

A JUDICIAL STUDIES PROGRAMME (JSP) LUNCHTIME SEMINAR

Establishing Civil Jurisdiction in the European Union and at Common Law

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Wednesday, 18 March 2015, 1230-1400

Small Moot Court, Room 723 Cheng Yu Tung Tower

The University of Hong Kong

Light refreshment will be served

How is legal certainty achieved among a plurality of jurisdictions through conflict of law rules?

The common law tradition emphasises the role of the judge in ensuring that the solution to an international dispute is the most equitable one in an individual case. In contrast, the civil law tradition focuses on a clear specification of the applicable law and the jurisdiction of courts in particular situations, so as to ensure that the solution to a cross-border dispute complies with the rules that have the strongest connection with the case. Thus, the common law system focuses on equitable results through judicial discretion applied to specific parties and circumstances, while the civil law system implements conflict of laws rules through legislation designed to reflect generally accepted social norms.

For its private international law relating to obligations, the European Union has essentially adopted the traditional civil law approach. The rationale is to ensure legal certainty in sectors of economic importance through predictable and mandatory rules on the jurisdiction of courts (Brussels I Recast Regulation) combined with equally predictable and mandatory rules on the determination of the law applicable to a contract (Rome I Regulation) or tort (Rome II Regulation). The existence of a common system on jurisdiction and choice of law ultimately justifies the recognition and enforcement of judgments rendered by the courts of EU member states. Such facility of enforcement is after all the end game of any litigation process. It explains why a distinction is drawn between European and non-European judgments when it comes to recognition and enforcement of foreign judgments.

This seminar will offer an introduction to the functioning of the EU system. It will discuss whether the EU system achieves its goals satisfactorily. In particular, it will ask: even though EU rules leave some scope for adapting solutions to the specific circumstances of a given case, does the system on the whole provide a framework that leads to fair and equitable solutions? If so, can the EU system provide a model for conflict of laws rule in other jurisdictions?

Lukas Rass-Masson is a Lecturer in Law and Researcher at Université Paris II, Panthéon-Assas, Paris (France). He is currently finishing his doctoral dissertation on *The Articulation of Conflict of Laws and Conflict of Jurisdiction Rules in the European Union's Private International Family Law*. He holds a Bachelor's degree in Law from the Faculty of Law and Political Sciences of Université of Rennes I (France) and a Maîtrise in International and European Law and an LLM in Private International and International Commercial Law from Université Paris II, Panthéon-Assas, Paris.

Those interested in attending are requested to register online at

https://hkuems1.hku.hk/hkuems/ec_hdetail.aspx?guest=Y&ueid=34996 **before noon on 17 March 2015.**

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