Contents

1 Introduction ........................................... 1
   References .................................................. 8

2 The Internationalisation of Maritime Employment: Factors and Remedies .......................................... 11
   2.1 Introduction ...................................................... 11
   2.2 The Principle of Freedom of the Seas, a Ship’s Nationality and the Law Governing Labour and Employment Matters on Board . . . 13
   2.3 The Internationalisation of Maritime Employment: Developments in Ship Registration Systems ............................ 17
       2.3.1 The Fight Against the Flight of Shipping and Fishing Fleets to Flags of Convenience ................................. 17
       2.3.2 Capitulation: International Registries and Second Registries ................................................................. 20
   2.4 The Internationalisation of Maritime Employment: Parties to the Maritime Employment Relationship .................. 23
       2.4.1 Introduction ...................................................... 23
       2.4.2 Maritime Employees ............................................. 24
       2.4.3 Maritime Employers ............................................. 26
   2.5 International Labour Law ........................................ 41
       2.5.1 Introduction ...................................................... 41
       2.5.2 Minimum Labour Standards in the Shipping Industry . . . 46
       2.5.3 Labour Standards in the Fishing Sector ....................... 56
       2.5.4 Compliance and Enforcement of International Labour Law ................................................................. 58
   References .................................................. 67

3 International Jurisdiction Over Individual Employment Contracts . . . 75
   3.1 Jurisdictional Regimes ........................................... 75
   3.2 International Jurisdiction Over Individual Employment Contracts in the Brussels–Lugano System: Section 5, Chapter II ..................... 79
       3.2.1 Rationale and Structure ........................................ 79
3.2.2 Scope of Application ........................................ 83
3.2.3 The Employee as Plaintiff .................................. 94
3.2.4 Seafarers as Defendants: Which Courts Can They Be
Sued In? ................................................... 121
3.2.5 Venue ..................................................... 122
3.3 Further Heads of Jurisdiction Laid Down by National Legislation:
Special Reference to Article 25 of the Spanish Judiciary Act . . . 123
3.4 Conventions on the Arrest of Ships ............................ 127
3.4.1 Scope of Application ........................................ 127
3.4.2 Maritime Claims and Sums due to Seafarers .............. 131
3.4.3 Requirements for Adopting the Provisional Measure ...... 135
3.4.4 *Forum Arresti* and International Jurisdiction to Decide upon
the Merits .................................................... 138
3.5 Epilogue ........................................................ 140
References .......................................................... 142

4 The Law Applicable to Individual Employment Contracts ........ 151
4.1 Sources of Law .................................................. 151
4.2 Scope of Application of Article 8 of the Rome I Regulation ... 155
4.2.1 Territorial Scope of Application .......................... 155
4.2.2 Material Scope of Application: Issues Included
in Article 8 .................................................. 156
4.2.3 Material Scope of Application: Issues Excluded From
Article 8 ...................................................... 159
4.3 Connections Provided for in Article 8 Rome I Regulation ....... 178
4.3.1 Origins and Structure ........................................ 178
4.3.2 Party Autonomy ............................................... 181
4.3.3 Applicable Law in the Absence of Choice of Law ......... 189
4.4 Overriding Mandatory Rules .................................... 213
4.5 The Public Order Exception ..................................... 219
References .......................................................... 220

5 Collective Labour Relations and Private International Law ....... 229
5.1 Introduction: The Role of Trade Union Activities in the Maritime
Sector .......................................................... 229
5.2 Freedom of Association and the Rights to Collective Bargaining and
Industrial Action ................................................. 233
5.2.1 International Treaties ........................................ 233
5.2.2 Regulatory Models and Resulting Legal Diversity with
Special Reference to Industrial Action .......................... 237
5.2.3 Industrial Action and EU Market Freedoms ............... 242
5.3 Cross-Border Collective Agreements ............................. 252
5.3.1 Classification of Problems: The Extraterritorial
Application of National Collective Agreements and
Transnational Collective Agreements ............................ 252