

A. ORTEGA GIMÉNEZ. *Smart contracts and private international law*. Thomson-Reuters Aranzadi, Cizur Menor (Navarra). 2022, pp. 80.

PABLO M. MELGAREJO CORDÓN  
*Predoctoral Contractor at the University of Granada*

DOI: 10.20318/CDT.2024.8472

1. An absolute reference work and an excellent overview of such a complex subject as *Smart Contracts* and Private International Law.

“Smart Contracts and Private International Law” emerges as the first work in the field of Private International Law to address a topic of significant complexity and undeniable relevance comprehensively and globally, such as Smart Contracts. These intelligent contracts have revolutionized essential aspects of contracting, whether international or not, by introducing an automated and decentralized approach to agreement execution. Built on blockchain technologies, these contracts eliminate the need for intermediaries, executing automatically when pre-established conditions are met, thereby providing transparency and efficiency. Moreover, backed by the cryptographic security of the blockchain, they offer an additional level of trust compared to traditional methods. This innovation has transformed how contracts are approached, accelerating processes, reducing costs, and providing increased security and reliability in commercial and legal transactions.

2. Regarding the structure of the work, Professor Ortega Giménez has artfully crafted a logical framework that allows both experts and novices in the field to gain a comprehensive understanding of the relationship between Smart Contracts and Law, particularly exploring the legal implications of this new type of contracting for Private International Law. Specifically, Professor Ortega’s work is structured in 4 chapters: the first on *Smart Contracts: Evolution, origin, concept and characteristic features*; the second, where he deals with *Concept and*

*characteristics of Smart Contracts*; the third where he focuses on *The legal nature of Smart Contracts*; and, finally, Chapter 4 where he closes the circle by dealing with the subject of *Smart Contracts. Private international law issues*. The book is accompanied by a *bibliography* on the subject.

3. In the first chapter, dedicated to a brief introduction, there is an exploration of Smart Contracts that details not only their importance but also their exponential growth in international trade, benefiting both international and retail commerce. The author emphasizes two fundamental aspects for understanding the work: 1) the essential role that technology plays in this scenario, and 2) the exponential growth of this technology in contracting and the unstoppable trend of Smart Contract usage in the future. The introduction concludes by outlining the content and distribution of the work that will follow.

4. The second chapter covers the evolution, origin, concept, and essential characteristics of Smart Contracts. Regarding evolution, Professor Ortega reminds us that when thinking of a contract, the conventional perception involves a document containing agreements in the form of clauses, signed by the involved parties. Today, while this type of contracting is still used, there is a growing trend towards automatically executed contracts. The author takes us back to the mid-90s to discuss Nick Szabo, who coined the term Smart Contracts, and David Chaum, who suggested the use of cryptographic protocols to secure these contracts. The well-designed narrative also covers the history

of Bitcoin, Ethereum, Solidity, and the birth of Blockchain. Concerning the concept and characterization of Smart Contracts, the author provides a nuanced understanding of what Smart Contracts are, their advantages and disadvantages, and how they function and apply in the global market. Professor Ortega's vision extends beyond the purely legal realm, encompassing financial services, healthcare, intellectual property, energy services, and public processes. This broad perspective, going beyond the legal domain, is commendable.

5. The third chapter addresses the legal nature of contracts and their legal structure, focusing from a civil law perspective on the typical elements of contracts, emphasizing the novelty of electronic contracts. With careful and accessible language, Professor Ortega takes the reader on an educational journey to understand the validity and effectiveness of electronic contracts and their essential elements, with particular attention to consent and object. Several sections of this chapter are dedicated to contract perfection, the right of withdrawal, and the obligations that arise after an agreement. The chapter concludes with a compilation of basic legal instruments that contain complete or partial regulation of Smart Contracts.

6. The fourth chapter, perhaps the most interesting for private international law scholars, examines two of the three classic areas of Private International Law: international jurisdiction and applicable law. Despite the demonstrated expertise in the purely civil aspects of Smart Contracts in the third chapter, the final part of the work reveals that Professor Ortega is an expert in one of the most complex areas of law: Private International Law.

Regarding international jurisdiction, the applicable legal instrument is the Brussels I bis Regulation, respecting the hierarchical structure of forums. The analysis includes both express and implied submission, as well as the forum of the defendant's domicile and the forum of special jurisdiction outlined in Articles 4 and 7 of the Brussels I bis Regulation, respectively. The issue of consumers is also studied in the Brussels I bis Regulation (Articles 17 to 19) and the Lugano Convention (Articles 15 to 17).

7. Concerning the determination of applicable law, the applicable instrument is the Rome I Regulation. This legal instrument provides the method for determining the applicable law either because the parties have validly chosen a law according to Article 3 or because the parties have not made a choice and the connecting factors of Article 4 of the Regulation must be used. Except for consumers, in which case Article 6 exclusively dedicated to this matter will be applied.

8. Brief but intense, thorough, and straightforward, accurate and rigorous are adjectives that, when combined, perfectly define "Smart Contracts and Private International Law." Anyone seeking an initial understanding not only of the relationship between Private International Law and electronic contracts but also of Smart Contracts in general, would undoubtedly find this work the best available option. Scientific production of this kind is always a reason for gratitude, and in this case, Professor Ortega deserves appreciation for making a complex subject accessible in simple and understandable language with a work like this, rigorous, practical and of scientific depth.