

**RGSL**

RIGA GRADUATE SCHOOL OF LAW

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# TRANSBORDER LITIGATION

## MATERIALS

## RIGA 2005

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### Session no. 1

16-18, Monday 31 October 2005: Lecture (DP)

#### *Transborder Litigation*

This lecture will introduce the subject of Transborder Litigation and relate it to other fields of law within the RGSL Master's Course

Reading: Cheshire & North

1. Introduction -- Definition, nature and scope of private international law -- Historical development and current theories

### Session no. 2

18-20, Monday 31 October 2005: Seminar (DP)

#### *Main Principles of Transborder Litigation*

This seminar will explore the main principles of Transborder Litigation and the application of these principles in practical relations

Reading: Cheshire & North

2. Preliminary topics -- Classification -- The incidental question -- Renvoi -- Substance and procedure -- The proof of foreign law -- Exclusion of foreign law -- Domicile, nationality and residence

### Session no. 3

16-18, Thursday 3 November 2005: Lecture (PGJ)

#### *Jurisdiction under the Bruxelles Regulation*

This lecture will introduce the Bruxelles Regulation and its relation to the Bruxelles and Lugano Conventions, as well as its major provisions on jurisdiction

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Reading: Cheshire & North  
3. Jurisdiction, foreign judgements and awards -- jurisdiction of the English courts - an introduction -- Jurisdiction under the Brussels and Lugano Conventions

List of legislative materials on Transborder  
Litigation ..... p. 013

Council Regulation (EC) No 44/2001 of 22 December  
2000 on jurisdiction and the recognition and enforcement  
of judgments in civil and commercial matters ..... p. 016

Session no. 4

18-20, Thursday 3 November 2005: Seminar (PGJ)

*Jurisprudence on jurisdiction*

This seminar will explore the European Court of Justice jurisprudence on jurisdiction under the Bruxelles Convention

Reading: List of selected judgments on Jurisdiction, Recognition  
and Enforcement ..... p. 048

Judgment of the Court (Sixth Chamber) of 13 July 2000,  
Group Josi Reinsurance Company SA v Universal General  
Insurance Company (UGIC), Case C-412/98 ..... p. 052

Judgment of the Court (Fifth Chamber) of 15 May 2003,  
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Judgment of the Court (Fifth Chamber) of 8 May 2003,  
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Judgment of the Court (Third Chamber) of 28 October  
2004, Nürnberger Allgemeine Versicherungs AG v  
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Order of the Court (Fourth Chamber) of 10 June 2004,  
Magali Warbecq v Ryanair Ltd., Case C-555/03 ..... p. 087

Session no. 5

16-18, Monday 7 November 2005: Lecture (DP)

*Family and property law*

This lecture will introduce main principles of the private international law of family law and property law, linking it to the commercial aspects of Transborder Litigation

Reading: Cheshire & North

5. Family law -- Marriage – Matrimonial causes -- Declarations -- Financial relief -- Children -- Legitimacy, legitimation and adoption -- Mental disorder

6. The law of property -- The distinction between movables and immovables -- Immovables -- The transfer of tangible movables -- Administration of estates -- Succession -- Matrimonial property – Trusts

Session no. 6

18-20, Monday 7 November 2005: Seminar (DP)

*Supplementary EU Instruments*

This seminar will introduce the remaining EU instruments, including the Bankruptcy, Matrimonial and Service regulations, as well as provisions in general EU legislation, including the insurance directives

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Reading: Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 ..... p. 091

Council Regulation (EC) No 2116/2004 of 2 December 2004 amending Regulation (EC) No 2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000, as regards treaties with the Holy See ..... p. 130

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Judgment of the Court of 4 February 1988, Horst Ludwig Martin Hoffmann v Adelheid Krieg, Case 145/86 ..... p. 172

Session no. 7

16-18, Thursday 10 November 2005: Lecture (JB)

*United Nations Convention CISG*

This lecture will introduce the statute of contracts in Transborder Litigation and the principles applicable to issues of tort, with special focus on the CISG convention relating to contracts

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4. The law of obligations – Contracts -- Torts – Restitution

United Nations Convention on Contracts for the  
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18-20, Thursday 10 November 2005: Lecture (JB)

*Jurisdiction in Contract*

This lecture will focus on the use in relation to financial services of the provision on jurisdiction in matters relating to contract under the Bruxelles regulation

Reading: Burke, John J.A: Brussels I Regulation (EC) 44/2001 : Application to financial services under article 5(1)(B), The Columbia Journal of European Law. - 2004. - Vol.10, No.3. - p. 527-548

Session no. 9

16-18, Monday 14 November 2005: Lecture (PGJ)

*Additional and Exclusive Jurisdiction under the Bruxelles Regulation*

This lecture will focus on the special rules of the Bruxelles Regulation on additional and exclusive jurisdiction, including agreements on jurisdiction

Reading: Cheshire & North  
The competence of the English courts under the traditional rules -- Stays of English proceedings and restraining foreign proceedings -- Limitations on jurisdiction

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Report on the Convention on the Association of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland to the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters and to the Protocol on its interpretation by the Court of Justice by Professor Dr Peter Schlosser, of the Chair of German, international and foreign civil procedure, of the general theory of procedure and of civil law at the University of Munich ..... p. 199

Session no. 10

18-20, Thursday 10 November 2005: Seminar (PGJ)

*Jurisprudence on additional and exclusive jurisdiction*

This seminar will explore the European Court of Justice jurisprudence on special and exclusive jurisdiction under the Bruxelles Convention

