

**BOOK REVIEW ON EU PRIVATE INTERNATIONAL LAW:
HARMONIZATION OF LAWS BY PETER STONE**

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Name of the Book: **'EU Private International Law: Harmonization of Laws'**

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Introduction to the Book

The present book titled ‘EU Private International Law: Harmonization of Laws’ by Professor ‘Peter Stone’ is one of the masterpiece works when it comes to a clear and concise understanding of Private International Law and its harmonization in the European Union. The book is one of the parts of a series collection on European Law by the publisher. The author explains the two main aspects upon which the conflict of laws can be harmonized namely; Rules on Choice of Law and Rules on Foreign Judgments. The three kinds of problems dealt with by the conflict rules as brought out by the author are beautifully explained and further elaborated in the introductory parts of the book. Stone calls rules of private international laws as ‘conflict rules’ and he elaborates that these rules play a very essential role in the procedure of its harmonization. The book includes many examples to enable better comprehension and contains the proper analysis of case laws both of English courts and European courts of Justice. Various legislations, conventions, and treaties are referred to and their relevance is talked about when the author attempts to present the harmonization of rules of private international law (conflict rules) at the European Community Level. Stone tries his best to provide an authoritative and accessible introduction to the subject. The book mainly talks about the latest and current developments of private international law and its rules relating to harmonization at the European Union level.

The major purpose laid down by the author behind the creation of such work is the comprehensive coverage of numerous developments in legislation and the conferences, conventions, and treaties which take the harmonization process of the rules of private international law at the EU level a step further. The book wide spreads its scope to various regulations and rules to harmonize the conflict of laws at the European Union level.

Classification of the Book

One of the major strengths of the book is that the premise of its text covers the overall development of EU private international law and its rules found out from the European Convention that is precisely from Article 95. This is for the first time that the rules of private international law are analysed, considered, and presented in the context of the EU. This segment makes the present book stand out from the crowd of books available in this field of law. Another point that helps in deciding the position of this book in its genre of books is the language. The author has kept his priority in the ease of language of this book and it is easy to be read and

understood by people belonging to any profession and not just the legal professionals. The author explains the toughest of the concepts in such an easy to understand manner which makes this book a must-read one. As far as the interests of people are concerned, it is going to be of great interest to the people willing to go for international litigation, for the academics, practitioners and postgraduate students.

Beyond its literature, the book holds a special place because the author after deliberately excluding the in-depth study of proposals for Rome I or Rome II regulations includes his proposed articles of these instruments in the concluding analysis of current instruments. Additionally, the book also makes references to the Hague Conference on Private International Law whilst considering and examining the EU accession.

The theme of the book has been purposely kept procedural and raw to make a better explanation to its target audience. The line is maintained throughout where the author first tries to communicate to the readers his main scope and purpose and precisely explain the core concepts the book is going to discuss and gradually while talking about the issues and various references, the book takes the reader into a more robust and in-depth explanation and clarification for the obligations, judgments, and jurisdictions of the private international law rules in regards to the European community.

The book tends to mainly keep its focus intact on the four basic areas of concern on which it provides a critical assessment; civil jurisdiction and judgments, the law applicable to civil obligations, family law, and insolvency.

Author's Main Arguments

With the beginning of the content, this book consists of the case tables of EU Member State, UK and ECJ cases in a detailed manner, and also the international case section which lists the cases from the United States and Singapore. With a convenient nature, this table of cases, throughout the text, also provides particular page references. With a reflection of the EU policy, the present book is divided into an introduction and four substantive parts which comprise nineteen chapters. Part I contains just the introduction and this is the area where the author puts on the initial impressions of the subject matter the book talks about on the mind of the readers. This part

discusses the basis of harmonisation of the rules of private international law i.e.; civil jurisdiction, choice of law, and insolvency at the EU level.

The largest part of this book is Part II. As stated, it focuses on the judgments and civil jurisdiction across all the nine chapters (starting from the introduction part) it consists of. The main focus here is Regulation 44/2001. It takes the reader into a journey that starts from the historical assessment of the changes which took place from the Brussels Convention 1968 to the final version of this regulation. The author herein provides and considers the application of English cases and frequently makes references to ECJ cases. Moving towards the end of Chapter Two, one can find a table that is helpful as it provides all the dates of commencement for the Lugano and Brussels Conventions and Regulation 44/2001. Moving towards Chapter Three, it mainly focuses on domicile and considers it to be a connecting factor between Regulation 44/2001 and the Brussels Convention. It considers the concept of domicile as local, other European and external or non-EU defendants. Later, Chapter Four discusses the alternative grounds for jurisdiction in Regulation 44/2001 and also the changes made in Article 5. The author then takes up two clauses of this Article and puts forward the merits of Article 5(1) and suggests the possible reforms for Article 5(3). One thing in common which this book holds as of other books on Private International Law is that a separate chapter on the rules of jurisdiction for protected contracts, namely; consumer, insurance, and employment contracts are offered by this book.

