

Test-the-Training Session No. 1

VILNIUS (LITHUANIA)

DAY 1

17 September 2018

TRAINING PACKAGE

Programme
Presentations
Case studies
Legal terminology
Bibliography

**4 EU training sessions on family law for
Cross-border Lawyers And Social Services**

Test Training Session No. 1

Vilnius (Lithuania)

17-18 September 2018

DAY 1

17 September 2018

08:45 – 09:15	<i>Registration and welcome coffee</i>
09:15 – 09:30	<i>Opening speeches</i>
09:30 – 11:00	Warming up session: Instruments in international family law and terminology Maria Caterina Baruffi and Cinzia Peraro
11:00 – 12:30	Jurisdiction in matrimonial matters and parental responsibility Agne Limante
<i>12:30 – 14:00</i>	<i>Lunch break</i>
14:00 – 15:30	Prorogation of jurisdiction and lis pendens Costanza Honorati
<i>15:30 – 16:00</i>	<i>Coffee Break</i>
16:00 – 17:30	Recognition and enforcement in matrimonial cases Anabela Susana de Sousa Gonçalves



Partnership



UNIVERSITÀ
di VERONA
Dipartimento
di SCIENZE GIURIDICHE



Universidade do Minho
Escola de Direito



ELTE LAW
FACULTY OF LAW



Test-the-Training Session No. 1

Vilnius (Lithuania)

17-18 September 2018

Presentations



Partnership



**UNIVERSITÀ
di VERONA**
Dipartimento
di SCIENZE GIURIDICHE



Universidade do Minho
Escola de Direito



ELTE LAW
FACULTY OF LAW



Warming up session: Instruments in international family law and terminology

Maria Caterina Baruffi

Full Professor of International Law
(University of Verona, Law Dept.)

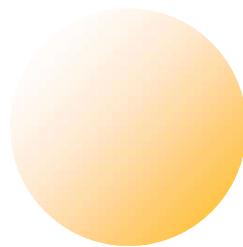
and

Cinzia Peraro

Post-doc Research Fellow in EU Law
(University of Verona, Law Dept.)

Test-the-Training Session No. 1
Vilnius (Lithuania)
17-18 September 2018

Source: <https://epthinktank.eu/2017/12/07/a-europe-for-mobile-and-international-families>



13 million
Europeans living in another EU
Member State



16 million
International couples in the EU

**Some 2.2 million marriages and 946 thousand divorces took place
in the EU-28 in 2015**

Source: https://ec.europa.eu/eurostat/statistics-explained/index.php/Marriage_and_divorce_statistics

Contents of this session

- 1) The development of EU law in family matters
 - the free movement of persons as background
 - the EU competence in civil judicial cooperation as broader context
- 2) The EU legal instruments in family matters
 - the EU secondary legislation governing selected PIL issues
 - the interplay with the already existing international legal instruments
- 3) The EU family law instruments 'in action'
 - the uniform interpretation of the CJEU
 - the autonomous concepts under EU law

5

Useful links

- European e-Justice Portal:
<https://e-justice.europa.eu/home.do>
- On family matters:
https://e-justice.europa.eu/content_family_matters-44-en.do
- European Judicial Network (EJN) in civil and commercial matters:
https://e-justice.europa.eu/content_ejn_in_civil_and_commercial_matters-21-en.do?init=true
- EU law:
<http://eur-lex.europa.eu>
- EU case law:
<http://curia.europa.eu>
- HCCH (Hague Conference on Private International Law)
<https://www.hcch.net/en/home>

6

1) The development of EU law in family matters

1.a) The free movement of persons as background

1.b) The EU competence in civil judicial cooperation as broader context

7

1.a) The free movement of persons as background

- The **fundamental freedom of movement of persons** is granted by the **EU Treaties** and further implemented in **EU secondary legislation** with the aim of strengthening its protection (so that every EU citizen can exercise it in each MS as he/she were in his/her own MS of origin)

↳ the **effectiveness** of this right is guaranteed also by the **mutual recognition of personal and family status** to which the EU citizen is entitled in his/her MS of origin

8

- To achieve this objective, **the EU has stepped into MS' competences** following a **two-fold approach**
 - **enactment of EU PIL legislation**, which governs **only selected aspects** of family relationships in cross-border contexts (e.g. marriage breakdown, parental responsibility, maintenance, property regimes) – see *infra*
 - **in those areas that remain under the MS' competences** (e.g. civil status), **national legislations** still need to **comply with EU law** and the **CJEU** has played a very important role in ensuring the continuity of personal and family status (e.g. right to a name)

9

1.b) The EU competence in civil judicial cooperation as broader context

- The **purpose** set out in the Treaties: building a **European area of justice** through cooperation (Title V TFEU 'Area of freedom, security and justice')
- The **tools**: **different levels of cooperation**, drawing on the principle of mutual recognition based on mutual trust
 - administrative
 - judicial (both in civil and criminal matters)
 - police
- The **benefit** for EU citizens: **avoiding the complexities** of legal and administrative systems **at national level**, which may prevent and discourage individuals and companies from exercising their rights

10

- Civil judicial cooperation was **not** one of the targets of the EC when the **founding Treaties** were adopted
- main turning points
 - **Amsterdam Treaty** (1997/1999): judicial cooperation in civil matters was **brought within the Community sphere** (i.e. from TEU to TEC)
 - **Nice Treaty** (2000/2003): measures relating to judicial cooperation in civil matters (*with the exception of family law*) were **subject to the co-decision legislative procedure**

11

- current legal basis: **Lisbon Treaty** (2007/2009)
 - measures in the field of **judicial cooperation in civil matters** are subject to the **ordinary legislative procedure** (Art. 81 TFEU)
 - however, **measures concerning family law with cross-border implications** remain subject to a **special legislative procedure** (Art. 81(3) TFEU)



MS have always been cautious to confer legislative powers to the EU in family law, because it deals with sensitive interests and national identities

12

- **Art. 81(3) TFEU: special legislative procedure** for the adoption of measures in family law matters with transnational implications
 - unanimity in the Council
 - consultation of the EP
 - notice to national Parliaments
 - ↳ MS retain control over sensitive matters
- should the unanimity **not** be reached, it is possible to initiate an **enhanced cooperation** (Art. 20 TEU, Arts. 326 to 334 TFEU)
 - at least 9 MS participating
 - binding only upon participating MS, but further MS can take part

13

- Special position of some MS
 - **the UK and Ireland (Protocol No. 21)**
opt-in in the adoption and application of acts under Title V of Part Three of TFEU (Area of freedom, security and justice): within 3 months of a proposal being presented, these MS may choose whether they wish to participate
 - **Denmark (Protocol No. 22)**
opt-out from the adoption of acts in the AFSJ, which implies that this MS does not take part at all in this policy

14

2) The EU PIL secondary legislation in family matters

- 2.a) Overview of the main EU PIL acts in civil judicial cooperation
- 2.b) The EU PIL instruments governing selected aspects of family law
- 2.c) The interplay with the international legal instruments
- 2.d) What is next:
the Brussels IIa Recast proposal

15

On a preliminary note

PIL instruments come into play whenever a case is characterised by an international element, in order to answer the following questions

- a) which court has international jurisdiction to hear the case? (*jurisdiction*)
- b) which law governs the substantive aspects of the case? (*applicable law*)
- c) under which conditions can a decision issued abroad be recognised and enforced in the requested State? (*recognition and enforcement*)

16

2.a) Overview of EU PIL acts in civil judicial cooperation

<u>Brussels regime</u> (jurisdiction/ recognition and enforcement)	<u>Rome regime</u> (law applicable)
<ul style="list-style-type: none"> • Brussels Ia Regulation, for civil and commercial matters (Reg. No. 1215/2012) • Brussels IIa Regulation, for matrimonial matters and parental responsibility (Reg. No. 2201/2003) 	<ul style="list-style-type: none"> • Rome I Regulation, for contractual obligations (Reg. No. 593/2008) • Rome II Regulation, for non-contractual obligations (Reg. No. 864/2007) • Rome III Regulation, for divorce and legal separation (Reg. No. 1259/2010)

17

“Complete” PIL instruments

- Maintenance Regulation (Reg. No. 4/2009)
- Succession Regulation (Reg. No. 650/2012)
- Matrimonial property (Reg. No. 2016/1103)
- Property consequences of registered partnerships (Reg. No. 2016/1104)

18

Acts on uniform EU procedures in civil and commercial matters

(alternative to domestic procedures)

- European **enforcement orders for uncontested claims** (Reg. No. 805/2004)
- European **order for payment** (Reg. No. 1896/2006)
- European **small claims** procedure (Reg. No. 861/2007)
- European **account preservation order** (Reg. No. 655/2014)

19

- **Insolvency proceedings** (Reg. No. 2015/848)
- **Service of documents** (Reg. No. 1393/2007)
- **Taking of evidence** (Reg. No. 1206/2001)

20

2.b) The EU PIL instruments governing selected aspects of family law

- This section goes through the acts of secondary law (Regulations) enacted to regulate the PIL aspects (jurisdiction, and/or applicable law, and/or recognition and enforcement of decisions) in relation to selected substantive issues in family matters
- analysis of the respective scope of application and main issues
- during this two-day training, the focus will be set on
 - Brussels IIa Reg.
 - Maintenance Reg. (and 2007 Hague Protocol)
 - Rome III Reg.

