Article

The Changes Proposed by Law no. 14.879/2024 and the Limitations on the Forum Selection Clause in International Contracts

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Abstract: This study analyzes the possible impacts of the Law nº. 14.879/24, which amended article 63 of the Brazilian code of civil procedure, in the international contracts. The purpose of the law is regulating the application of the forum selection clause for actions arising from rights and obligations. Due to the changes brought in by the law, some requirements have become indispensable for the effectiveness of the forum selection clause which are the relevance to the domicile or residence of one of the parties or to the place of obligation, considering non-compliance with such requirements to be an abusive practice. However, international commercial contracts are characterized by the plurality of parties and legal systems involved in the relationship, leading to the fact that parties commonly adopt the forum selection clause indicating a neutral forum to settle problems arising from these contracts, without necessarily having any connection with the parties or the obligation. Therefore, the purpose is to debate whether the proposed changes constitute a real step backwards and could affect the autonomy of the parties will in international contracts, creating legal uncertainty in transnational legal transactions. It can be concluded that the real setback generated by the modification of the legal provision that deals with the choice of forum clause, by making it possible for the Brazilian judiciary to stop recognizing the autonomy of the parties' procedural will in international contracts, will generate uncertainty and legal insecurity in transnational legal transactions.

Keywords: forum selection clause; private international law; international contracts; transnational legal transactions

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1. Introduction

The recent law published on June 4, 2024 amended the provision contained in §1 of art. 63 of CPC/15. It now requires the domicile or residence of one of the parties or the place of the obligation to be relevant as indispensable requirements for the effectiveness of the choice of court clause. Besides, it included § 5 to consider it an abusive practice, which even justifies declining jurisdiction ex officio, to file a lawsuit in a court with no connection to the parties or the legal transaction discussed in the lawsuit.

International commercial contracts commonly adopt a choice of court clause to indicate a neutral forum to settle any problems, without there necessarily being any connection with the parties or the obligation. That is, international commercial contracts are characterized by the plurality of parties and legal systems involved in the relationship, where the option of delegating the solution to possible disputes to a neutral and impartial forum prevails. In addition, the choice of a forum with no connection to the parties or the obligation is justified by the fact that some forums are more specialized in dealing with certain more specific claims. In this case, the high degree of knowledge of the judge on the specific subject will be a key factor in the inclusion of a choice of court clause in international commercial contracts. However, the changes introduced could have a direct impact on these commercial relationships. Since the party could easily invoke the absence of a connection to dismiss the jurisdiction of the contractually chosen forum. This would be a clear offense to the principle of procedural autonomy of the parties and would bring legal uncertainty to international relations. The analysis of these possible impacts is precisely the central object of this study.

This article aims to carry out an analytical study, through descriptive and bibliographical research, of the possible impacts generated by the entry into force of the Law nº 14.879/24. This amended art. 63 of the CPC/15, the purpose of which is to regulate the application of the Choice of Court Clause for actions arising from rights and obligations in international contracts. This article will provide a general consideration about the choice of court clause in international contracts, how the

institute has developed over the decades, its guiding principles and its systematization in the international legal system. Subsequently, its regulation in the universal and regional spheres will be observed, as well as its provision in soft-law instruments, as a guiding element for its incorporation into national legislation. The choice of forum clause will also be presented in the Brazilian legal system, through an evolutionary analysis of the institute, firstly through acceptance by the courts until it was further consolidated with the entry into force of the Code of Civil Procedure (CPC/15) and the amendment of the legal provision by law no. 14.879/24. During the analysis of the changes proposed by the recent law, the possible impacts that the changes to §§ 1 and 5 of art. 63 of CPC/15 brought about by the aforementioned law may have on the choice of forum in international contracts will be debated.

2. Choice of Court Clauses in International Contracts

The new dimension of private international law has as its corollary the promotion of greater integration between state systems at the private legal level. It aims to guarantee the efficacy of fundamental rights and collective peace, through the development of solutions for issues considered emergency in private law, such as jurisdiction and international legal cooperation. Some topics such as jurisdiction, enforcement and recognition of foreign judgments are still considered sensitive issues in the world of codification of private international law. This is due to the obstacles imposed by national states to their widespread acceptance at a global level. This consequently causes obstacles to trafficking, trade and international relations (Moschen and Marcelino 2017). It is therefore, necessary to review and transform the concept of jurisdiction, traditionally associated with the state and the concrete will of the law as a characteristic of sovereignty, at which point private autonomy in resolving disputes becomes fundamental in realizing the fundamental right of access to justice (Moschen et al. 2019). As a consequence of the philosophy developed, it can be said that currently the exercise of jurisdiction also involves the possibility of exercising the autonomy of the will of the parties.

Since the legal system was opened up to procedural legal agreements, such as those set out in articles 22, III, 25, 63 and 190 of the Code of Civil Procedure, as will be analyzed in greater detail later, the Brazilian state has allowed the parties to have greater autonomy in defining choice of court clauses and other procedural agreements (Moschen et al. 2019). In particular, choice of court clauses is commonly used in international commercial relations, which have grown exponentially in recent decades, as have the disputes inherent in such transactions.

In international trade disputes, two preliminary questions stand out: "Where and by whom will this dispute be decided?" (Born 2021). The relevance of these questions is justified by the need to analyze the cost of the possibility of a dispute being brought in more than one state. The aim is to forecast the costs of evidence and legal analysis of foreign law, as well as the costs and uncertainties that may result (Araujo 2021). The choice of court clause or choice of court agreement can be understood as a contractual clause for choosing the competent court for any dispute (Vieira and Fernandes 2017).

As a result of the autonomy of will, the choice of court clause is based on the principle of submission, which in other words refers to the party's willingness to submit to the jurisdiction of a court to which it was not subject, so that once it accepts it, it can no longer reject it (Moschen and Guerra 2009). Its absence can lead to considerable risks in international trade relations. The lack of provision for a specific choice of forum can lead to parallel disputes in two or more states to which the commercial relationship has a connection. As Giuditta Cordero-Moss (Cordero-Moos 2024) states, in practice, when there is no provision for an agreement, the parties tend to sue and try the other in their own state and may use this possibility as a strategy or even to oppose another lawsuit.

