
Regulating for Globalization

Trade, Labor and EU Law Perspectives

Journal Highlights: European Review of Private Law, Volume 28, Issue 3, 2020

André Janssen (Radboud University) and Matthias E. Storme (KU Leuven) · Tuesday, October 6th, 2020

We wanted to draw your attention to some interesting articles about the topics of the Regulating for Globalization blog that appeared in the [European Review of Private Law, Volume 28, Issue 3, 2020](#), edited by André Janssen and Matthias E. Storme.

Kahraman Altun, LL.M. (Edinburgh), Anti-Suit Injunctions in European Transnational Litigation: Past, Present and Post-Brexit Future of an Unusual Remedy

Anti-suit injunctions are the frontline in the clash of civil and common law. Of course, the imbalance of powers between the systems' courts is critical. However, both approaches have their advantages. Whilst civil law approach establishes harmony between Member States' courts and provides for a high degree of legal certainty and predictability, the common law approach gives greater flexibility to judges in order to do justice in the individual case, which at times is necessary to prevent abusive litigation tactics. Whilst the Court of Justice of the European Union (CJEU) rightfully held that the Brussels regime does not allow for anti-suit injunctions in non-obligation-based cases, the remedy should not have been banned in obligation-based cases. Civil law dominated Europe has unfortunately missed the opportunity to learn from the common law approach in a rather arrogant manner. Now however, it is time to look forward. It is crucial to realize that even greater conflicts may arise from 1 January 2021, but that the future also provides a unique opportunity to resolve the issue once and for all. In the eye of the inevitable re-emergence of the anti-suit injunction it is high time to address the issue. Otherwise, parties involved in cross-border litigation in Europe may be in danger of having to litigate with minimum legal certainty or even becoming playing balls amongst jurisdictions. Such a situation would scare off parties and decrease Europe's attractiveness as a legal venue. Therefore, it is not only in the parties', but also in both the UK's and EU-27s interest to resolve the issue of anti-suit injunctions in transnational litigation in Europe.

Louise Merrett & Antonia Sommerfeld, Incentives for Choice of Law and Forum in Commercial Contracts: Predicting the Impact of Brexit

Looking at the empirical data, English law and England as a forum are currently businesses'

prevailing choice for dispute resolution in international commercial transactions in Europe. This article analyses the factors determining businesses' choice of contract law and forum in and the underlying mechanisms for businesses' choices. These findings will be used to analyse what possible effects and consequences Brexit may have for the London commercial courts and the choice of English contract law. Will there be a switch of focus in approaching European commercial contracts and dispute resolution? Or will Brexit impact little on London's prevailing position in the market for dispute resolution and the choice of English law in international commercial contracts?

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