21

Predecessor (at the international level) of the EU Regulations

Convention on Jurisdiction and the Recognition and Enforcement of Judgments in Matrimonial Matters of 28 May 1998 (Brussels II Convention)

- it **reproduced** the contents of the previous 1968 Brussels Conv., **adapted** to family matters
- **never ratified nor come into force**
- **limited scope of application** regarding **parental responsibility**: only if raised in divorce proceedings where both parties were the parents

22

2.b) Brussels II – the Regulation

- **Advantages** of a EU Regulation over an international Convention:
 - the Regulation is **directly applicable** in the Member States which are bound by it, **prevailing** over all national laws (including the relevant private and procedural law instruments)
 - **no ratification** by the MS is needed to have effect
 - **uniform interpretation ensured by the CJEU** (see *infra*)

23

Origin.

- In 1999 the Commission submitted a **proposal** for a **Regulation based on the Brussels II Convention**, with the same text
- EU act quickly negotiated: **Reg. 1347/2000** on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility for children of both spouses
 - adopted on 29 May 2000
 - entered into force on 1 March 2001

24

2.b) Reg. 1347/2000 (Brussels II)-29 May 2000

Scope of application:

- a) civil proceedings relating to **divorce, legal separation or marriage annulment**;
- b) civil proceedings relating to **parental responsibility** for the **children of both spouses** on the occasion of the **matrimonial proceedings covered by the Reg.**

25

2.b) Reg. 2201/2003 (Brussels IIa)-27 Nov. 2003

- Repealing Reg. 1347/2000 (Brussels II)
- concerning **jurisdiction and recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility**
- applying since 1 March 2005
- binding on all EU MS (including the UK and Ireland) with the exception of Denmark

26

Scope of application – Art. 1(1)

This Regulation shall apply, whatever the nature of the court or tribunal, **in civil matters** relating to:

- a) divorce, legal separation or marriage annulment;**
- b) attribution, exercise, delegation, restriction or termination of parental responsibility**

27

Unresolved issues

- 1) No definition of “marriage”: each MS applies the Reg. according to the notion of marriage provided in its own legal order (thus, issues arise with regard to same-sex couples)
- 2) enforcement procedures still governed by national laws

28

- 3) difficult interplay with the 1980 Hague Convention (Art. 11 BIIa)
- 4) no provisions on the law applicable to parental responsibility matters: coordination with the 1996 Hague Convention on children protection measures (while the law applicable to divorce and legal separation is governed by Rome III Reg.)

29

2.b) Maintenance obligations

- Jurisdictional provisions **originally** included in the **Brussels I regime** (Art. 5 of Reg. 44/2001)
- negotiations within both the **EU** and the **HCCH** frameworks to create an **harmonious regime on maintenance worldwide**

30

2.b) Maintenance obligations

The **applicable law** was a sensitive aspect during the negotiations

- **HCCH: optional protocol** in order not to alienate potential States parties
- **EU: no rule directly governing this aspect**, but reference to the Hague Protocol to which MS are bound on an optional basis

31

2.b) Reg. 4/2009 (Maintenance)-18 Dec. 2008

- concerning **jurisdiction, applicable law, recognition and enforcement of decisions and cooperation** in matters relating to maintenance obligations
- entry into force: 30 January 2009
- applying since 18 June 2011
- binding on all EU MS (including the UK and Ireland) with the exception of Denmark (which has nonetheless implemented the contents of this Reg. to the extent that it amends Reg. 44/2001)

32

- Complete PIL legal instrument, but **2 procedures on recognition and enforcement**
- 1) for MS bound by the Hague protocol on the applicable law, the ***exequatur*** is **abolished** (i.e., the judgments are enforceable in another MS by mere operation of law and without any procedure being required)
- 2) for those MS that are not bound by the Hague Protocol (the UK and Denmark), **separate procedural track** that is **similar** to that provided in the **Brussels I regime**

33

2.b) Law applicable to separation/divorce claims

- 14 March 2005: **Commission's Green paper** on applicable law and jurisdiction in divorce matters (COM(2005) 82 final)
- **justification** of the proposal: to **prevent forum shopping practices** deriving from the jurisdictional regime set forth in Brussels IIa (based on alternative grounds of jurisdiction)

34

2.b) Law applicable to separation/divorce claims

- 17 July 2006: Proposal for a Council Regulation amending Regulation (EC) No 2201/2003 as regards jurisdiction and introducing rules concerning applicable law in matrimonial matters (**COM(2006) 399**), **withdrawn** by the Commission (lack of unanimity in the Council as required by Art. 81(3) TFEU)



a new piece of legislation **complementing the BIIa Reg.** with regard to the law applicable

35

2.b) Reg. 1259/2010 (Rome III)-20 Dec. 2010

- **enhanced cooperation** in the area of the **law applicable to divorce and legal separation**
- **17 MS** currently participating
 - originally, 14 MS (Belgium, Bulgaria, Germany, Spain, France, Italy, Latvia, Luxembourg, Hungary, Malta, Austria, Portugal, Romania and Slovenia)
 - 3 MS joined at a later stage (Lithuania, Greece, Estonia)

36

2.b) Reg. 650/2012 (Succession)-4 July 2012

- concerning **jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments** in matters of succession, and the creation of a **European Certificate of Succession**
- it applies to deaths on or after 17 August 2015
- UK, Ireland and Denmark opted out

37

2.b) Reg. 2016/1103 (Matrimonial property)-24 June 2016

- **enhanced cooperation** in the area of **jurisdiction, applicable law** and the **recognition and enforcement of decisions** in matters of matrimonial property regimes
- it will apply as of 29 January 2019
- **18 MS** currently participating
 - Belgium, Bulgaria, Cyprus, the Czech Republic, Germany, Greece, Spain, France, Croatia, Italy, Luxembourg, Malta, Netherlands, Austria, Portugal, Slovenia, Finland and Sweden
 - Estonia announced its intention to take part

38

2.b) Reg. 2016/1104 (Registered partnerships)- 24 June 2016

- **enhanced cooperation** in the area of **jurisdiction, applicable law** and the **recognition and enforcement of decisions** in matters of the property consequences of registered partnerships
- it will apply as of 29 January 2019
- **18 MS** currently participating
 - Belgium, Bulgaria, Cyprus, the Czech Republic, Germany, Greece, Spain, France, Croatia, Italy, Luxembourg, Malta, Netherlands, Austria, Portugal, Slovenia, Finland and Sweden
 - Estonia announced its intention to take part

39

2.c) The interplay with the international legal instruments

1980 Hague Convention (Child abduction)

- entered into force on 1 December 1983
- currently, 99 Contracting States (all EU MS; most recently: Jamaica since 1 May 2017, Tunisia since 1 October 2017, in Cuba it will enter into force on 1 December 2018)
- interplay with **BIIa Reg.** with regard to child abduction (the Reg. **complements** the 1980 Hague Conv. **in intra-EU cases**)

40

1996 Hague Convention (Child protection)

- entered into force on 1 January 2002
- currently, 49 Contracting States (all EU MS; most recently: Honduras since 1 August 2018, in Paraguay it will enter into force on 1 July 2019; only signatory States: USA, Canada, Argentina)
- interplay with **BIIa Reg.** with regard to the **law applicable to parental responsibility matters** (not governed by the Reg.)

41

2007 Hague Protocol (law applicable to maintenance obligations)

- entered into force on 1 August 2013
- currently, 30 Contracting States (all EU MS, except the UK and Denmark, plus Serbia, Kazakhstan and Brazil; Ukraine signed on 21 March 2016)
- interplay with **Maintenance Reg.** with regard to the **law applicable to maintenance obligations** (Art. 15 of the Reg. directly refers to the Protocol)

42

2.d) What is next: the Brussels IIa Recast proposal

Main developments (so far)

- **European Commission proposal**, COM(2016) 411 of 30 June 2016
- **European Parliament legislative resolution** of 18 January 2018 on the proposal
- **negotiations within the Council of the EU**, in particular the Working Party on Civil Law Matters (Brussels IIa), to reach a political agreement (limited number of documents made accessible to the public)

43

Prospective timeline

- by the end of 2018: broad political agreement on the Recast file
 - unanimity requirement
 - “nothing is agreed until everything is agreed”
- between January and June 2019: agreement on the Recitals and Forms
- further lead-in time for its implementation before the entry into force (2021?)