Coming to Part III of the book, primarily focuses on the law applicable to civil obligations. This part is structured into four chapters. These chapters focus on contracts, protected contracts (as stated in Part I), restitution, and torts. Replacement of Rome Convention 1980 remains the main focus of Chapter twelve. The author, in this part, regularly refers to proposals for Rome I Regulation. He does not comment on the Green Paper which is considered as the replacement of the Rome Convention but the author recommends further the clarification of the rules which govern the implied choice of law by including the range of factors in Article 3 (1A). He later considers Article 3 & 4 of the Rome Convention in-depth and possible reforms are suggested. Moving on, Chapter thirteen separately talks about protected contracts. This is in recognition of the difficult and important task of reconciling party autonomy in the selection of the governing

law with the overriding need to protect consumers, insured parties, and employees. Then he suggests a revised Article 5. As far as the insurance contracts are concerned, this chapter offers upon particular reforms of Directives 88/375 and 90/619 which are on non-life and life insurance contracts respectively. Then in Chapters fourteen and fifteen, the author devotes his ideas towards the proposal of the Rome II Regulation. Specifically, Chapter fourteen talks about the proposal of Regulation torts in depth which includes, inter alia, its scope and relationship with other international conventions. This chapter, in particular, provides suggested amendments and critical assessment to inter alia, Articles 3 (2) and (3) and also analyses numerous specific torts including unfair competition, product liability, defamation, environmental damage, industrial disputes, traffic accidents, and intellectual property. Later, Chapter fifteen of this part offers a concise and clear analysis of the proposals in Rome II claims in restitution.

Moving on towards the end of this book, the reader finds Part IV. This part consists of three chapters which are shorter in comparison to other chapters of this book. This part titled "Family Matters" consists of the chapters namely; Matrimonial Proceedings, Parental Responsibility, and Familial Maintenance and Matrimonial Property. The main focus of Part IV remains Regulations 1347/2000 (Brussels II) and 2201/2003 (Brussels IIA). Chapter sixteen consists of a table which talks about the transitional operation of those two regulations among the Member States. Chapter seventeen moves on with the examination of parental responsibility and contrasts the Brussels IIA Regulation with Hague Convention 1996 on Parental Responsibility. It also measures for the protection of children and the 1980 Child Abduction Convention.

Then comes the final part of this book i.e; Part V which is titled "Insolvency" and contains only a single chapter with the same title and talks about the matter of insolvency. Herein, Chapter nineteen puts a close examination on the jurisdiction, choice of law, and enforcement aspects of insolvency which is contained in Regulation 1346/2000. The feature of this chapter that can be instantly noticed is the author's criticism of rationale for secondary proceedings and also how he suggests for the harmonization of "the definition and extent of preferential rights [.....] using directive stated under 95 EC." In the very last sub-topic, the author also gives a brief idea about the Renvoi Theory and Reflex Effect in regards to the Rome Convention.

Comparison of the Book

International Law is one of the most diverse and vast areas of law which brings along with it numerous complications and complexities. Usually, the concepts involved in this subject are difficult to grasp. This area of law has two segments namely; Public International Law and Private International Law (Conflict of Laws). The present book talks about the harmonization of laws under the ambit of private international law of the European Community and though there are a lot of books on this topic, this piece of work holds a special place in this field due to its structure and the language the author opted for which creates an ease of understanding amongst its readers.

It can be directly compared with Jan-Jaap Kuipers's "EU Law and Private International Law-The Interrelationship in Contractual Obligation." This book talks exactly about the same topic but is not easy to grasp. This book talks about the Rome I Regulation on the law applicable to contractual obligations has unified the conflict of law rules of Member States. But, it also offers certain additional points not included in the present book such as; the influence of the European Union upon Private International Law goes beyond positive harmonization. However, there is a certain tension between European law and PIL. European law is concerned with whether the imposition of a rule constitutes a restriction to the internal market. PIL does not seek to neutralize the disadvantages that result from differences between national laws but instead tries to locate the geographical centre of the legal relationship. Thus, this book additionally talks about the disharmony between the two legal disciplines with the regulation to cross border contracts and provides suggestions to enhance their mutual understanding¹. "Harmonization of Private International Law in Europe and Application of Foreign Law: The Madrid Principles of 2010" by Carlos Espugues Mota is another book that shares some similar points with the present book and keeps and clean and basic information available to the readers but it has an additional topic to discuss so the content of PIL and EU is not as vast and detailed as the present book.

