

# ALR International *Alert*

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## From the editor

Volumes 3 and 4 A.L.R. International address various issues that have been addressed by global courts, including Internet trademark infringement ([3 A.L.R. Int'l 459](#)), Article 1F of the United Nations Convention Relating to the Status of Refugees regarding the exclusion of individuals based on crimes or acts ([3 A.L.R. Int'l 235](#)), global treaties and laws regulating the emission of greenhouse gasses, and the recovery of paintings and other artworks lost during World War II.

*Jason B. Binimow, J.D., and Douglas S. Jurenko, Editor*

## Highlights

### ARBITRATION

**United Nations Convention on Recognition and Enforcement of Foreign Arbitral Awards, June 10, 1958, 330 U.N.T.S. 38—Validity and Enforcement of Arbitration Agreement or Arbitration Award, and Proper Parties and Signatories to the Convention Agreement**

The United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, the purpose of which is to facilitate the recognition and enforcement of arbitral awards arising out of international arbitration by including commerce with foreign nations within its definition of commerce, and to unify the standards by which agreements to arbitrate were observed and arbitral awards enforced in signatory countries, was drafted in 1958. The Convention purports to apply to awards made in a state other than that in which recognition and enforcement is sought, and authorizes the direct enforcement of a foreign arbitral award in the courts of any country which is a party to the Convention, subject to review only on procedural grounds dealing with questions of fairness in obtaining the award, nonarbitrability, and public policy. Many global cases serve to construe and apply the “New York Convention” with respect to, inter alia, issues related to the validity of the Convention and the validity or enforcement of an



arbitration agreement or arbitration award. This annotation collects and analyzes the global cases that have discussed the construction and application of the “New York Convention” with respect to issues related to the validity and enforcement of the arbitration agreement or arbitration award, and the proper parties and signatories to

a Convention agreement. [3 A.L.R. Int'l 1](#)

### HAGUE CONVENTION

**When Is Child “Habitually Resident” in Contracting State and Subject to The Hague Convention on Civil Aspects of International Child Abduction, Oct. 25, 1980, T.I.A.S. No. 11670, 1343 U.N.T.S. 89: Wrongful Retention Cases**

The Hague Convention on the Civil Aspects of International Child Abduction, Oct. 25, 1980, T.I.A.S. No. 11670, 1343 U.N.T.S. 89 (Convention) was promulgated to protect children internationally from the harmful effects of their wrongful removal or retention. The central inquiry in determining whether a child was wrongfully retained in a contracting State is the child’s habitual residence immediately before the retention. This annotation collects and analyzes the global cases that have considered the habitual residence of a child for purposes of the Convention in the context of a child’s alleged wrongful retention in a contracting State. [3 A.L.R. Int'l 349](#)

## INTERNET

### Internet Trademark Infringement and Passing Off—Non-U.S. Cases

The Internet, with its worldwide accessibility, presents courts with the interesting dilemma of applying substantive rules of law while acknowledging the many unparalleled situations raised by modern technology. The potential for trademark confusion abounds on the Internet and courts continue to develop various approaches for dealing with such uniquely Internet issues as domain names, metatags, advertising, and websites. Two types of actions can be pursued in the quest to protect one's trademark, whether registered or unregistered. Trademark infringement actions are traditionally the means of enforcing registered trademarks. Alternatively, plaintiffs may bring actions invoking the common law tort of passing off, which enforces the premise that no one may pass off his goods as those of another. This annotation collects and discusses cases from courts around the world, excluding the U.S., adjudicating claims of trademark infringement or passing off in the world of cyberspace. [3 A.L.R. Int'l 459](#)

## REFUGEES

### Article 1F of United Nations Convention Relating to Status of Refugees, July 28, 1951, 189 U.N.T.S. 137, Regarding Exclusion of Certain Individuals Based on Crimes or Acts

Refugee protection is regarded as an important international issue, governed by the 1951 United Nations Convention Relating to the Status of Refugees (Convention), July 28, 1951, 189 U.N.T.S. 137. Article 1F of the Convention excludes from protection any person if there are serious reasons for considering that the person has committed a crime against peace, a war crime, or a crime against humanity, or the person has committed a serious nonpolitical crime, or the person has been guilty of acts contrary to the purposes and principles of the United Nations. Many global courts have construed and applied Convention Article 1F regarding the exclusion of certain individuals based on such crimes or acts. This annotation collects and discusses the global cases that have construed and applied Article 1F of the Convention regarding exclusion of certain individuals based on crimes or acts. [3 A.L.R. Int'l 235](#)

# Coming Soon

Listed below are a few of the topics scheduled to be published in 4 A.L.R. Int'l in February 2011. Some of the annotations listed may be rescheduled.



