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Finality of Litigation and Foreign Judgments

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Introduction

Finality of litigation is universally recognised as a general principle of law. Domestic law, as well as European and international law, illustrate the point. Yet, the implementation of this principle is left—without exception—to domestic law and, accordingly, to legal diversity. At the same time, legal systems enforce finality of litigation invariably by reference to existing judgments. The presentation addresses the problems that arise in situations where such judgments originate abroad. It presents the five theses for comment and discussion, which simultaneously constitute an outline of the presentation.

Outline & Theses

- (A) Finality of litigation is a general principle of European and international law, but its implementation is left to domestic laws**
- (B) Finality of litigation concerns the legal consequences of judgments, as opposed to their legal status (validity or enforceability) or effectiveness (compliance or application)**
- (C) The recognition of foreign judgments implies their local validity (in the State of recognition), not their effectiveness nor their legal consequences**
- (D) A choice of law-problem arises where a party to litigation invokes a foreign judgment with a view to securing finality of litigation**
- (E) The law applicable to the issue of finality of litigation may not be applied to the effect of a denial of justice of either the party asserting finality or their adversaries**