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## Book Review

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### CONFLICT OF LAW

CONFLICT OF LAWS IN WESTERN EUROPE: A GUIDE THROUGH THE JUNGLE. By Mathias Reimann. Transnational Publishers, Inc., 1995. Pp. v, 198.

*Reviewed by Patrick J. Borchers\**

Professor Mathias Reimann of the University of Michigan Law School has authored a marvelous addition to the conflict-of-laws literature. His new book, *Conflict of Laws in Western Europe: A Guide Through the Jungle*, is designed as a primer for American lawyers on choice of law, jurisdiction and judgment recognition in Western European countries. It does not, nor is it intended to, provide a detailed analysis of any one treaty or the law of any one country. Instead, it is intended to acquaint American readers with the general structure of conflicts problems on the other side of the Atlantic (pp. xix-xx).

In this aim, the book succeeds wonderfully. It is lucidly written and refreshingly brief. Even in a small page format, its text extends only about 190 pages, and it can be read comfortably in a single sitting. It contains no needless jargon, and is closely edited for maximal clarity.

This reviewer is confident that any American lawyer who invests the relatively short amount of time needed to read the book will come away with a substantially improved understanding of the subject. Indeed, as Professor Reimann points out, one of the impediments to an American lawyer's understanding of European conflicts law is a substantial difference in methodology. In Western Europe, the subject is dominated by legislation and treaties, while here we have a rather more grandiose conception of conflicts, as all three branches of the topic are tied to the United States Constitution. Once one better understands some of the fundamental structural differences between American and European conflicts law, the details follow with relative ease.

The book proceeds in two major parts. The first (called the "General Part," a term borrowed from civilian codifications) discusses the major features of Western European conflicts law. This reviewer found chapter three, entitled "The Levels of Conflicts Law," particu-

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larly helpful. This chapter succinctly discusses the interplay between international conventions and national rules. As Reimann points out, while international conventions garner substantial attention, they usually only partially displace national rules, meaning that there are large categories of legal problems to which national rules apply (p. 52). National rules may themselves exist on several different levels. For instance, the Swiss codification contains several general directives, but is subject to many more specific rules covering limited areas (p. 49). And, while European conflicts rules are not as elastic as the common law principles fashioned by American courts, Reimann correctly points out that it is easy to overstate the differences between our systems, and that ambiguous or vague national statutes must be read in light of interpretive case law and academic commentary (p. 51). The scope of national legislation also varies considerably; some nations have nearly comprehensive codifications of their conflicts law, others have little relevant legislation (p. 49).

The second major part (called the "Special Part") of the book discusses the principal topics of conflicts law: jurisdiction, choice of law and judgment recognition. The chapter on jurisdiction contains a succinct discussion of the major European treaties and important national rules. It also discusses some of the important contrasts with the American system, notably the European preference for protecting economically weaker parties and European rejection of the doctrine of *forum non conveniens*.

The chapter on choice of law contains an important discussion of the major European treaties as well as a new source of choice of law rules: European Union Commission directives (pp. 96-97). With increasing frequency, these administrative directives contain choice-of-law rules that become incumbent upon member states to implement through legislation. Overlooking these EU Commission directives can lead one to incorrect conclusions. The chapter on choice of law also contains a discussion of the major substantive areas, including family law, succession, torts, contracts and so on. Reimann points out that the American "conflicts revolution" never thrived on European soil, and that Western Europe mostly remains committed to a multilateral, rule-oriented approach to choice-of-law problems (pp. 100-09).

The chapter on judgment recognition discusses in some detail the relevant international and national rules. Reimann helpfully identifies the common grounds for successful collateral attacks on a foreign judgment, and discusses some of the more important national rules. The final chapter is a brief summary of the procedural laws of Western European countries.

Reimann notes in the introduction that his approach is "descriptive and comparative" not critical (p. xxi). This much is true, but in employing the comparative method to conflicts, one cannot help but note some of the oddities of American law, and Reimann gently points them out. One is the uncertainty and unpredictability that dominates the subject in the United States. Reimann notes (correctly)

that "[a] half hour of studying the Rome Convention may enable an American lawyer to understand the basics of Western European choice of law in contracts" while a similar period invested by a Western European lawyer in studying American contractual conflicts law will teach only that the lawyer "better not venture any prediction" (p. 16). Another is our strange notion that the jurisdiction of courts is a subject of constitutional dimension. Jurisdictional issues in Europe are largely a matter of relatively straightforward treaty and statutory interpretation, and the American notion that "the limits of a court's jurisdiction are largely a matter of constitutional rights seems rather fantastic to a European lawyer" (p. 67). It is the hope of this reviewer that improved American understanding of other systems will encourage reexamination of some of the more peculiar features of our conflicts law.

Almost any American lawyer could profit by reading this book cover to cover. Particularly, though, lawyers in international practice may find it helpful. Although this book will not provide definite answers to questions, it will give the practitioner a framework for evaluating a client's problem. For instance, the book contains a helpful listing of important works on the national conflicts laws of each of the European countries. Even if, as is often the case, European counsel must be engaged to obtain accurate advice on a conflicts problem, a review of the principles so artfully articulated in Reimann's book will put the American lawyer in a better position to evaluate that advice, and translate it into specific strategies. Academic lawyers who teach the subject will also want to consider assigning all or portions of the book, either in a general conflicts class or in courses specifically oriented towards transnational litigation.