44

6 shortcomings in need of improvement, **mainly in parental responsibility matters**

- 1) child return procedure
- 2) placement of the child in another State (Chapter II, Section 2 on jurisdiction in parental responsibility matters and the newly inserted Chapter III on child abduction)
- 3) requirement of *exequatur*
- 4) hearing of the child
- 5) actual enforcement of decisions (in the new Chapter IV on recognition and enforcement)
- 6) cooperation between Central Authorities (regulated in the new Chapter V)

45

Main aspects to be addressed during the negotiations at the Council

- **enforcement procedure**

- the generalised abolition of *exequatur* is confirmed
- but a compromise solution must be found with regard to the status of “privileged decisions”, which should continue to circulate accompanied by a binding certificate and without any possibility of opposing their recognition (except for the ground of irreconcilability with a later decision)

46

- **the opportunity of the child to express his/her views**

- new and comprehensive provision establishing the general obligation (but not absolute) in giving the child this opportunity
- as ground of refusal of recognition: the changes proposed by the Recast have left out the mere fact that the procedure for the hearing was carried out according to different standards between MS

47

3) The EU family law instruments 'in action'

3.a) The uniform interpretation
of the CJEU

3.b) The autonomous concepts
under EU law

48

3) The EU family law instruments ‘in action’

In order to overcome the existing diversity among substantive national legislations, the objective of harmonisation pursued by the EU family law Regulations is achieved also

- a) by way of **interpretation** (of the CJEU), and
- b) by way of **terminology**, i.e. through a number of common definitions, PIL and procedural rules given for the purposes of application of these legal instruments

49

3.a) The uniform interpretation of the CJEU

I. Reference for a preliminary ruling (Art. 267 TFEU)

- the **national court or tribunal** before which a dispute is brought is the **only authority** that is allowed to determine both the need for a request for a preliminary ruling and the **relevance** of the questions it submits to the CJEU
- however, **parties** (through their counsels in the respective court documents) **can submit observations** in order to urge the court to make a reference

50

- **requirements** for a reference
 - it must concern the interpretation or validity of EU law
 - EU law must apply to the case in the main proceedings
 - the CJEU does not itself resolve the dispute pending before the national court, which shall ultimately rule in light of the CJEU's decision
- **effect** of a preliminary ruling: binding both on the referring court and on all courts in EU countries

51

- **costs and legal aid**
 - preliminary rulings proceedings are free of charge
 - It is up to the referring national court to rule on the costs incurred by the parties, where necessary

52

II. Urgent preliminary ruling procedure

(Arts. 107-114 of the Rules of Procedure of the CJ – consolidated version)

- for the **matters regarding the AFSJ** (in particular, parental responsibility cases)
- shorter deadlines in the procedure
- the urgency must be justified by the referring court, pointing out the potential risks in following the ordinary procedure

53

3.b) The autonomous concepts under EU law

- It is usual, in the EU Regulations in civil and commercial matters, to have provisions that specifically contain a number of **common definitions** that allow to **overcome** (at least partially) the **differences** in national legislations (e.g. court, judgment/decision, *lis pendens*, seising of a court, etc.)
- the interpretation of the CJEU has further contributed to their clarification and uniform application

54

Examples of common definitions provided in the EU family law Regulations

i. **COURT** (Art. 2 BIIa, Art. 2 Maint., Art. 2 RIII, Art. 3 Succ.)

- all authorities in the MS with jurisdiction in the matters falling within the scope of each Reg.
- broad definition: not only judicial authorities, but also administrative authorities and legal professionals, provided that they are characterised by impartiality and that their decisions can be subject to appeal have the same force/effect of a judicial decision

55

Case law on the term “court”

CJEU, 20.12.2017, C-372/16, *Sahyouni*

Divorce resulting from a **unilateral declaration** made by one of the spouses **before a religious court** in Syria (private divorce): is it a **divorce decision for the purposes of RIII Reg.**?

- **NO**, the scope of the Reg. covers **solely** divorces pronounced either **by a national court** or **by, or under the supervision of, a public authority** (coherence with the notion of “judgment” under BIIa Reg.)

56

ii. JUDGMENT or DECISION (Art. 2 BIIa, Art. 2 Maint., Art. 3 Succ.)

- any decision on the matters falling within the scope of each Reg., given by a court of a MS, whatever the decision may be called (e.g. order, decree, judgment, etc.)
- again, broad definition in order to include all possible characterisation of a decision under national law

57

iii. LIS PENDENS (Art. 19 BIIa, Art. 12 Maint., Art. 17 Succ.)

- when proceedings regarding the **same parties** and the **same cause of action** are brought before **courts of different MS**, the **court second seised** (or any other than the court first seised) shall **of its own motion stay** its proceedings until such time as the jurisdiction of the court first seised is established
- when jurisdiction of the court first seised is **established**, the other **decline** jurisdiction

58

- **Art. 19 BIIa** covers also a different situation, called **false *lis pendens***, i.e. cases of **concurrent separation and divorce disputes** brought before courts of different MS (the two sets of proceedings do not possess, strictly speaking, the same cause of action, but only involve the same parties)

59

Case law on *lis pendens*

CJEU, 6-10-2015, case C-489/14, *A v B*

Referral for preliminary ruling from the England and Wales High Court of Justice

- in a situation where the separation proceedings before the court first seised in the first MS (France) **expired after** the second court in the second MS (the UK) was seised with divorce proceedings, is the jurisdiction of the court first seised to be regarded as **not being established?**

60

- are these elements relevant?
 - the first set of proceedings (separation) expired very shortly before a third set of proceedings (divorce) was brought before a court of the first MS (France)
 - lack of diligence of the applicant
 - time difference between the MS (France/UK)

61

Decision of the Court

- at midnight on 17-6-2014, since the proceedings before the French court first seised had lapsed, only the UK court (seised on 13-6-2014) remained seised of a dispute falling within one of the areas referred to in Art. 19(1) BIIa
- the commencement on 17-6-2014 of divorce proceedings before a French court was subsequent to the commencement of the proceedings brought before that UK court

62

- ***lis pendens* no longer exists** as from the date the **first set of proceedings** had **lapsed** (at midnight of 17-6-2014), and the **jurisdiction of the French court** must, therefore, be regarded as **not being established**
- the **conduct of the applicant** in the first proceedings, notably any lack of diligence on his part, is **not relevant**
- the **time difference** is **not in any event capable** of frustrating the application of the rules of *lis pendens* in Art. 19

63

iv. **SEISING OF A COURT** (Art. 16 BIIa, Art. 9 Maint., Art. 14 Succ.)

2 instances, depending on the **domestic rules of civil procedure**

- a) at the time when the **document instituting the proceedings** or an equivalent document is **lodged** with the court, or
- b) if the document has to be **served before** being lodged with the court, at the time when it is **received by the authority responsible for service**

In both cases, provided that the **applicant** has been **“active”** (i.e. taking the steps to have service effected on the respondent or have the document lodged with the court)

64

Interaction with another EU PIL instrument: **Regulation No 1393/2007**, on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (**service of documents**)

- the **document to be transmitted** shall be accompanied by a **request** drawn up using a **standard form** (Annex I), to be completed in the official language of the Member State addressed
- **exemption** from legalisation or any equivalent formality
- the **applicant** shall bear any **costs of translation** prior to the transmission of the document

65

Case law on seising of a court

CJEU, 22-6-2016, case C-173/16, *M.H. v M.H.*

- the “time when **the document** instituting the proceedings or an equivalent document is **lodged with the court**”, within the meaning of Art. 16(1)(a) BIIa, is the time **when that document is lodged with the court concerned, even if** under national law lodging that document **does not in itself immediately initiate** proceedings

66

3.b) The autonomous concepts under EU law

- Besides common definitions, the EU Regulations in civil and commercial matters resort to a number of **uniform notions used as grounds of jurisdiction and/or connecting factors** for the operation of the PIL rules
- also these uniform notions have been further clarified by the CJEU under various perspectives, thus developing a broad record of cases to refer to in many factual situations

67

Example of uniform notions provided in the EU family law Regulations:

HABITUAL RESIDENCE (HR)

- **BIIa**: used as ground of jurisdiction in both matrimonial and parental responsibility matters
- **Maint.**: used as ground of jurisdiction, and by reference to the 2007 Hague Protocol, also as a connecting factor to determine the applicable law
- **RIII**: used as connecting factor for a choice of law, as well as in the absence of a choice
- **Succ.**: used both as general ground of jurisdiction and general connecting factor

BUT in none of them the notion is defined

68

Only the **Succ. Reg.** provides **guidance on the determination of HR** of the deceased at the time of death (Recital 23)

- **overall assessment** of the circumstances of the life of the deceased during the years preceding his death and at the time of his death, taking account of all relevant factual elements, in particular
 - duration and regularity of the deceased's presence in the State concerned
 - conditions and reasons for that presence
- a **close and stable connection** with the MS must be established
- **possible inter-instrumental interpretation? NO**, given the specific subject matter dealt with in this Reg.