The point on which the book lacks is the length. For sure it is detailed and provides ample information on the subject but it has been made too vast. In my opinion, by keeping the concepts clear and concise, the author could have trimmed the parts not so important relating to the topic

¹ <https://brill.com/view/title/20261>

being discussed². Whatsoever, the author succeeds in keeping his readers engaged with the topics being discussed in his book with an appealing contrast towards ease of language and the structure style of the contents included in this work. This shows his dedication and talent in serving society with legal knowledge and makes him an outstanding author because this book can be read and understood by any common individual apart from people belonging to the law field. The author successfully achieves what he intends to through his book. The main objective of providing information on the rules of PIL in harmonizing it for the European Union is very beautifully conveyed by the author to his readers. The major shortcoming of this book remains its length and extra details provided on the topics excluding which would never have impacted the book's performance.

Knowledge and Understanding of the subject

As specified earlier "Private International Law" or the "Conflict of Laws" is an interesting subject but it brings along with it so many complications and makes it difficult to grasp the concepts, doctrines or legal principles it talks about. Apart from the themes, topics, and points not included by the author in his present book may be intentionally or unintentionally, I as a reviewer attempt to cover the relevant ones out of a plethora of topics that come under this branch of law. Initially, PIL stresses upon the case of "Judicial Activism" wherein this subject talks about its history and growth along with its benefits and also deals with the "Direct Judicial Communications." Another essential topic of this branch of law always remains "Unification of Private International Law with Special Reference to Matrimonial Cases", as because this branch of international law instead of talking about the conflict between two different countries and cross border crimes, deals with the personal legal rights of individuals and the family law matters of the two individuals residing two different countries. So, it is not the states involved here, but the rules of law followed in a particular state are in contradiction with the rules of the same law followed in another state.

Also this subject apart from the perspective of EU, US, or UN Convention, always includes the Indian Perspective such as "Marriage and Matrimonial Causes in Private International Law- The Indian Perspective." Under family law, the conflicts of Jurisdiction in making Custody Order for

² <https://www.degruyter.com/document/doi/10.1515/9783866539648.273/html>

Cross-Border Children are sensitive area wherein the rules of PIL seeks for a uniform rule regarding it. And, also not to forget about the Inter-Country Adoption and its Policies in India and how the conflict of does laws take place in this scenario. This subject purposely moves towards a better approach for Inter-Country Adoptions. Economic Regulations and Distributive Justice should be prominent in the case of Conflict of Laws wherein a proper law theory should be followed by the states. And of course, the vital issues relating to International Commercial Arbitrations are one of the core studies vested in this subject. The main issue here is the applicability of law as in which country's law should be applicable in a particular case which involves parties from two different countries of domicile of origin. And this should never conflict with the public policies.

Bibliographic information of the book

The author of this book has referred to numerous materials relating to the topic and has turned them into the intended form of his objectives and the interest of his readers. They are Abduction Convention, Access Order, Agency, Agreement, and Jurisdiction. Brussels I Regulation, Brussels II Regulation, Brussels IIA Regulation, and Brussels Convention are regularly referred to by the author. Rome II Proposal and Rome Convention are also the leading references. Ancillary jurisdiction and Arbitration Proceedings are also included along with English Law and Arrest Convention. Authorities of Austria and Australia have also been referred to. European Enforcement Order and New York Convention also play a very important role. Moving ahead, the Choice of Courts and Abductions have also been referred thoroughly. Then comes the materials relating to Canada where various Conventions and Regulations are taken as the reference. Then comes the turn of Public Policies to refer. Then the author also refers to various interpretation clauses.

Custody Order and Criminal Proceedings are also involved herein which then is followed by the Commencement of Rome Convention and Civil Proceedings along with the materials relating to debtors and creditors. Then the Direct Jurisdiction and Design Regulation have been taken into consideration. The Denmark Regulations and Conventions are also referred along with various Legal Definitions which were found relevant to this book's topic. Displacement, Document, and Domicile have been studied in depth for extracting knowledge and information leading it to the

concept of Concurrent Proceedings. EC Regulations and European Free Trade Association also act as a good reference for the author. Another thing referred is Luxembourg, submission to jurisdiction and maintenance and matrimonial proceedings. Moving on, England and Wales and their Admiralty are also preferred for this work.