Similarly, depending on the provisions of each state's legal system, the choice of court clause may or may not result in exclusive jurisdiction. There is no doubt that, as a rule, when there is an express provision for exclusivity, no other state can exercise jurisdiction over the claim. The hypotheses of exclusive jurisdiction provided for in the internal legislation of each state are excluded[1]. However, the absence of an exclusivity clause could also lead to parallel litigation (Cordero-Moos 2024). In addition, the limits between the choice of jurisdiction and the exercise of the autonomy of the parties must be observed, the three main factors being the availability of substantive law, the observance of parity between the parties, as well as the guarantee of the Democratic Rule of Law in its fundamental procedural principles and guarantees (Moschen et al. 2019).

Just like other legal transactions, in order for the choice of forum clause to be enforceable, the requirements of existence, validity and effectiveness are necessary. Depending on the applicable legislation, the requirements for effectiveness may vary, including: i) the existence of an agreement; ii) compliance with formal requirements, such as the need for the agreement to be in writing; iii) substantial validity of the clause; iv) scope of application of the clause (Brand 2024). It can thus be seen that, given the need to establish limits between jurisdiction and the autonomy of the will of the parties, as well as greater legal certainty for cross-border business, various instruments have been developed to harmonize this institute, as will be analyzed below.

While the right to personal freedom is a fundamental right, it is also a human right, to the extent it is provided both by domestic and international legal systems[2]. That freedom, understood as a rule of fundamental right in its structure as a principle, contains not only the subjective nature of defense against the State, but also an objective nature that fully and extensively influences the legal system (Alexy 2006). In order to obtain the objective contents of a principle, one has to abstract its subjective nature. In that sense, if the citizen has the right to movement against the State, the latter has the duty of refraining from interfering with that freedom[3]. That duty of the State is the contents of the objective principle, which, because it is "very special to exert effects on all areas of the legal system" (Alexy 2006) requires two additional abstractions, so that the abstraction relating to the holder of the right must be added to an abstraction that

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1 There are exceptions to the general rule, depending on the provisions of the country's domestic legislation. This is the case, for example, with the exclusive jurisdiction rules in Article 23 of the Code of Civil Procedure.

2 In Brazil, the right to freedom of movement is provided by the Federal Constitution, Article 5, subparagraph XV, according to which "movement is free within the national territory in times of peace, and any person may, as set forth in the applicable law, enter, remain or leave the country with its property".

3 Under this perspective, it is assumed that the act of emigrating denotes two antagonistic ideas that have to be harmonized in order to guarantee the right to freedom of movement: a) the right to personal self-determination (right of the individual to govern himself or herself); and b) the right of the State to control migrations (in order to prevent possible depopulation or the entry of harmful individuals). CAVARZERE, T.T. Direito internacional da pessoa humana. Rio de Janeiro: Renovar, 2001, p. 48.

relates to the recipient of the right (the one that has a duty – the obligor) and an abstraction relating to the particular aspects of its purpose (in this case, the State refraining from interfering) (Alexy 2006), for which reason one concludes that the freedom of movement of individuals is a first-line principle of abstraction, or further, a threefold abstracted principle.

Two principles must be highlighted regarding the movement of individuals: a) admission of the "jus communicationis"; and the b) right of the State to regulate the immigration in its territory. While under the former, the right to migrate is observed from an international viewpoint, based on the very need of international trade and freedom of individuals; under the former, there is the State sovereignty and settled international practices. Albuquerque Mello understands that: "some have affirmed that the limitations imposed on immigration must be generic, that is, with no discretion of race, religion and national origin" (Albuquerque Mello 2000). Thus, immigration limitations must observe the principles of tolerance and otherness by setting forth their conditions, in order to ensure the freedom of movement of individuals[4].

The advantage of adopting the principle of freedom of movement[5] of individuals as the top level of abstraction is the irradiating characteristic of those principles, "applicable as a starting point for dogmatic grounds of various different types of substantial structural requirements under the fundamental rights, in all fields of the legal system" (Alexy 2006). Thus, such provisions have a type of power of paralyzing adverse standards that have a decisive influence on the interpretation of the legal system. One of the results of that irradiating characteristic is the arising of the principle recognized by the domestic law regarding the international system, which will be part of the list of sources from the Public International Law[6], exerting effects in that respect.

3. Regulatory Forms

As seen above, with a view to strengthening international trade relations, as well as legal certainty in the face of the possibility of parallel litigation and/or non-recognition of the clause, the international community has been developing instruments to harmonize the rules on choice of court clauses. The main universal and regional instruments on the subject will therefore be analyzed.

3.1. Universals

Among the actors responsible for harmonizing the rules of international civil procedure, the Hague Conference (HCCH) plays a leading role in the production of hard law instruments dealing with choice of court clauses. The Hague Convention on Choice of Court Agreements, concluded on June 30, 2005[7] is one of the main instruments on the subject, if not the main one. As stated in its preamble[8], the Convention aims to establish rules that make it possible to execute exclusive choice of court agreements. This is also demarcated in Art. 1, which deals only with international civil and/or commercial law, excluding labor contracts, family law, succession, insolvency, among others (Art. 2) from the Convention's application.[9].

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4 Nesse sentido, mesmo que o Estado não tenha obrigação jurídica de admitir estrangeiros, possui obrigação moral, de modo a não ensejar represálias. Ora, a admissão de estrangeiros por parte dos Estados acolhedores é um beneplácito regrado pela cortesia, sem o qual se dificultam as relações entre os Estados. Cavarzere.T.T, Direito internacional da pessoa humana. Rio de Janeiro: Renovar, 2001,p. 51.

5 Cf VATTEL afirma: "Il est des cas dans lesquels un citoyen est absolument en droit, par des raisons prises du pacte même de la société politique, de renoncer à as patrie e de l'abandonner: 1er – Si le citoyen ne peut trouver as subsistance dans as patrie, il lui est permis san doute de la chercher ailleurs; car la société politique, ou civile, n'étant contractié que dans la vue de faciliter à un chacun les moyens de vivre et de se faire un sort heureux et assuré, il serait absurde de prétendre qu'un membre, à qui elle ne pourra procurer les choses les plus nécessaires, ne sera pas en droit de la quitter; 2 – Si le corp de la société, ou celui Qui le représente, manque absolument à ses obligations envers un citoyen celui-ci peut se retirer. Cas si l'un des contractans n'observe point ses engagements, l'autre n'est plus tenu à remplir les siens, et le contrat est réciproque entre la société et ses membres. C'est sur ce fondement que l'on peut aussi chasser de la société un membre qui en viole les lois. 3- Si la majeure partie de la Nation, ou le souverain qui la répresente, veut établir des lois sur des choses à l'égard desquelles le pacte de société ne peut obligertout citoyen à se soumettre, ceux à qui ces lois déplaisent sont en droit de quitter la société pour s'établir ailleurs." VATTEL, E. Le droit de gens ou principes de la loi naturelle appliqués à la conduite et aux affaires des nations et des souverains. Paris: Guillaumin, 1863, v.1, p 511.

