



# Comparative Conflict of Laws: Conventions, Regulations and Codes (Selected Statutes)

*Peter Hay, Russell Weintraub, Patrick Borchers*

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This regulations and codes title is designed to assist conflict of laws teachers in taking a comparative approach to the subject. International commercial transaction have become commonplace. Many injuries and deaths have their causes or their victims abroad. It is therefore imperative that the course in conflict of law include study of how foreign countries treat the course's major topics of judicial jurisdiction, choice of law, and recognition and enforcement of judgments. Interesting patterns emerge. Many choice-of-law codes and regulations have, as an exception to applying the law of the place of injury to torts, the law of the common domicile of the parties. In family-law related matters, there is much adherence to citizenship as a party's personal law.domicile of the parties. Many examples could be given of the need for a comparative approach to conflict of laws. These materials, treaties, regulations, and codes from around the world, with questions and comments, will assist in taking that approach. For example, service of process abroad is controlled by a Hague convention. The sanction for not effecting service in accordance with the convention is dismissal of the action. In the landmark opinion setting due process standards for personal jurisdiction, Justice O Connor stated that an important factor in asserting jurisdiction over a foreign defendant is the Federal interest in Government's foreign relations policies. (*Asahi Metal Ind. v. Superior Court*, 480 U.S. 102, 115, 107 S.Ct. 1026, 1034 (1987).) A United States court should not give offense to a friendly foreign country by exercising jurisdiction considered exorbitant in the foreign defendant's country. To know whether the basis for jurisdiction is deemed unreasonable in the defendant's country or by widely accepted international standards, it is necessary know the law of that country and those standards. The Commissioners on Uniform State Laws and the American Law Institute proposed a new master choice-of-law provision for the Uniform Commercial Code. State after state rejected the proposed section. The Commissioners and the Institute withdrew the section and reverted to the former provision, which was drafted in the 1950's. The European Union has a carefully crafted regulation on the law applicable to contractual obligations. Perhaps using the EU regulation as an example would have avoided the fatal flaws in U.C.C.'s aborted choice-of-law provision and would permit a substitute provision more satisfactory than one that was drafted sixty years ago.

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