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Sessions on Mercosur Law: a Model of Parallel Integration

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Paz Zamora, Carlos Augusto (Instituto de Medio Ambiente y Ecología. Rodríguez Peña, 770, 2º. 1020 Buenos Aires (Argentina)): El Mercosur en la integración latinoamericana (Mercosur in Latin American integration) (Orig. es)

In: *Azpilcueta*. 14, 15-28

Abstract: The author analyses the principal integration processes developed in Latin America to conclude by studying in some detail the institutional plan of Mercosur and the perspectives of greater integration harboured in this organisation. Furthermore the documental appendices are of considerable interest, as are the references to Internet to obtain greater and more complete information on the phenomenon of integration in Latin America.

Key Words: Integration. Organizations in Latin America. Institutions of Mercosur.

Ruiz Díaz Labrano, Roberto (Universidad Nacional de Asunción. Facultad de Derecho. Carlos A. López, 1233. Asunción (Paraguay)): Mercosur, necesidad de un tribunal de carácter supranacional (Mercosur, the need for a court of a supra-national character) (Orig. es)

In: *Azpilcueta*. 14, 29-37

Abstract: This work outlines the need to have a supra-national Court of Justice within the institutional structure of Mercosur that could provide unifying interpretation criteria of all the regulations within this organisation. It also carries out an unavoidable comparison with the Court of Justice of the European Community and the inherent difficulties to the integration process of Mercosur when creating a jurisdictional instance of such characteristics are clearly set.

Key Words: Mercosur. Justice court. Uniform interpretation.

Fernández Arroyo, Diego P. (Universidad Complutense de Madrid. Facultad de Derecho. Ciudad Universitaria. 28040 Madrid): Preguntas y respuestas sobre el Derecho internacional privado del Mercosur (Questions and answers on private international law in Mercosur) (Orig. es)

In: *Azpilcueta*. 14, 39-53

Abstract: Shortly after the constitution of Mercosur, in 1991, private international Law has occupied a preponderant place in its legislative activity. The proliferation of procedures on all the matters of private international Law (international judicial competence, recognition and execution of foreign decisions, international judicial co-operation and international commercial arbitration), both in general and on concrete matters (contracts, contracts signed by consumers, traffic accidents), has deeply modified the regulations involved. In particular, the concurrence of such procedures with other outstanding conventional and state procedures in the Mercosur states poses many problems of interpretation and application. This article offers a series of answers to the legal situation outlined in the private international Law of Mercosur, as an action guide to avoid the emergence of new problems and to allow for the solution of already-existing problems.

Key Words: Mercosur. Creation of procedures. Private international Law. Other sources.

Fresnedo de Aguirre, Cecilia (Universidad Católica del Uruguay "Dámaso Larrañaga". Facultad de Derecho. Parada 6 y 1/2. La Fôret y el Pinar. 20000 Maldonado (Uruguay)): La cooperación cautelar internacional en el Mercosur (International preventive co-operation in Mercosur) (Orig. es)

In: *Azpilcueta*. 14, 55-72

Abstract: When a preventive measure is decreed in a State and it must be fulfilled in another, various problems in private international law are outlined, especially: 1) The identification of the applicable normative source, for which it is indispensable to analyse the framework of normative sources that coexist in the region and determine their respective areas of application. 2) The determination of the legislative and judicial competence. Which is the applicable law concerning the origin or admissibility of preventive measure and who is the internationally competent judge to decree such a measure? Which is the applicable law for the execution of the preventive measure, as well as for the counter-prevention or guarantee, and who is the competent judge in this regard? Should the exhorted judge, control the competence in the exhorting international field? And pursuant to what law? How and in what cases does the principle of the nearest jurisdiction apply? Which are the specific characteristics that outline the prevention measures that apply to ships? This paper intends to analyse and provide answers to these questions.

Key Words: International preventive co-operation. Applicable normative source. Applicable law and competent jurisdiction.

Dreyzin de Klor, Adriana (Universidad Nacional de Córdoba. Facultad de Derecho. Obispo Trejo, 241. 5000 Córdoba (Argentina)): El acuerdo sobre arbitraje comercial internacional. Nuevo instrumento jurídico del Mercosur (The agreement on international commercial arbitration. The new legal instrument of Mercosur) (Orig. es)

In: *Azpilcueta*. 14, 73-94

Abstract: In the 14th Summit Meeting of Mercosur held in Ushuaia, Argentina, on the 23rd and 24th July 1998, the Common Market Council approved two important agreements on international commercial arbitration, Decisions 3/98 and 4/98. The well-known increase in legal relationships between private individuals in the area, as well as the desire for promoting and incentivating extrajudicial solutions of private controversies by means of international arbitration, amply justify the decision of the Justice Ministers Meeting. In this work we effect an analysis of Decision 3 / 98, introducing us to the topics which are regulated, relating these to the various aspects that are studied by the institute. It is undeniable that the instrument covers a relevant space in the integrated plan for the purpose of equipping those that negotiate within the region with a greater legal security.

Key Words: Mercosur. Arbitration. Trade. Solution of controversies.

Richard, Efraín Hugo (Universidad Nacional de Córdoba. Facultad de Derecho. Obispo Trejo, 241. 5000 Córdoba (Argentina)): En torno a la “*nullidad absoluta*” de sociedades y el sistema jurídico de las relaciones de organización (In connection with the “*absolute nullity*” of societies and the legal system of organisation relationships) (Orig. es)

In: *Azpilcueta*. 14, 95-111

Abstract: The author of this work carries out an interesting comparative analysis of the phenomenon of nullity of societies in the European area and in the covered by Mercosur, emphasising specially the Argentine reality. They take the classic European theories on the phenomenon of association as a starting point and goes on to follow practical examples that reveal the complexity and the interest of this phenomenon both within the European Union and in Mercosur.

Key Words: Societies. Nullity. Mercosur. Argentina.

Aguirre Ramírez, Fernando (Universidad Católica del Uruguay "Dámaso Larrañaga". Facultad de Derecho. Parada 6 y 1/2. La Fôret y el Pinar. 20000 Maldonado (Uruguay)): Régimen de responsabilidad en el transporte de cargas en la hidrovía y necesidad de unificación del Derecho marítimo en el Mercosur (Responsability in cargo transportation by sea or river and the need for unification of Maritime Law in Mercosur) (Orig. es)

In: *Azpilcueta*. 14, 113-150

Abstract: The development of communications by boat between Paraguay and Paraná outlines one of the largest legal and political challenges, for all of the South American countries on the banks of the mentioned rivers (the four members of Mercosur, Argentina, Brazil, Paraguay and Uruguay, plus Bolivia). To achieve the development of an integrated system of free navigation and transportation of goods by river from the heart of South America to the sea-faring ports in Rio de la Plata. This study includes an analysis of the relationships between the legal regulations of each state and the "community" law within Mercosur and of the extensive scope of the international conventions on unification. It is considered a problem of the greatest interest for all the countries involved in the universal unification process of maritime law that clearly exceeds the specific topic of the unification of navigation law in the area of river communications and Mercosur.

Key Words: River communications between Paraguay and the Paraná. Unification of Navigation Law in Mercosur. Problems that outline the Conventions of the unification of procedures.