

INTERNATIONAL LAW AND DOMESTIC LEGAL SYSTEMS

INCORPORATION, TRANSFORMATION,
AND PERSUASION

EDITED BY
DINAH SHELTON

OXFORD

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Editor's Preface

The International Academy of Comparative Law was founded in 1924 in The Hague for the purpose of comparative study of the world's legal systems. As one of its main functions, the Academy convenes an international congress every four years to allow the examination of current problems being faced by all legal systems. The XVIII Congress of the Academy, held in Washington DC from 25 July to 1 August 2010, included the topic of international law in domestic systems as part of its varied and rich programme.

Most of the chapters in this volume were prepared initially for the XVIII Congress and were revised thereafter. Prior to the Congress, rapporteurs for 25 countries submitted national reports. The geographic distribution was heavily weighted towards Europe: nine reports concerned western European countries¹ and an additional seven came from central and eastern Europe.² Nine reports came from other regions: three from Latin America,³ two from North America,⁴ three from the Asia/Pacific region,⁵ and one from Israel.

A few of the national studies submitted to the Congress are omitted from this collection, because the authors chose not to revise them for publication. On the other hand, the relative lack of reports prepared for countries outside Europe led the editor to solicit additional contributions from authors in Asia and Africa. The editor is particularly grateful to the latter group of persons, who agreed to undertake the preparation of studies in a short period of time and did so with great efficiency and excellence.

All of the authors worked from a questionnaire, which is included as the appendix to this volume. The editor prepared a draft of the questionnaire, which was reviewed by colleagues at the George Washington University Law School. Thanks are due in particular to Sean Murphy, Susan Karamanian, and Ed Swaine for their helpful suggestions to improve the draft. Professor Karen Brown was also an invaluable resource in answering questions about the Academy and the Congress.

Highest praise and thanks are due to Cherish Adams (GWU, JD 2011), who raised the bar for quality research assistance during the nearly year-long process of completing this volume. Her work has been flawless, tireless, and invaluable.

The chapters have been organized to facilitate cross-country comparisons as much as possible, following the structure of the questionnaire. Each chapter begins

¹ Austria, France, Germany, Greece, Italy, Luxembourg, the Netherlands, Portugal and the United Kingdom.

² Bulgaria, Czech Republic, Hungary, Poland, the Russian Federation, Serbia, and Slovakia.

³ Argentina, Uruguay, and Venezuela.

⁴ Canada and the United States.

⁵ Australia, Japan, and New Zealand.

with a general introduction to the legal system of the country. The issues presented thereafter address the hierarchy of legal sources within the country, the major sources of international law, treaty and custom, other sources of law and the use of non-binding norms as persuasive authority. A further section is added for federal states, to discuss the specific relationship between international law and federal systems. The common structure helps identify the similarities and differences among the states represented herein and their relationship to the increasingly complex international legal system.

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