Preface

The European Union legislation in the sphere of private international law has undergone considerable development since the publication of the first edition of this work in 2006. The case-law on existing EU measures (the Brussels I Regulation on civil jurisdiction and judgments; the Rome Convention 1980 on the law applicable to contractual obligations; the Brussels IIA Regulation on matrimonial matters and parental responsibility; and the Regulation on insolvency proceedings) has continued to expand, and several new EU regulations have been adopted. Thus choice of law in respect of civil obligations is now governed by the Rome I Regulation on contractual obligations, and by the Rome II Regulation on non-contractual obligations. In the sphere of family law, a Regulation on jurisdiction, choice of law and judgments in respect of maintenance obligations has been adopted and will become applicable in 2011. The European Union has become a member of the Hague Conference on Private International Law, and is in the process of giving effect, in relation to external countries, to the Hague Convention 1996 on parental responsibility and child protection, and to the Hague Convention 2005 on choice of court agreements. With regard to the EFTA countries, a revised Lugano Convention on civil jurisdiction and judgments has been concluded by the European Union and brought into operation in relation to Norway. Consideration has also begun of a proposal for an EU regulation dealing with succession on death.

In general, the present author continues to welcome the harmonisation of private international law at European Union level. Since private international law seeks to co-ordinate the operation of private law in the interests of justice and certainty for persons involved in transnational activities or relationships, and the achievements of these goals can be obstructed by divergencies between the rules adopted in different countries, the establishment of a harmonised system of private international law, operative throughout most of Europe, seems an appropriate activity for the EU institutions. Thus the recent willingness of British governments to give way to pressure from certain commercial interests and their level advisers, and accordingly to play an obstructive role in relation to this harmonisation project, seems entirely regrettable.

On the other hand, there are features of the current approach adopted by the European institutions in this sphere which appear to merit fundamental reconsideration. In particular, the enthusiasm of the EU Commission to eliminate the need, in the context of the enforcement of one Member State of a judgment given in another Member State, for an enforcement order made by a court of the State of enforcement, seems unjustified and, indeed, dangerous. Apart from the practical difficulties which may arise, the idea of automatic enforceability gives far too little consideration to the need to ensure that (at least) private individuals and small businesses receive a minimum of essential procedural protection from the courts of the country in which they reside or are based. Even the suppression of jurisdictional review in the State addressed goes beyond what has been found acceptable between sister States in the United States of America, and has obvious

dangers, especially in relation to proceedings brought in bad faith. There is a real risk that excessive enthusiasm for 'the free movement of judgments' may eventually discredit the whole process of harmonisation in this sphere.

In general the manuscript of this work was completed in January 2010. But major developments (such as rulings given by the European Court) up to September 2010 have been incorporated.

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