6 Sobre o tema, escreve MAZZUOLI que "Existindo dúvida sobre ser determinado princípio um princípio geral de direito internacional, deve o intérprete verificar se o mesmo se encontra positivado na generalidade dos ordenamentos internos estatais". Curso de direito internacional público. São Paulo, p. 115.

7 Hague Conference. Convention of June 30, 2005 on Choice of Court Agreements. Available online: https://www.hcch.net/en/instruments/conventions/full-text/?cid=98 (accessed on 24 July 2024).

8 "The States Parties to this Convention, [...] Convinced that such enhanced cooperation requires, in particular, an international legal framework guaranteeing the certainty and effectiveness of exclusive choice of court agreements concluded between parties to commercial transactions and governing the recognition and enforcement of judgments given in proceedings based on such agreements".

9 Article 2 - Exclusions from the scope of application (1) This Convention shall not apply to exclusive choice of court agreements: (a) to which a natural person who is acting primarily for personal, family or household purposes (a consumer) is a party; (b) relating to employment contracts, including collective agreements. 2. This Convention shall not apply to the following matters: (a) matters relating to the status or capacity of natural persons; (b) maintenance obligations; (c) other family law matters, including matrimonial property regimes and other rights or obligations arising out of marriage or similar relationships; (d) wills and succession; (e) insolvency, composition or arrangement with creditors and similar matters; (f) carriage of passengers and goods; g) Marine pollution, limitation of liability in maritime claims, common breakdowns, towing and emergency rescue; h) Competition; i) Liability for nuclear damage; j) Claims for compensation for bodily injury and moral damage brought by or on behalf of natural persons; k) Claims for compensation for damage caused to tangible property by an unlawful act which does not originate in a contract; l) Rights in rem in immovable property and property rental contracts; m) Validity, nullity or dissolution of legal persons and validity of decisions of their organs; n) Validity of intellectual property rights other than copyright and related rights; o) Infringement of intellectual property rights other than copyright and related rights, except where the proceedings are or could have been brought for breach of a contract between the parties concerning such rights; p) Validity of entries in public registers.

With regard to its regulatory content, the Convention has three pillars, one of which is central and the other two deriving from it (Oliveira 2019), the first of which refers to the impossibility of waiving venue (Art. 5 (2)[10]), that is to say, the chosen court must judge the case, and it is not possible to allege forum non conveniens[11]. The second point is the need to abstain from the Convention's contracting state which, even though it has a connection with the case, was not chosen by the parties (Art. 6 [12]). In turn, the third pillar refers to the duty to recognize the decision handed down by the court of the state chosen by the parties in the clause (Art. 8 [13]).

The requirements for the existence of a choice of court clause are not present in the Convention. However, the formal and substantial requirements for the validity of this business are embodied in Article 3 for the former and Articles 5, 6 and 9 for the latter (Brand 2024). Furthermore, with regard to the causes that exempt the obligation to recognize the decision, the following stand out: (i) nullity of the agreement, unless the court has already recognized the validity of the agreement (Art. 9 (a)), (ii) incapacity of one of the parties (Art. 9 (b)), (iii) failure to inform the defendant timely or in a manner discordant with the principles of the State (Art. 9 (c)), among others.

Another Convention worth mentioning within the Hague Conference scope is the Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters, of July 2, 2019[14]. From its preamble, the 2019 Convention makes direct reference to the Convention on Choice of Court Agreements, indicating complementarity as one of its main characteristics[15]. Since its preliminary draft, the 2019 Convention has differed from the 2005 Convention by including consumer relations in its scope of application (Moschen and Marcelino 2017), which was confirmed in the final version of the Convention[16]. It is also worth mentioning that the bases of jurisdiction present in the Convention are: i) indirect, also called filters of jurisdiction, set out in art. 5; ii) as well as bases of exclusive jurisdiction, which are set out in art. 6 of the Convention (Moschen and Marcelino 2017). Finally, although both Conventions have not been ratified by Brazil, it is possible to use them in a supplementary way, as a guide to the provisions of the Code of Civil Procedure, as well as to help understand the subject (Oliveira 2019).

3.2. Regionals

Latin America has a key role in the growth of private international law and, in particular, in the process of harmonizing the rules of international civil procedure. This was spearheaded by two historical movements, one a regional emancipatory initiative and the second based on the thoughts of jurists such as Savigny, Joseph Story, Augusto Teixeira de Freitas, among others. The initial milestone in the harmonization process of the Codification of Private International Law was the Treaty of Montevideo of 1889, especially in Latin America (Lopes and Moschen 2020).

It was within this embryonic movement to regulate private international law that the International Commission of Jurisconsults was set up, which would later serve as the basis for the formation of the current Inter-American Juridical Commission. At its sixth conference, the Commission drew up the Code of Private International Law, also known as the Bustamante Code17, in honor of the jurist who drafted it, Antonio Sanchez de Bustamante (Lopes and Moschen 2020).

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[10] Article 5 - Jurisdiction of the chosen court: 2) A court having jurisdiction under paragraph 1 may not refuse to exercise its jurisdiction on the ground that the dispute should be decided by a court of another State.

[11] On the subject: "Therefore, the first pillar is based on the idea that it is not possible to claim forum non conveniens, an institute typical of common law countries, in which a court can derogate from its jurisdiction by claiming that another forum is competent for its greater convenience." In: Oliveira, André Andrade De; Rocha, Nathália Canedo; Moschen, Valesca Raizer Borges. Novos contornos da cláusula de eleição de foro no Brasil: utilização supletiva da Convenção de Haia sobre Acordos de Eleição de Foro, 122.