The European Courts, Directives on Transfer of Possession, Substantive Law, Consumer Contract, Recognition and Enforcement of Judgments, Irreconcilable Judgments, Specialized Conventions, Community Legislations, European Patent Convention, European Law, Lugano Convention, Conflicts of Concurrent Proceedings, Community Designs, Community Plant Variety Rights, Community Trademarks, Family Law, Family Matters, Forum Country, Habitual Residence, Jurisdictions and Proceedings of France, Hague Conference on Private International Law, Germany, Giuliano and Lagarde Report, Hague Convention on Choice of Court, Hungary, Iceland, Human Rights, International Monetary Funds, Industrial Disputes, Injunction, Intellectual Property, Ireland, Italy, Legal Aid, Matrimonial Proceedings & Property, Nationality, Negotiable Instrument, Nuclear Damage, ex parte, Overriding Interests, Parental Responsibility, Poland, Passing-off, Product Liability, Proper Law, Provisional Measures, Public Authority, Quebec, Reciprocity, Tenancy, Third Country, Trade Mark Regulation remain the core references taken by the author of this book.

Following with various such materials, the author lastly refers to some reports too which involve the Wallis Report which is very informative and relevant reference material. And by combining all these reference materials and extracting information from them, the author then puts owns his knowledge to produce such great work in the form of this present book.

Final verdict of the review

Impact of this Book on the Readers

The present book will change the perception and the expectation of readers that how the rule of Private International Law is dealt with in regards to the EU legislation. It conveys the most relevant and easy to understand detailed conceptual clarity to its readers along with various conventions and regulations which will help them to understand the procedure of harmonizing these legal rules with the EU in a better and clarified manner.

This book is for

Though this book is balanced reading material and can be easily read and understood by an individual, it will be warmly welcomed by law students and legal professionals. This is because the book can act as a great research resource for readership and also produce academic and other works of individual efforts.

The Final Words

“Peter Stone”, who is a former Professor of Law, University of Essex, UK has produced great and useful work in the form of this book. It shows his experience of and knowledge in his legal profession and also his writing skills and how he minds the mind of his readers. It is undoubtedly a useful supplement to the literature. It is a comprehensive and in-depth analysis of the cornerstones of Private International Law in the European Union which provides a safe and up-to-date guide to a complex area from a comparative perspective. Specifically, the Continental Lawyers may particularly appreciate the extensive coverage of English Case Laws on the subject; Filip De Ly, Erasmus University Rotterdam, the Netherlands. Uniformly, the book takes in an equal amount of attention to all the concepts and explanations it delivers to its audience.

Private International Law has been the centre of interest in the EU since 1999. This was the time when the Treaty of Amsterdam had come into force. Over the past few years, the European Union has undertaken an active and broad process of harmonization of Private International Law. This harmonization influences choice of law rules and many diverse areas of law. The harmonization effort will likely increase shortly to embrace many domains which are not yet being governed by European instruments. The Conflict of Laws has evolved in great measure in recent years. This is due in part to the success of international agreements in harmonizing the conflict of laws of individual countries.

In this book, the author has given a comprehensive and in-depth coverage of key legislative developments within the EU about private international law. He also addresses main questions and identifies weaknesses in the current law and provides suggestions for improvements. Later, the author combines perspectives from both common and civil law traditions. He also makes use of extensive tables of cases and legislation.

This work is given a lot of time by the author will be a useful and valuable reference to the judiciary, practising lawyers, legislators, and policy-makers throughout the EU. This book can act as a vital resource also for academics and public officials interested in the conflict of laws. If it is to critically acclaim this work, it can be said that this book is an excellent study that brings up to date the complexities of EU private international law. The book by its rich and detailed analysis of cases will for sure be of great value to academics, students, and practitioners. It also gives attention to the proposed regulation on matrimonial property and the proposed revision of the regulation on insolvency proceedings and focuses on the main areas of concern. It will be an attractive and essential reading for the people who want to go for international litigation. The private international law's harmonization in Europe has been the result of both legislation adopted at the EU level and to the subsequent case law arising from the interpretation of that legislation to a very large extent. This book talks deeply about the most recent developments at both EU and national levels, including the recast Brussels I Regulation on civil jurisdiction and the recast insolvency regulation, and a huge number of decisions of the English and European courts. Various aspects relating to private international law are presently governed or at least affected by European legislation, and there are a growing and substantial body of case law from the European court as well as the courts of Member States. This book is easily accessible and has sufficient depth of the knowledge it provides and also in detail analysis to facilitate more detailed study. The present book is highly suitable not only for those who are looking for an introduction to the field but also for those who require more thorough and substantive guidance in this area of law.

Lastly, it can be confidently said that, apart from a few flaws and demerits, this book stands out from the crowd and is a beautiful creation of the author which seeks to provide the most relevant information to its readers on that particular field and make the society aware. This work reflects the dedication and hard work of the author and his love and passion towards this branch of law called "Private International Law."