69

Case law on habitual residence

a) CJEU, 15-9-1994, case C-452/93, *Pedro Magdalena Fernandez*, para. 22, regarding an **expatriation allowance**

- HR is where a person has established, with the **intention** that it should be of a **lasting character**, the **permanent or habitual centre of his interests**

**mainly objective factors +
a subjective element**

70

b) CJEU, 2-4-2009, case C-523/07, *A*, paras. 37-42, regarding the HR of a **child**

- the **determination of a child's habitual residence** heavily relies on **factual elements** (case-by-case approach)
 - duration, conditions and grounds for the stay on the territory of a given MS
 - nationality
 - enrolment in school
 - linguistic knowledge
 - family and social relationships

71

c) CJEU, 15-2-2017, case C-499/15, *W and V v Z*, paras. 60-66, regarding the HR of a **child**

- the **physical presence** of a child in a given MS is a **minimum requirement** for the determination of his/her HR in that MS
- **in addition** to the physical presence of the child in a MS, however, **other factors** must also make it clear that that presence is **not in any way temporary or intermittent** (see the previous *A* case)

72

d) CJEU, 28-6-2018, case C-512/17, *HR v KO*, regarding the determination of a **child's** HR between the **MS of (dual) nationality** (Poland) and the **MS of residence** (Belgium)

- the importance of a **global analysis of the particular circumstances** of each individual case
 - the child's **cultural ties** with its parents' MS of origin (Poland) may point to a **certain degree of closeness** between that child and that MS, corresponding, in essence, to a bond of nationality

73

- however, the geographical origins of the custodial parent and the relationships which the child maintains with his/her family in the MS concerned (Poland) **cannot obscure the objective circumstances** indicating that it was **permanently staying** with that parent in another MS (Belgium)

74

e) CJEU, 22-12-2010, case C-497/10 PPU, *Mercredi*, para. 56, regarding the HR of an **infant**

- in addition to the factual elements, particular relevance was given to the **intention of the mother** to establish the habitual residence

75

f) CJEU, 8-6-2017, case C-111/17 PPU, *OL v PQ*, regarding the HR of an **infant born in a MS** other than that where the parents were habitually resident

- **To what extent** is the intention of the parent relevant?

Considering the **parents' initial intention** regarding the **return** of the mother and the child **to a different MS** than that where the child had resided since his birth as the **main factor to establish the child's HR** would amount to a **misinterpretation** of such a notion for the purposes of BIIa Reg.

76

g) CJEU, 9-10-2014, case C-376/14 PPU, *C v M*, para. 54, regarding the HR of a child in an **abduction case**

- the concept of the child's HR in **Art. 2(11)** and in **Art. 11** of BIIa **cannot differ in content** from that clarified in the case law on **Arts. 8 and 10** of BIIa
- in return proceedings, it is the **task of the court of the MS** to which the child has been **removed**, to determine **whether the child was habitually resident in the MS of origin** immediately before the alleged wrongful removal or retention, taking into account **all the circumstances of fact** specific to the individual case

77

Summarising conclusions

When addressing a cross-border family dispute:

- **matrimonial matters**
 - jurisdiction: Brussels IIa Reg.
 - applicable law: Rome III Reg.
- **parental responsibility**
 - jurisdiction: Brussels IIa Reg.
 - applicable law: 1996 Hague Conv.
- **international child abduction**: 1980 Hague Conv. + Brussels IIa Reg.
- **maintenance**
 - jurisdiction: Maintenance Reg.
 - applicable law: Maintenance Reg. + 2007 Hague Protocol

78



Partnership



UNIVERSITÀ
di VERONA
Dipartimento
di SCIENZE GIURIDICHE



Universidade do Minho
Escola de Direito



ELTE LAW
FACULTY OF LAW



Thank you



Partnership



UNIVERSITÀ
di VERONA
Dipartimento
di SCIENZE GIURIDICHE



Universidade do Minho
Escola de Direito



ELTE LAW
FACULTY OF LAW



Jurisdiction in matrimonial matters and parental responsibility

Dr. Agne Limante
Senior researcher
Law Institute of Lithuania

Test-the-Training Session No. 1
Vilnius (Lithuania)
17-18 September 2018

Contents of this session

- Grounds of international jurisdiction in matrimonial matters (Art. 3 B2a)
 - habitual residence
 - citizenship
- Residual jurisdiction
- Jurisdiction in parental responsibility cases (Art. 8 B2a, +Art. 13)

Grounds of jurisdiction for divorce, legal separation and marriage annulment



Habitual residence (Art. 3.1.a) – six grounds for jurisdiction



Nationality (Art. 3.1.b) – one single ground for jurisdiction



Other grounds (Art. 4, 5) – two grounds for jurisdiction: counterclaim, conversion

Art 3(1)(a) of B2a

- **Jurisdiction shall lie with the courts of the Member State in whose territory:**
 - the spouses are habitually resident, or
 - the spouses were last habitually resident (if one of them still resides there), or
 - the respondent is habitually resident, or
 - in the event of a joint application, either of the spouses is habitually resident, or
 - the applicant is habitually resident if he or she resided there for at least **a year** immediately before the application was made, or
 - the applicant is habitually resident if he or she resided there for at least **six months** immediately before the application was made and is either a **national** of the Member State in question or, in the case of the United Kingdom and Ireland, has his or her "domicile" there;

HR to be established based on specific facts of each case

- HR must be interpreted **autonomously** in line with the interpretation given by the CJEU
- HR is a question of **fact**
- Factors usually taken into account:
 - concerning the stay: duration, regularity, conditions, reasons of stay
 - nationality, linguistic knowledge
 - working place and conditions, family and social relationship
 - **Intentions**, 'life details'

Note: different factors are important in case of child

HR - basic criteria

- the **physical presence** at the territory qualified by some degree of **integration** and
- a certain degree of **evidenced intention** to create stable life in the country

→ the longer one stays, the less important are his/hers claims about intentions and vice versa

Where do  you live?

N.B: Registered address does not mean habitual residence!

The Telegraph

Home Video News World Sport Finance Comment Culture Travel Life **Women**
Women's Politics Women's Business Mother Tongue Women's Life Wonder Women Columnists

HOME » WOMEN » SEX » **DIVORCE**

Welcome to Maidenhead, the divorce capital of Italy

A PO box in Berkshire was used by 179 Italian couples to speed up their legal separation. We investigate the scam



Article 3 b: citizenship - equal alternative

- Under international law, it is for each Member State, having due regard to Community law (i.e. fundamental freedoms), to lay down the conditions for the **acquisition** and **loss** of nationality (*Micheletti*, C-369/90)
- Nationality determines the jurisdiction only when it is **common to both spouses**
- Double nationality? – *Hadadi* (C-168/08)

Residual jurisdiction - possibility to refer to national rules (Art. 7)

- In case **none** of all the alternative grounds of jurisdiction is applicable (**there is no court of a MS having jurisdiction under Articles 3-5**), then **national rules on jurisdiction can be applied**
- any national of a MS (A) who is habitually resident within the territory of another MS (B) may avail himself of the rules of jurisdiction applicable MS B *like the nationals* of MS B against a respondent who is not habitually resident *and* is not a national of another MS

Residual ground of jurisdiction: *Sundelind Lopez* case (C- 68/07)

Swedish wife, HR in France

v

Cuban husband, HR in Cuba

- Before the husband left, they were both HR in France
- Wife applies to **Swedish court**: she claims Swedish law, not B2a should be applied (ref. to Art. 6, since the respondent was a non EU national)
- Preliminary reference in made

CJEU in *Sundelind Lopez*

pursuant to Article 7, the application of B2a

- does not depend on any characteristic of the respondent, **but**
- important is that **there is a court of a MS** having jurisdiction under Art. 3-5

→ B2a applies also when the action is brought against a respondent who is not national nor resident in the EU whenever a MS court has jurisdiction pursuant to Art. 3-5

→ Here French courts have jurisdiction, thus Sweden may not apply national rules

Separate assesment of jurisdiction for each matter

- In case of claim involving several issues (divorce, parental responsibility, maintenance, etc.) – jurisdiction should be ascertained for each claim **separately!**
- The court may have jurisdiction for divorce but not for parental responsibility
- After that, possibility of prorogation of jurisdiction (if relevant) should be assessed

91

Article 8: jurisdiction in parental responsibility cases

General jurisdiction

1. The courts of a Member State shall have jurisdiction in matters of parental responsibility over a child who is **habitually resident** in that Member State at the time the court is seised.



