

## Party Autonomy in Contemporary Private International Law — Impact of the Hague Principles on Choice of Law in International Commercial Contracts (summary)

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In today's globalized world, people increasingly move across borders and form international legal relationships. The conventional method of private international law to objectively point to the country that has the closest connection with the legal relationship concerned is gradually being eroded by other methods, in particular, party autonomy.

Party autonomy is a conflict of laws principle that allows the parties to designate the applicable law. While the rationales for party autonomy were in the past questioned by various authors, its practical advantage of guaranteeing legal certainty and foreseeability in international contracts is now acknowledged. Party autonomy is also considered to appropriately satisfy the parties' interests and needs, as the parties are generally in the best position to judge which law is the most appropriate to govern their cross-border contracts. Moreover, in contemporary private international law, some authors justify party autonomy as an expression of the personality rights of the party or in light of the steering and regulatory functions of this legal principle as a method of global governance.

Against this background, on 19 March 2015 the Hague Conference on Private International Law adopted the "Hague Principles on Choice of Law in International Commercial Contracts" ("Hague Principles") as the first non-binding conflict of laws instrument. The Hague Principles, which consist of a preamble and 12 articles, aim to promote party autonomy by providing fundamental principles on choice of law in international commercial contracts. Most notably, the Hague Principles allow the choice of non-state law, referred to as "rules of law" in both arbitration and litigation as a response to the increasing relevance of soft law and the plurality of legal norms in today's globalized world.

The purpose of the underlying paper is to examine the meaning, theoretical underpinnings, scope and implementation of party autonomy in international commercial contracts based on the Hague Principles. To that end, this study first explores the historical development and rationales for party autonomy. After considering the basic structure and content of the Hague Principles, this study analyzes the Principles' possible impact and function as a model law on the establishment and the implementation of party autonomy from a comparative perspective.