Reading: Judgment of the Court of 29 June 1994, Custom Made Commercial Ltd v Stawa Metallbau GmbH, Case C-288/92 ..... p. 280

Judgment of the Court of 17 September 2002, Fonderie Officine Meccaniche Tacconi SpA v Heinrich Wagner Sinto Maschinenfabrik GmbH, Case C-334/00 ..... p. 288

Judgment of the Court (Second Chamber) of 10 June 2004, Rudolf Kronhofer v Marianne Maier and Others, Case C-168/02 ..... p. 295

Judgment of the Court (Sixth Chamber) of 27 January 2000, Dansommer A/S v Andreas Götz, Case C-8/98 ..... p. 301

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Judgment of the Court of 9 December 2003, Erich  
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Session no. 11

16-18, Monday 21 November 2005: Seminar (DP)

*Hague Convention on Choice of Court Agreements*

This seminar will introduce the main principles and background to the development of the Hague Convention on Choice of Court Agreements

Reading: Hague Convention on Choice of Court Agreements  
(Concluded 30 June 2005) ..... p. 323

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18-20, Monday 21 November 2005: Seminar (DP)

*Problem Exercises*

This seminar will explore the practical application of Transborder Litigation principles based on practical problems that will be handed out for class discussion

Reading: To be handed out

Session no. 13

16-18, Thursday 24 November 2005: Lecture (PGJ)

*Enforcement under the Bruxelles Regulation*

This lecture will introduce the system of enforcement under the Brussels Regulation, with lines drawn to the comparable systems under the Bruxelles and Lugano conventions

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Reading: Cheshire & North

3. -- Recognition and enforcement of foreign judgments: the traditional rules –  
Recognition and enforcement of judgments under the Brussels and Lugano  
Conventions -- Foreign arbitral awards

Proposal for a Council Regulation (EC) on jurisdiction  
and the recognition and enforcement of judgments in  
civil and commercial matters, COM/99/0348 final -  
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Amended proposal for a Council Regulation on  
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Session no. 14

18-20, Thursday 24 November 2005: Seminar (PGJ)

*Jurisprudence on enforcement*

This seminar will explore the European Court of Justice jurisprudence on enforcement under  
the Bruxelles Convention

Reading: Judgment of the Court of 28 March 2000, Dieter  
Krombach v André Bamberski, Case C-7/98 ..... p. 359

Judgment of the Court (Third Chamber) of 14 October  
2004, Mærsk Olie & Gas A/S v Firma M. de Haan en  
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Judgment of the Court (Fifth Chamber) of 6 June 2002,  
 Italian Leather SpA v WECO Polstermöbel GmbH & Co.,  
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Judgment of the Court (Fifth Chamber) of 17 June 1999,  
 Unibank A/S v Flemming G. Christensen, Case C-260/97 ..... p. 394

Judgment of the Court (Full Court) of 27 April 2004,  
 Gregory Paul Turner v Felix Fareed Ismail Grovit,  
 Harada Ltd and Changepoint SA., Case C-159/02 ..... p. 401

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16-18, Monday 28 November 2005: Lecture (PGJ)

*Rome Convention on Choice of Law*

This lecture will introduce the provisions of Rome Convention and its place in relation to other international instruments on choice of law in contracts

Reading: Convention on the law applicable to  
 contractual obligations opened for signature in  
 Rome on 19 June 1980 ..... p. 408

Report on the Convention on the law applicable  
 to contractual obligations by Mario Giuliano,  
 Professor, University of Milan, and Paul Lagarde,  
 Professor, University of Paris I ..... p. 423

Session no. 16

18-20, Monday 28 November 2005: Seminar (PGJ)

*Jurisprudence on Choice of Law*

This seminar will explore the practical application of the Rome Convention in the jurisprudence of the EU member states

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	Corte di Cassazione (Cass.), 2000, March 10 Krauss Maffei Verfahrenstechnik GmbH, Kraus Maffei AG v. Bristol Myers Squibb S.p.A. ....	p. 475
	Cour de cassation, 1ère chambre civile, 2000, May 30, Soc. Hick Hargreaves c/ Soc. CAC Degremont et a. ....	p. 476
	Cour de cassation, 1ère chambre civile, 2000, July 18, M. R. Bismuth c/ Association L'Avenir Sportif de La Marsa et Société Olympique de Marseille .....	p. 477
	Cour d'appel de Paris, chambre 1, 2000, October 12, SA Cofermet c/ Société Gottscholl Alcuilux .....	p. 478
	Cour de cassation, chambre sociale, 2000, October 17, M. Gasalho c/ Tap Air Portugal .....	p. 480
	Cour de cassation - chambre commerciale, 2000, November 28, Parties Allium v. Alfin Inc .....	p. 481
	Cour d'appel de Douai, chambre sociale, 2001, April 13, Parties Triopon c/ Soc. Argenerias Schiavon SAS .....	p. 482
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Corte di cassazione (Cass.), 2001, July 20,  
Krauss Maffei Verfahrenstechnik GmbH, Kraus  
Maffei AG v. Bristol Myers Squibb S.p.A. .... p. 484

Corte di cassazione (Cass.), 2001, September 11,  
Janus Film und Fernsehen Vertriebsgesell Schaft  
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20-21, Monday 28 November 2005 (PGJ)

*Final questions and answers*

Session no. 18-21

16-20, Thursday 1 December 2005 (PGJ)

*Written exam*