“centre of child’s life”

Child's HR - assessment

- Leading cases: *A*, C-523/07; *Mercredi*, C-497/10
- The concept of 'habitual residence' under Article 8(1) of Regulation No 2201/2003 must be interpreted as meaning that it corresponds to the **place which reflects some degree of integration by the child in a social and family environment**. It is for the national court to establish the habitual residence of the child, taking account of **all the circumstances specific to each individual case**.
(Case *A*, C-523/07)
- Importance of **physical presence** (case C-499/15, *W and V v Z*)

Circumstances on the child's side

- duration and regularity of the child's physical presence in the country
- child's enrolment to school or kindergarten
- child's enrolment into extracurricular activities
- child's registration for the purpose of receiving social benefits
- child's registration for the purpose of health care and actual use of it
- child's family ties in a particular country
- child's languages spoken and at which level
- child's friends and other social connections
- child's nationality

...

Circumstances on the child's side

- vary according to the child's age

The assessment of a child's habitual residence is child-centred. The first matter of importance is the child's age. [T]he relevance of the actions and intentions of parents or carers depends on the age of the child. In a silhouette of a mother and newborn baby, the baby may not appear at all, but as a child grows, its silhouette will become increasingly distinct and distant from the parent.

(Family Court, judgment in *Derbyshire County Council v F., C. and A.* [2014] EWFC 26, 30 July 2014)

Circumstances on the caretaker's side

- duration, regularity, conditions and reasons for the mother's move to a MS
- with particular reference to the child's age:
- parents' geographic and family origins, cultural ties (C-512/17, *HR v KO*)
 - the family and social connections which the mother and child have with that MS (*Mercredi*, C-497/10)
 - parents' intention to settle permanently with the child in another MS, manifested by certain tangible steps such as the purchase or lease of a residence in the host MS or lodging an application for social housing with the relevant services of that MS (*A*, C-523/07)

If no HR - Art. 13 provides for child's presence as basis for jurisdiction

- where a child's HR cannot be established and jurisdiction cannot be determined on the basis of Article 12 (prorogation of jurisdiction), the courts of the State where the child is present have jurisdiction
- Article 13 is residual in relation to other jurisdictional grounds
- Also used for relinquished children, refugee children or children internationally displaced

97

CJEU case law on child's HR

- CJEU, judgment of 2 April 2009, **A**, C-523/07
- CJEU, judgment of 22 December 2010, **Mercredi**, C-497/10
- CJEU, judgment of 9 October 2014, **C. v M.**, C-376/14
- CJEU, judgment of 15 February 2017, **W and V v Z**, C-499/15
- CJEU, judgment of 8 June 2017, **OL v PQ**, C-111/17
- CJEU, judgment of 28 June 2018, **HR v KO**, C-512/17

Vilnius, 17-18 September 2018

Prorogation of jurisdiction and lis pendens

Prof. Dr. Costanza Honorati

Article 12

Article 12 → "Prorogation of jurisdiction"

2 very different rules

- Article 12, para 1
- Article 12, para 3

Is the title correct?

MISLEADING !

Article 12 - **par. 1**

Typical pattern:

- Case on **divorce /separation**
- Proceedings already pending in one State
- Children resident in another State



General rule:
Filing divorce and
PR claims each in
its own court



Special rule:
Article 12.1 →
Extension of the
competence of the
divorce court

Article 12 - par. 1

Rationale for par. 1 :

CONCENTRATION OF PROCEEDINGS
in divorce forum

- ✓ strict interpretation
- ✓ **NO** choice-of-court agreement
- ✓ Very limited party autonomy

Article 12 - **par. 3**

Typical pattern:

- ✓ Case on **parental responsibility**, **independent** from other claims
- ✓ Children resident in a different State
- ✓ Proceedings are not already pendent



Article 12.3 provides for
an **autonomous** forum,
alternative to Article 8

Article 12 - par. 3

Article 12 par. 3 is a

'TRUE' CHOICE-OF-COURT agreement
for parental responsibility claims

aimed at providing :

- ✓ Respect for party autonomy
- ✓ Flexibility (also provided by art. 15)

Requirements: overview

Article 12(1) :

(a) at least one of spouses has parental responsibility

(b) the jurisdiction of the courts has been accepted expressly or otherwise in an unequivocal manner by all the parties to the proceedings at the time the court is seised and

(c) is in the best interests of the child.

Article 12(3) :

(a) the child has a substantial connection with the chosen State

Cumulative conditions

Lietuvos Aukščiausiasis Teismas, 2016



Requirements: details

b) Acceptance: express or unequivocal

By whom?

- agreement of spouses...
- ...of holder of PR
- quid of Prosecutor? (see EUCJ Saponaro)

When?

- at the time the court is seised

How?

- few EUCJ decisions, but not decisive
- a certain degree of activity is required
- *quid of entering an appearance without contesting jurisdiction?*

→ Probably not , but still unclear



Requirements: details

c) in the best interests of the child

- ✓ Parents agreement is not binding on court !
(*autonomous assessment*)
- ✓ A PIL test – not on the substance of case
(same as under Article 15.5)
- ✓ hearing of the child?



In practice : little use !

Duration of prorogation

- strictly limited to the proceeding it refers to
(see EUCJ, *E v B*)
- Cannot be withdrawn
- Does it cover appeals proceeding?

CASE LAW relevant to Article 12

- CJEU, 1 October 2014, C-436/13, *E. v B.* (EU:C:2014:2246)
- CJEU, 12 November 2014, C-656/13, *L. v M.* (EU:C:2014:2364)
- CJEU, 21 October 2015, C-215/15, *Gogova* (EU:C:2015:710;725)
- CJEU, 19 April 2018, C-565/16, *Saponaro and Xylina* (EU:C:2018:265)

Article 19

Article 19 → "*Lis pendens and dependent actions*"

Rationale is:

Avoiding parallel proceedings ...

... and conflict of decisions

2 rules

- Article 19, para 1
for matrimonial matters
- Article 19, para 2
for parental responsibility

Article 19: common issues

When is the court seized ?

Article 16 – Autonomous rule...

...2 rules

when the document is received by the authority responsible for service,

when the document is lodged with the court

in both cases:

provided that the applicant has not subsequently failed to take the steps he/she was required to take to have the document lodged with the court / *service effected on the respondent*.

How do you know ?

https://e-justice.europa.eu/content/how_to_proceed-34-en.do

Article 19 : common issues

How is lis pendens dealt with?

Priority rule:

- The court **first** seised has competence
- The court **second** seised has to stay proceedings *until the first court has established its competence*

NB 1 – stay, not dismiss the case!

NB 2 – Risk of "rush to the court" and of "torpedo" actions...

SPECIAL issues (1)

- NO lis pendens if a proceeding is pending before a non-EU MS
- NO lis pendens between divorce (or separation) proceedings *and* parental responsibility

but

- YES lis pendens between divorce, separation and annulment
 - same cause of action (see CJEU, *A v. B*)...
 - ...[?!!] *nonetheless*: Dependent action !!!

SPECIAL issues (2)

- lis pendens between two proceedings :
one on merits - other on provisional measures ?

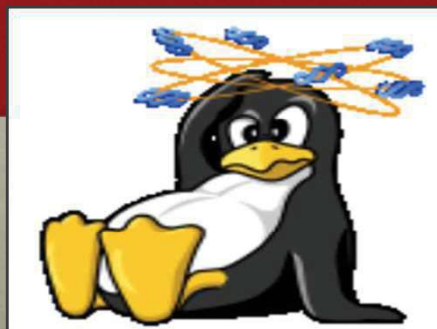
IT **DEPENDS**

- ✓ nature of the proceedings is IRRELEVANT
(see CJEU *Purrucker II*)
- ✓ **YES** → if both grounds of jurisdiction give competence on the merit
(decisions can circulate)
- ✓ **NO** → if jurisdiction is based on Article 20
(decision cannot circulate)

CASE LAW relevant to Article 19

- CJEU, 15 July 2010, C-256/09, *Purrucker I* (EU:C:2010:437)
- CJEU, 9 November 2010, C-296/10, *Purrucker II* (EU:C:2010:654)
- CJEU, 6 October 2015, C-489/14, *A v. B* (EU:C:2015:654)
- CJEU, 22 June 2016, C-173/16, *MH* (EU:C:2016:542)

Thank you!



 <p>Partnership</p> 	<h2 style="text-align: center;">Recognition and enforcement in matrimonial cases</h2> <p style="text-align: center;">Anabela Susana de Sousa Gonçalves Assistant Professor (University of Minho, School of Law)</p> <p style="text-align: center;">Test-the-Training Session No. 1 Vilnius (Lithuania) 17-18 September 2018</p>
---	--

<h2 style="text-align: center;">Contents of this session</h2> <ol style="list-style-type: none"> 1. Introduction 2. The system of automatic recognition in matrimonial matters 3. Application for a declaration of recognition 4. Procedure 5. Appeal 6. Grounds on non-recognition of judgments <ol style="list-style-type: none"> 6.1. Scope of application 6.2. Grounds on non-recognition of judgments 7. Conclusion <p style="text-align: right;">118</p>
--

Introduction

Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility

119

Introduction

- Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility.
- Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations.
- Regulation (EU) No 1259/2010 of 20 December 2010 implementing enhanced cooperation in the area of the law applicable to divorce and legal separation.
- Regulation (EU) No 650/2012 of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession.
- Regulation (EU) 2016/1103 of 24 June 2016 implementing enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes.