[12] Article 6 - Obligations of a non-elected court - A court of a Contracting State which is not the elected court shall suspend or decline jurisdiction over a dispute to which an exclusive choice of court agreement applies, unless:

[13] Article 8 - Recognition and enforcement - (1) A judgment given by a court of a Contracting State designated in an exclusive choice of court agreement shall be recognized and enforced in the other Contracting States in accordance with the provisions of this Chapter. Recognition or enforcement may be refused only on the grounds specified in this Convention.

[14] Hague Conference. Convention of July 2, 2019 on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters. Available online: https://www.hcch.net/en/publications-and-studies/details4/?pid=6760&dtid=21 (accessed on 24 July 2024).

[15] "Convinced that this enhanced judicial cooperation requires, in particular, an international legal regime that provides for a greater degree of predictability and certainty regarding the circulation of foreign judgments worldwide, and that complements the Convention on Choice of Court Agreements of June 30, 2005."

[16] Article 5 - Basis for recognition and enforcement:
1. A judgment is eligible for recognition and enforcement if it meets one of the following requirements: (e) the defendant has expressly accepted the jurisdiction of the court of origin in the course of the proceedings in which the judgment was given; (f) the defendant has contested the substance of the case before the court of origin, without contesting jurisdiction within the period prescribed by the law of the State of origin, unless it is clear that an objection to jurisdiction or to the exercise thereof would not succeed under that law; (g) the judgment relates to a contractual obligation and was given by a court of the State in which that obligation was or should have been performed, in accordance with (i) the agreement between the parties, or (ii) the law applicable to the contract, in the absence of an agreement as to the place of performance, unless the defendant's activities in relation to the transaction clearly did not constitute an intentional and substantial connection with that State; m) the judgment was given by a court designated in an agreement concluded or documented in writing or by any other means of communication which makes the information accessible so as to be usable for subsequent reference, provided that it is not an exclusive choice of court agrément;
2. If recognition or enforcement is sought against a natural person acting primarily for personal, family or household reasons (a consumer) in a matter relating to a consumer contract, or against an employee in relation to his employment contract: (a) paragraph 1(e) shall apply only if express oral or written consent is given to the court; (b) paragraph 1(f), (g) and (m) shall not apply.

[17] Brasil. Câmara Dos Deputados. Legislação Informatizada - Decreto nº. 18.871, de 13 de agosto de 1929. Available online: https://legis.senado.leg.br/norma/435904/publicacao/15693455 (accessed on 24 July 2024).

Still in force in Brazil, the Bustamante Code has 437 articles divided into various subjects of private international law, among them rules of international civil procedural law, with emphasis on articles 318 to 332, which provide for general rules of civil and commercial jurisdiction and already established rules on the validity of choice of forum clauses. Article 32118 Article 319 provides for the figure of "express submission", similar to the definition of the choice of court clause established by the 2005 Hague Convention, establishing the exclusivity of the jurisdiction chosen by the parties, derogating from others that have a connection to the case. However, unlike the 2005 Convention, arts. 319 and 320 (Lopes and Moschen 2020) expressly provide for the need for a connecting factor between the case and the chosen forum, which, when interpreted in conjunction with art. 318 (Lopes and Moschen 2020)[19], can be the domicile or nationality of the parties.

In addition to the Bustamante Code, another important inter-American codification movement came from the Specialized Conferences on Private International Law (CIDIPs), approved in 1975 and held within the framework of the OAS legal system (Lopes and Moschen 2020). With a total of 9 editions, the CIDIPs were responsible for drafting 23 instruments, 9 of which are procedural, and only 6 of which have been ratified by Brazil[20]. Among the dozens of Conventions on international civil procedural law, only the Inter-American Convention on Jurisdiction in the international sphere for the extraterritorial effectiveness of foreign judgments[21] (CIDIP III, 1984) has an article that provides for a forum selection clause. However, as in the case of the Bustamante Code, the provision for agreement requires that the chosen forum be connected to the case and that the jurisdiction is not exorbitant (Art. 1 (D))22. This Convention has not been ratified until present date by Brazil.

Still at the regional level, MERCOSUR stands out as an important space for codifying rules for harmonizing civil proceedings, especially based on two instruments: the Buenos Aires Protocol on Jurisdiction in Contractual Matters[23] and the Las Leñas Protocol on Jurisdictional Cooperation and Assistance [24]. The Buenos Aires Protocol is international contracts of a civil and commercial nature, whether an individual or legal entity (Art. 1)[25]. Excludes from its scope contracts referring to agreements within the scope of family and succession law, administrative, social security, labor, consumer contracts, among others (Art. 2). Furthermore, the Protocol distances itself from other regional instruments by allowing two application hypotheses (Art. 1): a) when the parties are domiciled or headquartered in Member States other than MERCOSUR; b) when only one of the parties is domiciled or headquartered in a Member State and at the same time there is a reasonable association between the chosen forum and the object, according to the rules of jurisdiction of the protocol, present in arts. 7 to 12 (Araujo and Freitas 2020).

Regarding the formal criteria of the forum selection clause, the Protocol establishes the need for the agreement to be in writing and to come from the manifestation of free will, and may also stipulate state jurisdiction over an arbitration court (Art. 4)26. The validity and effects of the clause are not present in the Protocol, being left to the domestic legislation of each State (Art. 5 (2)). The Buenos Aires Protocol also establishes hypotheses of subsidiary jurisdiction (Arts. 7 to 12), in the absence of the provision of an election clause and which, in light of art. 13 of the Code of Civil Procedure[27], must be observed when there is a connection.

3.3. Soft law

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18 Article 321 - Express submission is understood to be that made by the interested parties with a clear and final waiver of their own jurisdiction and the precise designation of the judge to whom they are submitting.

19 Article 318. The judge with jurisdiction at first instance to hear claims arising from civil and commercial actions of any kind shall be the one to whom the litigants expressly or tacitly submit, provided that at least one of them is a national of the contracting state to which the judge belongs or is domiciled there, unless local law provides otherwise.

20 Brazil has ratified the following inter-American conventions on procedural law: Inter-American Convention on International Commercial Arbitration (CIDIP I), Inter-American Convention on the Legal Regime of Powers of Attorney to be used Abroad (CIDIP I), Inter-American Convention on Letters Rogatory (CIDIP I), Inter-American Convention on the Extraterritorial Effectiveness of Foreign Arbitral Awards and Judgments (CIDIP II), Inter-American Convention on Proof of Information about Foreign Law (CIDIP II) and Additional Protocol to the Inter-American Convention on Letters Rogatory (CIDIP II).

