

Summary

To sum up it can be said that the following theses may be evolved with respect to the problem under discussion.

1. The Helms/Burton Act, which was signed by the American President on March 12, 1996, as well as the ensuing arrangements made by other States and the EU, highlight the topicality of the whole complex of problems „counter measures“.
2. Counter measures in the narrower, rather technical sense mean – from the aspect of private international law – the enactment of provisions relating to civil law and purposely aimed at a rejected foreign regulation. Such provisions may include classification rules directed against foreign rules providing for the disclosure of certain facts, as well as the refusal to acknowledge foreign rulings and the possibility of raising claims for restitution under provisions of actual blocking statutes.
3. There are several other types of problems to be dealt with, problems of a procedural nature or relating to conflict rules that may arise from crossborder regulation conflicts and the application of conflicting national laws, where legal provisions are not necessarily directed against any particular country. In this respect, unlike in the domain of public international law, the notion of „counter measure“ is not a welldefined term.
4. It is still not clear and controversial to a large extent, what should be the appropriate way of dealing with measures and counter measures applied by other States. A very limited scope for decisions is left to law courts and administrative authorities insofar as they are bound by specific blocking statutes. Whether provisions of public international law could bring about a change in this respect, appears doubtful.
5. The application of the law providing for measures may eventually be rendered more flexible and leave more scope for differentiation where there is more room left for decision-making by virtue of rules providing for the balancing of interests within the scope of conflict rules. This applies above all for special connections in the domain of economic conflict rules of domestic and foreign qualified mandatory laws relating to the application of civil law.
6. Measures directed against another State are a serious challenge for both private international law and international law on civil proceedings. Where the conflict of laws is not the natural consequence of an international case but is brought about on purpose with a view to creating a state of confrontation, the realization of international harmony of decisions rendered by national law courts becomes a paradox. Therefore reason demands that counter measures and their underlying conflicts should increasingly be decided on by international instances and this also in view of consequences in the domain of civil law.