120

Introduction

- Material scope of application - Article 1, Section 1 (a)
- Article 2 – definition of court and definition of judge
- Articles 59 and 60

121

System of automatic recognition

Art. 21 (1), «a judgment given in one Member State shall be recognized in the other Member States without any special procedure».

Judgment - Article 2, Section 4 «shall mean a divorce, legal separation or marriage annulment, as well as a judgment relating to parental responsibility, pronounced by a court of a Member State, whatever the judgment may be called, including a decree, order or decision».

- Article 46 - authentic instruments and agreements between the parties enforceable in the Member State of conclusion

122

System of automatic recognition

System of automatic recognition of judgments in matrimonial matters (Article 21, Section 1):

- Article 21, Section 2;
- Article 21, Section 4.

123

Application for a declaration of recognition

Application for a declaration of recognition, Article 21, Section 3:

- Article 26;
- Article 24;
- Article 25.

124

Procedure

Article 21, Section 3 (§ 1): Section 2 of Chapter Articles 28-36.

Article 68 (Article 29 (1)): court that has jurisdiction

European e-justice Portal: https://e-justice.europa.eu/content_matrimonial_matters_and_matters_of_parental_responsibility-377-en.do?init=true

125

Procedure

- Procedure: Section 2 of Chapter Articles 28-36.
- Appeal: Articles 30-34.
- Documents: Articles 37-39, 52.

126

Procedure

The procedure governed by the law of the Member State of enforcement (Article 33, Section 1):

- Article 33, Section 2;
- Articles 37 and 39;
- Article 52.

127

Procedure

The decision should be notified without delay to the applicant (Article 32).

128

Appeal

- Articles 33-35 apply
- Court: Article 68

European e-justice Portal: https://e-justice.europa.eu/content_matrimonial_matters_and_matters_of_parental_responsibility-377-en.do?init=true

129

Appeal

Strictly limited opportunities for further appeal:
Article 34

130

Grounds on non-recognition of judgments

Scope of application of Article 22

131

Grounds on non-recognition of judgments

According to Article 22 (a) recognition may be declined «if such recognition is manifestly contrary to the public policy of the Member State in which recognition is sought».

132

Grounds on non-recognition of judgments

According to Article 22 (b) recognition may be declined «where it was given in default of appearance, if the respondent was not served with the document which instituted the proceedings or with an equivalent document in sufficient time and in such a way as to enable the respondent to arrange for his or her defence unless it is determined that the respondent has accepted the judgment unequivocally».

133

Grounds on non-recognition of judgments

According to Article 22 (c) recognition may be declined «if it is irreconcilable with a judgment given in proceedings between the same parties in the Member State in which recognition is sought».

134

Grounds on non-recognition of judgments

According to Article 22 (d) recognition may be declined «if it is irreconcilable with an earlier judgment given in another Member State or in a non-Member State between the same parties, provided that the earlier judgment fulfils the conditions necessary for its recognition in the Member State in which recognition is sought».

135

Conclusion

Effect of recognition and non-recognition

136

Test-the-Training Session No. 1

VILNIUS (LITHUANIA)

17-18 September 2018

CASE STUDIES

Prepared by all Partners (UNIVR, UNIMIB, UMINHO, ELTE and TEISE) and collected by TEISE

Case Study No. 1

MAIN TOPIC

Matrimonial matters (Divorce without children)

FACTS

Michael, an Austrian national, is a businessman and his work requires a lot of traveling. In 2015, he established a subsidiary company in Italy and soon realised that this is a pleasant place to live. He thus rented a nice house with a pool there and this became his home, though he also has an apartment in Vienna. He is not sure how long this living in Italy will last, but so far, he resides there.

In the end of 2015, he went for skiing holiday back to Austria and met there Eva, who is Lithuanian national. They got married in Austria in June 2016 and started living together in Italy. However, love did not last long. Eva became sad with no friends around, traveling husband and hard Italian language. In summer 2018, she decided to institute the divorce proceedings.

Related questions

1. Which Member State(s) court(s) is (are) competent to hear the divorce case instituted by Eva against Michael?
2. Would the situation change if they both were nationals of Pakistan?
3. Would the situation change if they both were nationals of Lithuania?

VARIATION No. 1

After the relationship deteriorates, Eva decides to move to Switzerland, where her sister lives. Michael in the meantime receives an offer to expand his business in Thailand and leaves to live there terminating his house lease and removing all his belongings.

Related questions

4. Which Member State(s) court(s) is (are) competent to hear the divorce case instituted by Eva against Michael?

VARIATION No. 2

Suppose that September 2017, when couple was still together, Michael was posted to Hungary for a 3 years' term, as new business opportunities opened there. Most of the moveable property they had remained in the rented house in Italy and in an apartment in Austria. Michael visited Italy and Austria at least once a month and Eva travelled to Lithuania often to see her family there. In summer 2018, however, Eva decided to institute the divorce proceedings.

Related questions

5. Where is habitual residence of Eva and Michael? How important is the fact that their stay is temporary? Is it in Italy, Austria, Lithuania or Hungary? Where divorce case could be instituted by Eva against Michael?
6. What importance should be given to one or both spouses' intention to stay (not to stay) in Hungary?
7. How important is the fact that the property is still in Italy, husband travels back monthly?

LEGAL INSTRUMENT(S) TO BE APPLIED

Regulation No 2201/2003

National Law

Case Study No. 2

MAIN TOPIC

Matrimonial matters (Divorce with children)

Parental responsibility

FACTS

Michael, an Austrian national, is a businessman and his work requires a lot of traveling. Since 2015 lives in Italy in a nice rented house with a pool. He also has an apartment in Vienna.

In the end of 2015, he went for skiing holiday back to Austria and met there Eva, who is Lithuanian national. They got married in Austria in June 2016 and started living together in Italy. In August 2016, their son Martin was born. Martin is double Austrian-Lithuanian nationality.

However, family relationship deteriorated. In summer 2018, Eva decided to institute the divorce and parental responsibility proceedings.

Related questions

1. Which Member State(s) court(s) is (are) competent to hear the divorce case and parental responsibility case instituted by Eva against Michael?
2. Would the situation change if they both were nationals of Lithuania?

VARIATION No. 1

Suppose that January 2017, when couple was still together, Michael was posted to Hungary for a 3 years' term, as new business opportunities opened there. It is, however, already clear that the contract will be extended, Michael is searching for a real estate to buy in Budapest.

In September 2017, Martin started nursery in Hungary, his doctor, nanny and all his most beloved toys are in this country.

Michael visited Italy and Austria at least once a month. Eva with the baby travelled to Lithuania often to see her family there, they spent their summers and many other holidays in Lithuania, child has many relatives there. In summer 2018, however, Eva decided to institute the divorce proceedings.

Related questions

3. Which Member State(s) court(s) is (are) competent to hear the divorce case and parental responsibility case instituted by Eva against Michael?
4. Eva claims that child should be seen as habitually resident in Lithuania. As Martin is very small, she argues that his family environment has been limited to Eva (as father is rarely home), she has custody of the boy on a day-to-day basis. Martin speaks and understands mainly Lithuanian, he is connected to Lithuanian tradition and culture via his mother and his mother's family. Moreover, he has spent much time there, including holidays, festivals, etc.

VARIATION No. 2

Continuing from the Variation No 1, please consider such developments.

In September 2017, Eva realised that she is pregnant with their second child. For Christmas 2017, the full family went to Lithuania. Seeking assistance from her family, Eva and Martin remained in Lithuania (with Michael's agreement, he did not object as he has too much or work). Eva said her family she will stay in Lithuania 'for ever' and will work when children are bigger. Michael, however, believes the family will return after the summer.

In January 2018 Martin started nursery in Lithuania. In March 2018, baby Jonas was born. Since then, Eva, Martin and Jonas have not returned to Austria. In summer 2018, Eva decided to institute the divorce proceedings. She hopes the court will rule that the children should live with her and that they all can live in Lithuania.

Related questions

5. Which Member State(s) court(s) is (are) competent to hear the divorce case instituted by Eva against Michael?
6. Which Member State(s) court(s) is (are) competent to hear parental responsibility case instituted by Eva against Michael? Where are children habitually resident?
7. How would the situation change if Martin would have stayed with father in Hungary and be taken care by nanny?
8. If you come to conclusion that several courts in different countries have jurisdiction, consider what instruments of Regulation B2a could be useful to concentrate the proceedings?

LEGAL INSTRUMENT(S) TO BE APPLIED

Regulation No 2201/2003

National Law

Case Study No. 3

MAIN TOPIC

Prorogation of jurisdiction

FACTS

Soon after University Tomas and Monika, a couple of young Lithuanians, move to UK in search of a good job. Success arrives quickly for brilliant and hard-working Monika, who soon earns enough to provide for both of them. When she becomes pregnant of little Paula, the couple decides that it will be Tomas, whose professional activity is not so exciting, to take parental leave and take care of the baby.

