

1. Record Nr.	UNINA9910784857203321
Titolo	Forum shopping in the European judicial area // edited by Pascal de Vareilles-Sommieres
Pubbl/distr/stampa	Oxford, Eng. ; ; Portland, OR : , : Hart Pub, , 2007
ISBN	1-4725-6419-7 1-281-35730-8 9786611357245 1-84731-401-5
Edizione	[1st ed.]
Descrizione fisica	1 online resource (258 p.)
Collana	Studies of the Oxford Institute of European and Comparative Law ; ; v. 7
Classificazione	86.36
Disciplina	341.2422 341.522
Soggetti	Civil procedure - European Union countries Forum non conveniens Forum shopping - European Union countries Jurisdiction - European Union countries
Lingua di pubblicazione	Inglese
Formato	Materiale a stampa
Livello bibliografico	Monografia
Note generali	Articles in English and French.
Nota di bibliografia	Includes bibliographical references and indexes.
Nota di contenuto	Introduction / Edwin Peel -- Part I The Gasser Case: the Fate of Jurisdiction Clauses in Case of Lis Pendens. 1. Parallel Proceedings and Jurisdiction Agreements in Europe / Richard Fentiman ; 2. The Enforcement of Jurisdiction Agreements Further to Gasser and the Community Principle of Abuse of Right / Arnaud Nuyts -- Part II The Turner Case: The Prohibition on Anti-suit Injunctions. 3. Le Principe de Confiance Mutuelle et Les Injonctions Anti-Suit / Marie-Laure Niboyet ; 4. The Prohibition on Anti-Suit Injunctions and the Relationship Between European Rules on Jurisdiction and Domestic Rules on Procedure / Alexander Layton -- Part III The OwusuCase: The Rejection of the 'Forum Non Conveniens'. 5. The Mandatory Nature of Article 2 of the Brussels Convention and Derogation from the Rule It Lays Down / Pascal de Vareilles-Sommieres ; 6. Legal Certainty and the Brussels Convention - Too Much of a Good Thing? / Andrew Dickinson ; 7. Forum non conveniens et Application Uniforme des Regles de Competence / Pierre Mayer --Conclusion / Horatia Muir Watt.

"One of the issues left untouched by the Brussels Convention of 27 September 1968 (and by the Brussels-1 Regulation replacing it) concerns the leeway left to domestic courts when applying European rules on international jurisdiction in civil and commercial matters. For instance, is the court under a duty of strict compliance with the jurisdiction rule as it is drafted? Would such a duty go so far as to require the court to abide by the jurisdiction rule, even though it is being used by one of the litigants to achieve an unfair result, for example to delay adjudication on the merits? Under what conditions may the Court decline jurisdiction on account of any unsuitable forum shopping, thus ruling out the European provision on jurisdiction? Recent litigation in the ECJ has yielded rather, even excessively, restrictive answers, ruling out any discretion by domestic courts to remedy any inconvenience arising from the strict application of the European provisions, if such discretion were provided for by the *lex fori* (the Gasser case, the Turner case, and the Owusu case). This series of rulings from the ECJ raises several questions. Most observers have questioned the appropriateness of prescribing a blind application of European rules on jurisdiction by domestic courts, relying on the legal traditions of EC Member States usually providing for corrective mechanisms - such as 'forum non conveniens' in English Law and 'exception de fraude' in French Law - in cases when a party abusively triggers the jurisdiction of a court in order to obtain an unjust advantage, thus practising unacceptable forum shopping. The time has now come for an analysis, under both Community and comparative law, of the ramifications of the recent Gasser/Turner/Owusu cases. Readers will find in this book a collection of studies by some of the leading English and French experts today, analysing the ins and outs of jurisdiction and forum shopping in Europe."--Bloomsbury Publishing.

---