dickinson, St Catherine's College, University of Oxford, has kindly provided this information regarding the conference referred to below. Dr Lorna Gillies, University of Strathclyde, and Dr Máire Ní Shúilleabháin, University College Dublin are co-conveners.

> This is a call for papers and panels for the Conflict of Laws section of the 2017 SLS Annual Conference to be held at University College Dublin from Tuesday 5th September – Friday 8th September. This year's theme is 'The Diverse Unities of Law'.
>
> This section is new to the SLS Annual Conference and is being run as a trial section. With your support, we can ensure that the section is included in future conferences.
>
> The Conflict of Laws section will meet in the first half of the conference on Tuesday 5th and Wednesday 6th September. Two speakers (**Professor Alex Mills, UCL and Professor Eva Lein, BIICL/University of Lausanne**) have kindly already agreed to give a paper within the section.

We intend that the section will comprise four sessions of 90 minutes, with 3 or more papers being presented in each session, followed by discussion. At least three of the sessions will be organised by subject matter. We hope, if submissions allow, to be able to set aside the fourth session for papers by early career researchers (within 5-years of PhD or equivalent).

We welcome proposals from scholars in the field for papers or panels on any issue relating to any topical aspect of the Conflict of Laws (private international law), including but not limited to those addressing this year's conference theme.
If you are interested in delivering a paper, please submit a proposed title and abstract of around 300 words. If you wish to propose a panel, please submit a document outlining the theme and rationale for the panel and the names of the proposed speakers (who must have agreed to participate), together with their proposed titles and abstracts.

All abstracts and panel details must be submitted by midnight on Monday 27th March through the EasyChair conference system which can be accessed using this link. Full instructions on how to use the EasyChair system can be found here. If you experience any issues in using EasyChair, please contact Jed Meers at jed.meers@york.ac.uk.

As the SLS is keen to ensure that as many members with good quality papers as possible are able to present, we discourage speakers from presenting more than one paper at the conference. With this in mind, when you submit an abstract via EasyChair, you will be asked to note if you are also responding to calls for papers or panels from other sections.

We should also note that the SLS offers a Best Paper Prize which can be awarded to academics at any stage of their career and which is open to those presenting papers individually or within a panel. The Prize carries a £250 monetary award and the winning paper will be published in the first issue of Legal Studies in 2018. To be eligible:

- speakers must be fully paid-up members of the SLS;
- papers must not exceed 12,000 words including footnotes (as counted in Word);

papers must be uploaded to EasyChair by midnight on Monday 28th August; and

papers must not have been published previously or have been accepted or be under consideration for publication.

We have also been asked to remind you that **all speakers will need to book and pay to attend the conference and that they will need to register for the conference by the end of June in order to secure their place within the programme**, though please do let me/us know if this is likely to pose any problems for you. Booking information will be circulated in due course.

A call for posters will be issued separately in due course.

JuristenZeitung, Issue 2 (2017): Two More Articles on the Effects of Brexit

The current issue of the JuristenZeitung features two articles dealing with the effects of Brexit on private and economic law, including private international law.

The first article, authored by Matthias Lehmann, University of Bonn, and Dirk Zetzsche, University of Liechtenstein, discusses the various options to bring about Brexit and analyses their consequences for the law of contractual and non-contractual obligations (including choice of law), corporate law, insolvency law and procedural law (*Die Auswirkungen des Brexit auf das Zivil- und Wirtschaftsrecht, pp. 62-71*).

The second article, authored by myself, sheds light on the effects Brexit will have on London as a place for settling international legal disputes (*Die Wahl englischen Rechts und englischer Gerichte nach dem Brexit. Zur Zukunft des Justizstandorts*

England, pp. 72-82). It shows that Brexit creates substantial uncertainty (1) as regards the enforcement of English choice of law and English choice of forum clauses and (2) as regards the recognition and enforcement of English judgments abroad. Unless the UK and the EU agree on the continued application of the Rome I Regulation, the Rome II Regulation and the (recast) Brussels I Regulation (or enter into a new treaty designed to enhance judicial cooperation in civil matters), Brexit will, therefore, make it less attractive to settle international disputes in London.

Both articles can be downloaded here and here (behind pay wall, unfortunately).