This arrangement carries on for a while. Paula is now 4 years old, has double citizenship but was never resident in Lithuania. However, she visits the country often, has a strong bond to her enlarged family and speaks fluent Lithuanian.

At a given point the spouses marriage definitely breaks down.

Fearing the high British legal expenses, Tomas files a claim for divorce before the Family Court in Vilnius. He also asks for joint parental responsibility over Paula but that the girl is to be placed by his mother (Paula's *paternal* grandmother). He emphasizes that Monika is extremely busy at work and will be working even harder now and would not be able to look properly after the child; on his side he has to now search for a better paid job and is thinking to move to Ireland before Brexit takes effect and will need to have free hands at least for some time.

He finally asks a large sum for his own maintenance to the wife who, he states, has now much higher income due to his having taken care of everything regarding the household and child care for the past 6 years.

Monika hires the best lawyer in Vilnius and enters an appearance in court.

She pleads for divorce, but opposes firmly to any economic relief for Tomas. She makes it clear that in UK they had the same professional chances, but since the very beginning Tomas refused proposals that implied hard work or longer work shifts. He was lazy and laid-back, thought of football matches, drinks, parties and night-life. It is his own fault if he has a low income, it is now years that she is supporting him and the situation has to end.

Her long claim is all centered on refusing maintenance obligation for Tomas. Not a single word is written in regard of custodial rights over Paula.

Related questions

1. What should the Vilnius Court do?
2. Over which claims does the Vilnius Court have competence?
3. Under which ground of the Brussels II a Regulation?

VARIATION No. 1

Let's imagine that Monika, while pending the divorce proceeding, files a different claim before the same Vilnius Court, by which she asks the court to provisionally place the daughter, which is now on holiday to Lithuania, to her own mother (the *maternal* grandmother). She explains that pending the divorce proceeding and with a possible move-out of the father, who is the primary care-giver, this is the best solution.

This would also allow her to enroll the daughter in the Lithuanian school and to start school here in September.

Related questions

4. Does this new fact change the previous situation?
5. Does the new claim of Monika act as «unequivocal acceptance» of Lithuanian jurisdiction?
6. Does this have effect on the divorce proceedings?

VARIATION No. 2

Let's now suppose that after some time the couple finds an out-of-court agreement and asks the Court to confirm this.

The Vilnius Court confirms jurisdiction, divorces the parents and approves the conditions of the separation agreed upon by the parties, including provisions over Paula: both parents will have joined parental responsibility; Paula is placed by the father in UK who commits to stay in UK and take care of her; Monika will have wide access rights and will pay maintenance obligations in favor of the girl and (a small amount) for the father.

Such agreement is enforced for a couple of years.

After a while however, Monika finds that such a situation does not suit her any longer. She feels exploited and stressed, while her relation to Paula (now 10 years old) is tense and conflictual.

She decides to give up her great job in UK and to move back to Lithuania. She has earned a decent living and wants to slow down and regain her relation to her daughter.

She then lodges an application before the Court in Vilnius, asking that the conditions of the legal separation to be modified and asking for custody and placement of the child, and ending all maintenance order previously adopted.

Tomas enters an appearance before the court and preliminarily objects the lack of jurisdiction of the Lithuanian court.

Related questions

7. What should the Vilnius Court do now?
8. Does the Vilnius Court have competence over the modification of previous parental agreement that were ordered by such court?

LEGAL INSTRUMENT(S) TO BE APPLIED

Regulation No 2201/2003

National Law

Case Study No. 4

MAIN TOPIC

Article 19 – *Lis pendens*

FACTS

Marina and Sean, a married couple with Italian and Irish nationality, have a lovely, joyful, screaming triplets of baby girls. They all live in Rome and their house is quite noisy and messy, but very lively.

After some years, the relation shows signs of distress. Marina is very busy and completely absorbed in taking care of her triplets. Sean works hard to earn his living but doesn't feel at ease in her wives' chaotic and noisy city. He dreams of going back to his green and quiet Ireland. But Marina won't even think about moving to a different country. Her mother – who is daily in the couple's house – and her girl-friends are a strong support and enable her to carry on, both materially and psychologically.

Things are not working well and Sean is getting tired of the situation. He thinks that taking a break might help him see things in the right perspective and accepts a professional opportunity he is offered in Dublin. For taxation purposes he also moves his residence in Dublin and indeed spends 90% of his time there. For 8 months Sean is in deep thoughts, drinking beer in the pub with new friends.

As it often happens, distance does not solve things and when one night Sean meets charming Fiona he understands he wants to open a new chapter in his life... but first he needs to close his previous, far too distressing, life.

He files a case for divorce before the Court in Dublin. He also asks a provisional right of access in order to visit the girls and plans to have them for summer holidays to Ireland. The claim is lodged with the court by 10th January 2016 and notified to Marina on the 20th February.

In the meantime, Marina, who has a clear picture of the situation, without lingering files a petition for separation before the Family Court in Rome. The petition is received at the office of the clerk on 11th January 2016 and notified to Sean by the 15th of February. In the separation petition she claims that separation is on Sean fault, who has left the family house, has not given support to the left-behind mother of a triplet and has a new lover in Ireland; she asks sole custody for the girls and a huge maintenance sum, for both herself and the girls.

At the first sitting before the Court in Dublin, Marina enters in appearance to contest the Irish jurisdiction and claims lack of competence on the whole claim.

Related questions

1. What should the Court in Dublin do?
2. What should the Court in Rome do?
3. Which Court can take measures in regard of custody of or access

VARIATION No. 1

Suppose that the Court in Rome preliminary separates the two heads of claim, the one on separation and the one on PR. The decision on separation is quickly taken. Marina brings outstanding evidence of all alleged facts and legal defense of Sean is very poor: separation is granted on the husband's fault and Marina is awarded a compensation sum, inclusive a maintenance obligation for herself. Pending the divorce proceeding in Ireland and pending the proceedings on the custody of the girls in Italy, Marina asks recognition and enforcement of the decision on damages.

Related questions

4. Suppose the Italian Court is the court second seised, can the Italian decision on separation, including the maintenance obligation, be recognized in Ireland?
5. Is the violation of Article 19 a ground to refuse recognition?

(see forthcoming CJEU *Liberato*, C-386/17)

LEGAL INSTRUMENT(S) TO BE APPLIED

Regulation No 2201/2003

National Law

Case Study No. 5

MAIN TOPIC

Matrimonial matters (recognition and enforcement in matrimonial cases)

FACTS

A and B, Portuguese nationality, were married in 1974. After 1995, the spouses changed their habitual residence to France.

By judgment of 13 December 2006, the Court of Appeal of Versailles (France) decided: to grant the divorce of the spouses; and condemned the husband paying the wife a compensatory benefit in consequence of their divorce, to compensate her for the break of the marriage, taking into consideration the life conditions of life of each of the spouses (under article 270 of the French Civil Code).

In 24 May 2008, the wife brought an action, in the Portuguese courts intending to recognise and enforce the judgment handed down by the Appeal Court of Versailles.

Related questions

1. Does Regulation 2201/2003 apply to the recognition of the judgment of the French court? Explain the material scope of Regulation 2201/2003.
2. Which Portuguese court would have jurisdiction to decide the recognition?
3. Which documents should be presented by the wife?

Considering the system of recognition of Regulation 2201/2003.

4. What are the grounds of non-recognition for judgments relating to divorce, legal separation or marriage annulment?
5. Can one oppose the recognition of a decision on divorce/legal separation/marriage annulment issued by a court in another Member State? Which procedure should be applied in these cases?

LEGAL INSTRUMENT(S) TO BE APPLIED

Regulation No 2201/2003

National Law

Case Study No. 6

MAIN TOPIC

Matrimonial matters (recognition and enforcement in matrimonial cases)

FACTS

A and B were married in 1974 in Portugal, country of their nationality and place of their habitual residence. After five years of marriage, the spouses changed their habitual residence to London, where the three children were born.

In October 2006, the Barnet Country Court of the United Kingdom ordered the dissolution of the marriage by divorce.

In 2007, the wife once again asks the Portuguese courts to dissolve the marriage by divorce and a compensation for damages resulting from the divorce and from the grounds that gave rise to the divorce.

Related questions

1. How should the Portuguese courts decide?
2. According with Brussels IIa Regulation, what should have been the right procedure?

VARIATION No. 1

Imagine that the husband wants to update the civil-status records in Portugal on the basis of the UK judgment that decided the divorce.

Related questions

3. How should the husband proceed?

LEGAL INSTRUMENT(S) TO BE APPLIED

Regulation No 2201/2003

National Law

Case Study No. 7

MAIN TOPIC

Matrimonial matters (recognition and enforcement in matrimonial cases)

FACTS

A, Romanian nationality, marries B, Italian nationality, in Romania, place of habitual residence of both.