21 OAS. *Convencion Interamericana Sobre Competencia En La Esfera Internacional Para La Eficacia Extraterritorial De Las Sentencias Extrajeras.* Bolívia, 1984. Available online: https://www.oas.org/juridico/spanish/tratados/b-50.html (accessed on 24 July 2024).

22 Article 1=In order to obtain the extraterritorial effectiveness of foreign sentences, the requirement of competence in the international sphere will be considered satisfied when the jurisdictional body of a State Party that has dictated the sentence has greater competence in accordance with the following provisions:

D. Regarding actions derived from commercial contracts concluded in the international sphere, which the Parties have agreed in writing are submitted to the jurisdiction of the State Party from which the sentence was pronounced, whenever such jurisdiction has not been established in an abusive manner and has existed a reasonable connection with the object of the controversy.

23 Brasil. Decreto nº. 2095, de 17 de dezembro de 1996. *Promulga o Protocolo de Buenos Aires sobre Jurisdição Internacional em Matéria Contratual, concluído em Buenos Aires, em 5 de agosto de 1994.* Available online: https://www.planalto.gov.br/ccivil_03/decreto/1996/d2095.html (accessed on 24 July 2024).

24 Brasil. Decreto nº. 2067, de 12 de novembro de 1996. *Promulga o Protocolo de Cooperação e Assistência Jurisdicional em Matéria Civil, Comercial, Trabalhista e Administrativa.* Available online: https://www.planalto.gov.br/ccivil_03/decreto/1996/d2067.html (accessed on 24 July 2024).

25 Article 1-This Protocol shall apply to the international contentious jurisdiction relating to international contracts of a civil or commercial nature concluded between individuals - natural or legal persons

26 Artigo 4- In disputes arising from international contracts in civil or commercial matters, the courts of the State Party to whose jurisdiction the contracting parties have agreed to submit in writing shall have jurisdiction, provided that such agreement has not been obtained unduly. 2. The election of arbitration tribunals may also be agreed.

27 Article 13. Civil jurisdiction shall be governed by Brazilian procedural rules, except for specific provisions set forth in international treaties, conventions or agreements to which Brazil is a party.

As defined by André de Carvalho Ramos (RAMOS, 2024, p. 58), soft law can be considered as a set of non-mandatory compliance rules, either because they are present in non-binding instruments or because their wording is optional in treaties. Although they are not mandatory, soft law rules influence the resolution of transnational conflicts, aiding the interpretation and integration of hard law rules. The lack of mandatory soft law also allows the participation of civil society, such as professors and experts, in assisting global governance, helping to understand the rules of international civil procedure.

In this sense, it is worth highlighting two soft law instruments: The ALI/UNIDROIT Principles of Transnational Civil Procedure[28] and the ASADIP Principles on Transnational Access to Justice (ASADIP TRANSJUS)[29]. The ALI/UNIDROIT Principles emerged in the late 1990s, from the partnership between Geoffrey Hazard and Michele Taruffo (Moschen and Barbosa 2017), which aimed to establish "a guide of principles and rules that combines the characteristics of the common law and civil law systems, with the aim of alleviating the difficulties generated by litigation in foreign legal systems and, thus, promoting access to justice". In general, the principles can be understood as: (i) a contribution to the harmonization of transnational civil procedure; (ii) a reference for changes in national civil procedure rules; (iii) an element of promotion and development of international civil procedure standards; (iv) possible promotion of procedural practices in international arbitration (Moschen and Barbosa 2017).

The ALI/UNIDROIT Principles consist of 31 principles, from which direct reference can be drawn to the election clause of principle 2.1.1:

> *2. Jurisdiction Over Parties:*
>
> *2.1 Jurisdiction over a party may be exercised:*
>
> *2.1.1 By consent of the parties to submit the dispute to the tribunal;*

Principle 2.1.1 enshrines the principle of submission, which, as previously explained, constitutes the cornerstone of the validity of the forum selection clause. Furthermore, in cases where there is no consent between the parties, the rules of jurisdiction must follow principle 2.1.2.

In turn, the American Association of Private International Law is a private institution. It represents a theoretical and empirical research network formed by professors and experts in private international law, which raises issues inherent to private international law in the region, regarding the determination of the applicable law, the establishment of jurisdiction and facilitating the recognition and execution of foreign decisions (LOPES; VALESCA, 2020, p. 338). It is within this context that the academic community under study developed the Principles on Transnational Access to Justice - TRANSJUS. According to its preamble, the TRANSJUS principles *"establish minimum standards to guarantee access to justice, without discrimination based on nationality or residence and in accordance with international human rights law and also with the principles enshrined in modern constitutions".*

Thus, divided into 8 chapters, the articles that refer to the forum selection clause are set out in Chapter 3 - Jurisdiction. In line with the other conventional instruments analyzed, the choice of forum will lead to the exclusion of other jurisdictions to which the cause is connected (Art. 3.3[30]), being a clause independent of the others stipulated in the contract, including in relation to its validity (Art. 3.5[31]). However, contrary to what is present in the 2005 Hague Convention, the TRANSJUS Principles are applicable to forum selection clauses in consumer contracts, and can also be done in writing or tacitly (Art. 3.4)[32].

4. The Choice of Court Clause in Brazil

Before the entry into force of the CPC/15, there was a legal gap in Brazil, whether from a conventional or internal source, which expressly accepted the rule of autonomy as a connecting element. Thus, the tormenting issue of the law applicable to international contracts continued to be governed by the Law of Introduction to the Civil Code (LICC), in its art. 9, which provides for the jurisdiction of the law of the place where the contract was finalized, without allowing the parties to agree on the law applicable to the contract (Araujo 2020). However, despite the lack of legal regulation, the forum selection clause in international contracts was widely received by the national legal literature, considering that the majority of Brazilian doctrine followed the same line as foreign law, allowing the forum selection agreement (ARAUJO, 2020).

4.1 The legal treatment of choice of court clauses in Brazil

Similarly to the doctrinal position, the case law of the national courts had already been positioning itself in favor of the application of the choice of forum in international contracts, privileging the autonomy of the will of the parties in the face of the general rule of

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[28] ALI/UNIDROIT. ALI/UNIDROIT *Principles of Transnational Civil Procedure.* Available online: https://www.unidroit.org/instruments/civil-procedure/ali-unidroit-principles/ (accessed on 24 July 2024).

