

*The Interrelationship between EU Law and  
Private International Law in Contractual Obligations:  
Private Autonomy, Overriding Mandatory Provisions and a European Justice Area*

**Abstract**

The aim of this research is to analyse the interrelationship between Private International Law and European Union law in the area of contractual obligations. The Rome I Regulation on the Law Applicable to Contractual Obligations is used to delimit the scope of research. The material rules of Rome I will be discussed in order to demonstrate that the instrument follows the traditional European conflict of laws approach without any specific orientation towards internal market objectives. The influence of Union law upon PIL goes however beyond positive harmonisation, being the codification of conflict of law norms on the European level.

In the analysis of the effects of Union law upon the conflict of law process, a distinction will be drawn between international and 'European' contracts. As regards international contracts Rome I could be used to establish the international scope of application of secondary Union law when the contract involves a link with a third country. However the legislator seems to have given preference to an autonomous approach based upon the object and purpose of the relevant instrument. These directives create nuisance in the conflict of law process and it will be proposed to integrate sector specific scope rules in Rome I.

With regard to contracts that exclusively have connections with two or more Member States it will be analysed to what extent rules of contract law are caught by the fundamental freedoms. It will be argued that primary law does not favour ex ante the application of the law of a specific Member State, but may correct the applicable law. Rules that can be set aside by parties by a mere choice of law can however not have the potential effects of hindering the smooth functioning of the internal market.

The overall objective of the project is to identify the methodological disharmony between Union law and PIL in the regulation of cross border contracts and to propose suggestions to improve their mutual understanding.