

Where EU Private International Law is headed for? — From the view of Rome II Regulation (Summary)

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In recent years in European Union, there have been many new regulations adopted dealing with private international law, such as Regulation on the law applicable to non-contractual obligations (Rome II), Regulation on the law applicable to contractual obligations (Rome I), and Regulation on the law applicable to divorce and legal separation (Rome III). Especially, Rome II is the first regulation of EU which lays down choice of law rules in general for the specific field of private law. In that sense, Rome II has a wide legal significance in the EU private international law.

In July 2003, the European Commission published a proposal on the Rome II Regulation. But it took EU about four years to adopt the final version of the Regulation. It is the main reason for taking long time to adopt the Regulation that the European Parliament submitted critical amendments to the proposal of the European Commission. During the legislative process of Rome II, European Parliament had a different opinion on the choice of law methodology from that of European Commission based on the traditional theory. Finally, EU rejected the amended version presented by the Parliament, and adopted the amended draft of the Commission.

This article overviews the legislative history of Rome II (II), and shows the outline of the choice of law systems on tort/delict in the Regulation (III). Rome II adopts *lex loci delicti* as the general rule on tort/delicti. According to Article 4(1), the *locus delicti* is described as the place of injury. On the other hand, there is no foreseeable clause in the general rules. This means that Rome II pays more attention to ensuring legal certainty and foreseeability of applicable law than to encouraging flexibility of choice of law process.

The comments of scholars about Rome II are divided (IV). In general, Most of the scholars in European countries give a positive response to the conflict of laws theory of Rome II.

It is not easy for us to forecast where EU private international law is headed for in future. However, thinking of the influence of EU law in our globalized world, we have to continue giving attention to the application of Rome II in particular cases.