[29] ALI/UNIDROIT. ALI/UNIDROIT *Principles of Transnational Civil Procedure.* Available online: https://www.unidroit.org/instruments/civil-procedure/ali-unidroit-principles/ (accessed on 24 July 2024).

[30] Article 3.3 - The freely expressed will of the parties constitutes a substantial and sufficient binding force to attribute jurisdiction and to derogate from it. The choice of a particular jurisdiction shall be construed as derogating from the others, unless the parties expressly wish otherwise. In legal relationships in which one of the parties is considered by the applicable legislation to be a vulnerable party, only that party may invoke a jurisdiction agreement concluded before the events giving rise to the dispute occurred.

[31] Article 3.5 - The forum selection agreement shall be considered an agreement independent of the other clauses of the contract. The validity of the aforementioned agreement may not be challenged solely on the grounds that the contract containing it is not valid.

[32] Article 3.4 - The choice of jurisdiction may be made expressly, through any means of communication accessible for later consultation and some demonstration in which the interested parties freely express their decision. The election may also be made tacitly, when the plaintiff files the lawsuit before a court and the defendant performs any act in the proceedings without contesting the jurisdiction. Tacit submission shall not be considered if the defendant opposes an executive or precautionary measure, performs acts such as requesting copies, calculations or undertakes any measure that does not imply a true litigation activity.

concurrent jurisdiction, as observed in the emblematic case Cia Hering S/A x Minimex S/A where the Court of Justice of Santa Catarina consolidated the choice of the contractually elected Brazilian forum, based on the following argument (translated by the authors):

> *"When filing the lawsuit in the District Court of Blumenau - SC, although she could do so before the Argentine jurisdiction under the rules of concurrent international jurisdiction, the plaintiff, now the appellant, limited herself to observing the previously agreed jurisdiction election clause, perfectly validated by the rules of the Buenos Aires Protocol, and it cannot be presumed that she acted in this manner for dubious purposes, especially because the burden of proof regarding the fact constituting her right falls on the plaintiff, under the terms of art. 333, I, of the CPC/1973."*

The CPC/15 then emerged with a new paradigm in the national scenario, incorporating into its text the position implicitly already accepted in Brazil by accepting the forum election clause to create a new class of special connection rule, which privileges the autonomy of the parties' will, even contradicting the rule of general connection of the defendant's domicile (Moschen et al. 2019). The possibility of choosing the competent forum was accepted in some provisions of the CPC/15, such as: (i) in art. 22, III, which provides for the jurisdiction of the Brazilian judicial authority to process and judge actions in which the parties, expressly or tacitly, submit to national jurisdiction; (ii) in art. 25, which excludes the jurisdiction of the Brazilian judicial authority for the processing and judgment of the action when there is a clause for the election of an exclusive foreign forum in an international contract and, finally; (iii) in art. 63 which authorizes the parties to modify jurisdiction based on value and territory, choosing the forum where an action arising from rights and obligations will be proposed.

For professors Valesca Moschen, Hermes Zaneti Junior and Daniela Lino (Moschen et al. 2019), when regulating the choice of forum in the CPC/15, the legislator consolidated the main international Conventions and treaties on international jurisdiction of commercial contracts, mainly with the 2005 Hague Convention on forum choice clauses, concluding that:

> *In the current scenario, the Code of Civil Procedure is a fundamental element for the institution of foreign jurisdiction to be in fact recognized and respected by Brazilian jurisprudence, so that the Judiciary does not interfere in lawsuits when a foreign jurisdiction is chosen to resolve transnational conflicts.*

Thus, with the advent of the CPC/15, the legislator removed from the scope of the national judiciary the lawsuits where the parties expressly agreed on the exclusive foreign forum, repealing Brazilian jurisdiction in favor of the autonomy of the will of the parties.

4.2 Law No. 14,879/24 and the changes imposed on art. 63 of the CPC/15: Possible impacts on international contracts

As discussed in the previous topic, with the advent of the CPC/15, the legislator chose to end any type of jurisprudential and doctrinal discussion about Brazilian jurisdiction as a public law and exclusive attribute of sovereignty, making it mandatory to choose a foreign forum in writing, even in one of the cases of Brazilian competition (Moschen et al. 2019). However, the changes in art. 63 of the CPC/15, generated by the entry into force of Law No. 14,879/24 on June 4, 2024, are in total dissonance with the fundamental precepts of the autonomy of the will of the parties in choosing the competent forum to settle any lawsuits. This is because, with the recent change, the wording of §§ 1º and 5º of art. 63 of the CPC now state (translated by the authors)s:

> *Art. 63. The parties may modify jurisdiction based on value and territory, choosing a forum where an action arising from rights and obligations will be filed.*
> *§ 1º. The choice of forum only has effect when it is contained in a written instrument, expressly refers to a specific legal transaction and is relevant to the domicile or residence of one of the parties or the place of the obligation, except in the case of consumer agreements, when favorable to the consumer.*
> *(...)*
> *§ 5º. Filing an action in a random court, understood as one without any connection to the domicile or residence of the parties or to the legal business discussed in the lawsuit, constitutes an abusive practice that justifies the declination of jurisdiction ex officio.*

In other words, in order to produce effects, it is necessary, among other requirements, that the chosen forum be relevant to the domicile or residence of one of the parties, or to the place of the obligation, considering an abusive practice that justifies the declination of ex officio jurisdiction the filing of an action in a random court. Although the provision is included in Book II, Title III, Chapter I of the CPC/15, which deals with Internal Jurisdiction, it is certain that the legislative provision that authorizes the suppression of the will of the parties due to the lack of connection with the parties or the legal transaction may eventually be extended to other types of contracts that usually elect random forums to resolve the issues.

It should be kept in min that there are many economic, commercial and political factors that influence international commercial relations, in addition to the set of legal systems that exist in the world, constituting a true "Legal Tower of Babel", as stated by Jean Thieffry and Chantal Granier (Basso 2012). The key element of international commercial contracts is the plurality of actors and applicable legal systems, requiring a quick and accurate determination of the competent forum, in addition to legal certainty regarding the adequate interpretation of contractual clauses, from the legislative perspective of certain States (Salmeron 2019).