## ENVIRONMENTAL LAW

### Validity, Construction, and Application of Global Treaties, Laws, and Regulations, Including United Nations Framework Convention on Climate Change, and its Kyoto Protocol, Regulating Emission of Greenhouse Gasses

Although there is still some controversy about the precise scope and rate of climate change and global warming due to industrial development, it is clear that the current and projected concentrations of the major "greenhouse gases" in the atmosphere threaten the public health and welfare of current and future generations, and that steps must be taken to restrain such massive air pollution. The major international agreement in this regard is the Kyoto Protocol, designed to enforce the goals of the United Nations Framework Convention on Climate Change. The Kyoto Protocol sets binding targets for 37 industrialized countries and the European community for reducing greenhouse gas emissions. The EU Directive 2003/87 sets up a mechanism for trading emissions allowances within the EC by encouraging efficient and low-emission plants who can sell their excess emissions allowances on the market. Global cases have reached a variety of conclusions as to the validity, construction, and effect of the Kyoto Protocol, the EU Directive, and similar international agreements, as this annotation will illustrate. [4 A.L.R. Int'l](#)

### to Status of Refugees, July 28, 1951, 189 U.N.T.S. 137, Regarding Penalties Imposed on Refugees Unlawfully in Country of Refuge

Refugee protection is regarded as an important international issue, governed by the 1951 United Nations Convention Relating to the Status of Refugees (Convention), July 28, 1951, 189 U.N.T.S. 137. Pursuant to Article 31(1) of the Convention, States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened, enter or are present in their territory without authorization. Many global courts have construed or applied Article 31(1) of the Convention as to penalties imposed on refugees unlawfully in a country of refuge. This annotation will collect and discuss global cases that have construed and applied Article 31(1) of the Convention regarding penalties imposed on refugees unlawfully in a country of refuge. [4 A.L.R. Int'l](#)

## TREATIES

### Construction and Application of United Nations Convention on Contracts for the International Sale of Goods, April 10, 1980, 1489 U.N.T.S. 3—Global Cases Addressing Contract Formation and Obligation of Parties

The United Nations Convention on Contracts for the International Sale of Goods, April 10, 1980, 1489 U.N.T.S. 3 (CISG) contains uniform rules on the international sale of goods. It applies to international sales contracts when the parties are located in different signatory countries, or the rules of private international law lead to the application of the United Nations Convention on Contracts for the International Sale of Goods, April 10, 1980, 1489 U.N.T.S. 3 (CISG), provided that the contract does not opt out of coverage. This annotation presents practical

## REFUGEES

### Construction and Application of Article 31(1) of United Nations Convention Relating

application of the United Nations Convention on Contracts for the International Sale of Goods, April 10, 1980, 1489 U.N.T.S. 3 (CISG) in different jurisdictions, covering the formation of the international sales contract, and specific obligations of the seller and the buyer under the United Nations Convention on Contracts for the International Sale of Goods, April 10, 1980, 1489 U.N.T.S. 3 (CISG). The annotation will present a brief general analysis of each issue, specific factual and legal scenarios and relating jurisprudence, as well as specific practice pointers and warnings for practitioners. **4 A.L.R. Int'l**

## **WORLD WAR II**

### **Recovery of Paintings and Other Artworks Lost During World War II**

A great portion of the world's artworks that were located in private hands in Europe, especially Jewish owners,

were looted by the Nazi regime and their allies before and during World War II. Moreover, many museums were ransacked during conquests, and thousand of precious paintings were taken. Furthermore, the end of the war did not mean that the works were returned, as many of the owners had been murdered and heirs could not be found, victorious Allied soldiers absconded with a portion of the materials, and the Communist regimes in Eastern Europe often hindered or prevented any serious recovery efforts by heirs. The passage of time also complicated matters, as artworks may have been sold numerous times, often on the black market, and passed around the world. However, in recent years many suits have been filed for the recovery of such artwork. Global cases have reached a variety of conclusions as to the obligations of possessors of paintings and other artworks stolen or forcibly sold during the World War II era to return them to the original owners or their estates, as this annotation describes. **4 A.L.R. Int'l**

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The following is a complete list arranged alphabetically by topic, of annotations contained in the current volume **3 A.L.R. Int'l** or scheduled for publication in **4 A.L.R. Int'l**. Some of the annotations listed may be rescheduled.



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