Therefore, forum selection clauses are commonly included in international commercial contracts, since, for professors Nadia de Araujo and Caio Gomes Freitas (Araujo and Freitas 2020), the forum selection clause in international contracts reduces the insecurity that multi-location legal situations can generate by functioning "as a true connecting element of the contract, acting as an instrument for improving the law, which results in the elimination of the conflict of laws that could eventually arise". In this vein, the choice of forum clause is ubiquitous in maritime freight contracts, allowing parties to limit their exposure by ensuring that the competent court will be one that has a proven track record of impartiality and experience (Salmeron, 2019). This leads to a high preference for the City

of London forum to decide issues involving Maritime Law.[33]. Therefore, in the supposed hypothesis in which a Brazilian company conducts business with an Indian company for the transportation of goods by sea, choosing the London forum as competent to judge any lawsuits, the question that arises is whether the clause could be challenged by the Brazilian company in the national judiciary based on §§ 1º and 5º of art. 63 of the CPC.

By establishing barriers to the recognition of the agreement entered into between the parties, the legislator creates opportunities for parallel disputes and a scenario of legal uncertainty (Moschen et al. 2019)

> *However, if a national legal system fails to recognize the possibility of removing a dispute from its jurisdiction, this may result in parallel proceedings being established in competing courts and the non-recognition of any judgment issued in a contractually elected forum. The result of such effects calls into question the effectiveness of the judicial solution adopted by the contractual forum, ultimately contributing to legal uncertainty in international business relations.*

By allowing the judge to not recognize the legitimacy of the forum selection clause, the legislator created a loophole that violates the third fundamental precept for the effectiveness of forum selection clauses, linked to the obligation on the part of the contracting States to recognize and execute the judgments handed down by the State elected by the parties (Moschen and Marcelino 2017). This is because if the Brazilian judiciary fails to recognize the jurisdiction of the State elected by the parties, the judgment handed down by it would also have no validity in the Brazilian legal sphere, which could lead to serious negative results for the transnational commercial business carried out by Brazilian companies.

Thus, considering that one of the main advantages of choosing the competent forum and the applicable law is the reduction in the costs of international transactions, the possibility of waiving the forum selection clause in international contracts can have serious consequences for commercial economic relations (ARAUJO, 2020, p. 429), consequences that can only be observed in the future.

5. Conclusions

The new legal philosophy established since the 19th century has exalted the autonomy of the will of the parties, a necessary paradigm shift in the search for a solution to a still very sensitive issue in international law: jurisdiction. The urgent review and transformation of the notion of jurisdiction, traditionally assocaited with the state and the concrete will of the law a characteristic of sovereignty, has proven essential for the development and improvement of international legal transactions, given the need to be linked to the certainty of the competent forum to settle multi-localized lawsuits. In this regard, over the last few decades, several hard law and soft law instruments have been developed at universal and regional levels to regulate the choice of competent forum before state judiciaries, avoiding the inapplicability of the clause and, consequently, the possibility of parallel litigation, with emphasis on the 2005 Hague Convention on Choice of Forum Agreement and the Buenos Aires Protocol. In the national scenario, for a long period, the Brazilian legislator was silent regarding the regulation of the forum selection clause, despite the almost unanimous acquiescence in the legal literature regarding the acceptance of the instrument. However, despite the lack of legal regulation before the CPC/15, the forum selection clause was widely accepted by the national legal literature in international contracts, based on the protection of the principles of individual freedom and economic efficiency, since its inclusion reduces the cost of legal transactions, making commercial transactions viable and preserving equal conditions. By regulating the forum selection in the CPC/15, the legislator consolidated the main international conventions and treaties on international jurisdiction of commercial contracts, bringing indispensable legal certainty to international contracts by obliging the judge to decline his jurisdiction in favor of the autonomy of the will of the parties. It turns out that the changes introduced by Law No. 14,879/24 constitute a real setback to the effectiveness of the instrument, by allowing the non-recognition of the contractual clause by the Brazilian legal system, based on the hypotheses listed in §§ 1º and 5º of art. 63 of the CPC, providing an opportunity for the existence of parallel disputes. By not recognizing the legitimacy of the forum selection clause, the legislator created a loophole that violates the third fundamental precept for the effectiveness of forum selection clauses, linked to the obligation on the part of the contracting States to recognize and execute the judgments handed down by the State elected by the parties. Unfortunately, as discussed throughout this article, the changes brought about by the recent law reduce the security and stability in international legal transactions carried out by Brazilians in the global scenario, contributing to increased risk and costs in international contracts, in addition to other consequences that will only become more evident over the years.

References

ALI/UNIDROIT. ALI/UNIDROIT Principles of Transnational Civil Procedure. Available online: https://www.unidroit.org/instruments/civil-procedure/ali-unidroit-principles/ (accessed on 24 July 2024).

Albuquerque Mello. 2000.*Curso De Direito Internacional Público*. Freitas Bastos, Rio de Janeiro: Brazil.

Alexy, Robert. 2006. *Teoria dos direitos fundamentais.* Malheiros Editores, São Paulo: Brazil.

Araujo, Nadia 2021. Uma visão econômica do Direito Internacional Privado: contratos internacionais e autonomia da vontade. In: Direito e Economia no Brasil: estudos sobre a análise econômica do direito. Edited by Timm Luciano Benetti (Org.). 4th ed. Editora Foco, Florianópolis: Brazil, pp. 429-441.

Araujo, Nadia and Freitas Caio Gomes. 2020. A observância das cláusulas de eleição de foro no Brasil: O Protocolo de Buenos Aires na Jurisprudência Brasileira. In: *El Derecho Internacional Privado del Mercosur: en la práctica de los tribunales internos de los Estados*

[33] According to information extracted from the website of the British Institute of International and Comparative Law (BIICL), "the dominance of English law applicable to contracts, maritime disputes or insurance, the wisdom of its case law, backed by the reputation for independence and impartiality of English judges make English law attractive to litigants and arbitration users from around the world". Available online: https://www.biicl.org/blog/58/london-as-the-worlds-leading-dispute-resolution-hub-numbers-and-challenges?cookiesset=1&ts=1722279215 (accessed on 24 July 2024).

Partes. Edited by Scotti B. Luciana and VIEIRA, Luciane Klein. (coords). Assuncion: Secretaria del Tribunal Permanente de Revisión del MERCOSUR, pp. 465-481. Available online: https://doi.org/10.16890/libro.2020-1 (accessed on 24 July 2024).

ASADIP.2018. ASADIP Principles on Transnational Access to Justice (TRANSJUS). Available online: https://www.asadip.org/v2/wp-content/uploads/2018/08/ASADIP-TRANSJUS-PT-FINAL18.pdf (accessed on 24 July 2024).

Basso, Maristela. 2012. Introdução às fontes e instrumentos do Comércio Internacional. In: *Doutrinas Essenciais de Direito Internacional*. Revista dos Tribunais, São Paulo: Brazil, Vol. 5, pp. 227-244.

Born, Gary B. 2021. *International Arbitration and Forum Selection Agreements.* 6th ed. Kluwer Law International, UK.

Brand, Robert. A. "Consent, Validity, and Choice of Forum Agreements in International Contracts": Boone, I; CLAEYS, I.; LAVRYESEN (Org.). University of Pittsburgh Legal Studies Research Paper No. 2009-35, 541-553. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1517810 .

Brasil. Lei n.º 13.105 de 16 de março de 2015. Institui o Código de Processo Civil. Available online: https://www.planalto.gov.br/ccivil_03/_ato2015-2018/2015/lei/l13105.htm (accessed on 24 July 2024).

Cordero-Moss, Giuditta.2024. *International Commercial Contracts*. 2nd ed. Cambridge University Press, Cambridge: UK.

HCCH. Convention of 2 July 2019 on the Recognition and Enforcement of Foreign Judgments on Civil and Commercial Matters. Available online: https://www.hcch.net/en/publications-and-studies/details4/?pid=6760&dtid=21 (accessed on 24 July 2024).

HCCH. 2005. Convention of 30 June 2005 on Choice of Court Agreements. Available online: https://www.hcch.net/en/instruments/conventions/full-text/?cid=98 (accessed on 24 July 2024).

Lopes Inez, Moschen Valesca Raizer Borges. 2020. Os papeis da OEA e da ASADIP para a Formação de uma Cultura "Glocal" em Direito Internacional na América Latina. In *Desafios do Direito Internaciona Privado na Sociedade Contemporânea*. Edited by Lopes Inez and Moschen Valesca Raizer Borges. Lumen Juris Rio de Janeiro: Brazil, pp.319-349.

Moschen, Valesca Raizer Borges. Marcelino Helder. 2017. *Cooperative constitutional state and the codification of private International law: notes on the "judgment project" of the Hague Conference on private international law*. *Revista Argumentum. Marília* 18: 291-319. Available online: http://ojs.unimar.br/index.php/revistaargumentum/article/view/382 (accessed on 24 July 2024).

Moschen, Valesca Raizer Borges, Barbosa Luiza Nogueira. 2018. O processo Civil Internacional no CPC/2015 e os Princípios ALI/UNIDROIT do Processo Civil Transnacional: Uma análise de consonância da harmonização processual. *Revista Eletrônica De Direito Processual* 19: 200-228. Available online: https://doi.org/10.12957/redp.2018.36491 (accessed on 24 July 2024).

Moschen, Valesca Raizer Borges, Guerra Marcel Victor M. 2009. Processo Civil Transnacional: A Caminho de uma Sistematização dos Princípios de Competência Internacional: Reflexos de um Novo Paradigma Axiológico Face à Crise Metodológica Positivista. Anais do XVIII Encontro Nacional do CONPEDI. Fundação José Arthur Boiteux, Florianopolis: Brazil.

Moschen, Valesca Raizer Borges, Zaneti Junior Hermes, Lino Daniela Bermudes. 2015. A autonomia da vontade como expressão democrática do exercício jurisdicional: a cláusula de eleição de foro na harmonização jurídica multilateral e regional e no Código de Processo Civil Brasileiro de 2015.In: *Coleção Grandes Temas Do Novo CPC - Cooperação Internacional*. Edited by Zaneti Junior Hermes and Rodrigues Marco Antonio. Editora Juspodivm, Salvador: Brazil, vol. 3, pp. 458-475.

OAS. 1984. Convencion Interamericana Sobre Competencia En La Esfera Internacional Para La Eficacia Extraterritorial De Las Sentencias Extranjeras. Bolívia. Available online: https://www.oas.org/juridico/spanish/tratados/b-50.html (accessed on 24 July 2024).

Oliveira, André Andrade De, Rocha Nathália Canedo, Moschen Valesca Raizer Borges. 2019. Novos contornos da cláusula de eleição de foro no Brasil: utilização supletiva da Convenção de Haia sobre Acordos de Eleição de Foro. In*: Direito Internacional em Expansão*. Edited by Wagner Menezes. Anais do 17º Congresso Brasileiro de Direito Internacional. Arraes Publishers Ltda, Belo Horizonte: Brazil, vol. 16, pp. 109-124. Available online: https://arraeseditores.com.br/media/ksv_uploadfiles/d/i/direito_internacional_em_expansao_-_volume_ii.pdf (accessed on 24 July 2024).

Ramos, André de Carvalho. 2023. *Curso de Direito Internacional Privado*. SRV Editora Ltda, São Paulo: Brazil.

Salmeron, Juan. 2019. Forum selection clauses under the Hague (Visby) rules. Available online: https://www.nipr-online.eu/pdf/2019-120.pdf (accessed on 24 July 2024).

Tribunal de Justiça de Santa Catarina - Agravo de Instrumento nº 01814671520138240000 Blumenau 0181467-15.2013.8.24.0000, Sérgio Izidoro Heil, Judgement Date 08/27/2019, Quarta Câmara de Direito Comercial. Available online: https://www.tjsc.jus.br/documents/3805298/4032557/Composi%C3%A7%C3%A3o+das+C%C3%A2maras+Isoladas+e+Reunidas/05d577a9-53b6-005c-c1a7-e2807cbaaa8a (accessed on 24 July 2024).

Vieira, Luciane Klein and Fernandes Matheus Lucio Pires. 2017. Choice of forum agreements in international contracts: perspectives from the entry into force of the new Brazilian civil procedure code. *Journal of the Secretariat of the Permanent Court of Review* 9: 224–243. https://doi.org/10.16890/rstpr.a5.n9.p224.