The wife (B) brought a claim against her husband (A), asking for the divorce in May 2008. The Romanian court grants the divorce, which is given in default of appearance of the husband, in January 2009.

In July 2009, B applies for a declaration of recognition in Italy. B does not present the certificate provided for by Art 39 Brussels IIa.

At hearings, the Court of Appeal declares Brussels IIa applicable to the case and specifies the time for the applicant to produce the certificate provided for by Art 39 Brussels IIa.

The Court declares the Romanian judgment enforceable in Italy, after verifying that the certificate has been produced and all the information required are properly given (judgement given in default of appearance, decision subject to no further appeal, no grounds for non-recognition under Arts 22-23).

Related questions

1. What should the Italian court do concerning the missing certificate?
2. The fact that the judgment of the Romanian court was given in default of appearance of the husband can have any influence in the decision of the Italian court? How should the Italian court proceed?

VARIATION No. 1

Imagine that the divorce was declared by the Romanian court after only 6 continuous personal separation of the spouses.

Related questions

3. Taking into consideration that Article 3 § 2(b) of the Italian Divorce Law specifies as a cause of divorce continuous personal separation lasting for three years, can this be a ground for non-recognition of the Romanian judgment in Italy?

LEGAL INSTRUMENT(S) TO BE APPLIED
--

Regulation No 2201/2003

National Law

LEGAL TERMINOLOGY

Legal terminology

Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility	
Matrimonial matters	divorce, legal separation or marriage annulment
Parental responsibility matters	the attribution, exercise, delegation, restriction or termination of parental responsibility
court	all the authorities in the Member States with jurisdiction in the matters falling within the scope of this Regulation
judge	the judge or an official having powers equivalent to those of a judge in the matters falling within the scope of the Regulation
Member State	all Member States with the exception of Denmark
judgment	a divorce, legal separation or marriage annulment, as well as a judgment relating to parental responsibility, pronounced by a court of a Member State, whatever the judgment may be called, including a decree, order or decision
Member State of origin	the Member State where the judgment to be enforced was issued
Member State of enforcement	the Member State where enforcement of the judgment is sought
parental responsibility	all rights and duties relating to the person or the property of a child which are given to a natural or legal person by judgment, by operation of law or by an agreement having legal effect. The term shall include rights of custody and rights of access
holder of parental responsibility	any person having parental responsibility over a child
rights of custody	rights and duties relating to the care of the person of a child, and in particular the right to determine the child's place of residence
rights of access	the right to take a child to a place other than his or her habitual residence for a limited period of time
wrongful removal or retention	a child's removal or retention where: (a) it is in breach of rights of custody acquired by judgment or by operation of law or by an agreement having legal effect under the law

	<p>of the Member State where the child was habitually resident immediately before the removal or retention; and</p> <p>(b) provided that, at the time of removal or retention, the rights of custody were actually exercised, either jointly or alone, or would have been so exercised but for the removal or retention. Custody shall be considered to be exercised jointly when, pursuant to a judgment or by operation of law, one holder of parental responsibility cannot decide on the child's place of residence without the consent of another holder of parental responsibility.</p>
--	---

Council Regulation (EU) No 1259/2010 of 20 December 2010 implementing enhanced cooperation in the area of the law applicable to divorce and legal separation

law applicable	the law to be applied, in situations involving a conflict of laws, to divorce and legal separation
participating Member State'	a Member State which participates in enhanced cooperation on the law applicable to divorce and legal separation by virtue of Decision 2010/405/EU, or by virtue of a decision adopted in accordance with the second or third subparagraph of Article 331(1) TFEU
court	all the authorities in the participating Member States with jurisdiction in the matters falling within the scope of this Regulation

Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations

maintenance obligations	maintenance obligations arising from a family relationship, parentage, marriage or affinity
decision	a decision in matters relating to maintenance obligations given by a court of a Member State, whatever the decision may be called, including a decree, order, judgment or writ of execution, as well as a decision by an officer of the court determining the costs or expenses. For the purposes of Chapters VII and VIII, the term 'decision' shall also mean a decision in matters relating to maintenance obligations given in a third State
court settlement	a settlement in matters relating to maintenance obligations which has been approved by a court or concluded before a court in the course of proceedings
authentic instrument	(a) a document in matters relating to maintenance obligations which has been formally drawn up or registered as an authentic instrument in the Member State of origin and the authenticity of which:

	<p>(i) relates to the signature and the content of the instrument, and</p> <p>(ii) has been established by a public authority or other authority empowered for that purpose; or,</p> <p>(b) an arrangement relating to maintenance obligations concluded with administrative authorities of the Member State of origin or authenticated by them</p>
Member State of origin	the Member State in which, as the case may be, the decision has been given, the court settlement has been approved or concluded, or the authentic instrument has been established
Member State of enforcement	the Member State in which the enforcement of the decision, the court settlement or the authentic instrument is sought
requesting Member State	the Member State whose Central Authority transmits an application pursuant to Chapter VII
requested Member State	the Member State whose Central Authority receives an application pursuant to Chapter VII
2007 Hague Convention Contracting State	a State which is a contracting party to The Hague Convention of 23 November 2007 on the International Recovery of Child Support and other Forms of Family Maintenance (hereinafter referred to as the 2007 Hague Convention) to the extent that the said Convention applies between the Community and that State
court of origin	the court which has given the decision to be enforced
creditor	any individual to whom maintenance is owed or is alleged to be owed
debtor	any individual who owes or who is alleged to owe maintenance
court	<p>administrative authorities of the Member States with competence in matters relating to maintenance obligations provided that such authorities offer guarantees with regard to impartiality and the right of all parties to be heard and provided that their decisions under the law of the Member State where they are established:</p> <p>(i) may be made the subject of an appeal to or review by a judicial authority; and</p> <p>(ii) have a similar force and effect as a decision of a judicial authority on the same matter.</p> <p>These administrative authorities shall be listed in Annex X. That Annex shall be established and amended in accordance with the management procedure referred to in Article 73(2) at the request of the Member State in which the administrative authority concerned is established.</p>
domicile	For the purposes of Articles 3, 4 and 6, it replaces the concept of 'nationality' in those Member States which use this concept as a

	connecting factor in family matters. For the purposes of Article 6, parties which have their 'domicile' in different territorial units of the same Member State shall be deemed to have their common 'domicile' in that Member State.
--	---

Hague Convention on jurisdiction, applicable law, recognition, enforcement and co-operation in respect of parental responsibility and measures for the protection of children of 19 October 1996

parental responsibility	parental authority, or any analogous relationship of authority determining the rights, powers and responsibilities of parents, guardians or other legal representatives in relation to the person or the property of the child
measures directed to the protection of the person or property of the child	<p>a) the attribution, exercise, termination or restriction of parental responsibility, as well as its delegation;</p> <p>b) rights of custody, including rights relating to the care of the person of the child and, in particular, the right to determine the child's place of residence, as well as rights of access including the right to take a child for a limited period of time to a place other than the child's habitual residence;</p> <p>c) guardianship, curatorship and analogous institutions;</p> <p>d) the designation and functions of any person or body having charge of the child's person or property, representing or assisting the child;</p> <p>e) the placement of the child in a foster family or in institutional care, or the provision of care by kafala or an analogous institution;</p> <p>f) the supervision by a public authority of the care of a child by any person having charge of the child;</p> <p>g) the administration, conservation or disposal of the child's property.</p>
wrongful removal or retention	<p>where:</p> <p>a) it is in breach of rights of custody attributed to a person, an institution or any other body, either jointly or alone, under the law of the State in which the child was habitually resident immediately before the removal or retention; and</p> <p>b) at the time of removal or retention those rights were actually exercised, either jointly or alone, or would have been so exercised but for the removal or retention.</p>

Hague Convention on the civil aspects of international child abduction of 25 October 1980

wrongful removal or retention	<p>where</p> <p>a) it is in breach of rights of custody attributed to a person, an institution or any other body, either jointly or alone, under the law of the State in which the child was habitually resident immediately before the removal or retention; and</p> <p>b) at the time of removal or retention those rights were actually exercised, either jointly or alone, or would have been so exercised but for the removal or retention.</p>
rights of custody	rights relating to the care of the person of the child and, in particular, the right to determine the child's place of residence
rights of access	the right to take a child for a limited period of time to a place other than the child's habitual residence

Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance of 23 November 2007 and Hague Protocol on the Law Applicable to Maintenance Obligations

creditor	an individual to whom maintenance is owed or is alleged to be owed
debtor	an individual who owes or who is alleged to owe maintenance
legal assistance	the assistance necessary to enable applicants to know and assert their rights and to ensure that applications are fully and effectively dealt with in the requested State. The means of providing such assistance may include as necessary legal advice, assistance in bringing a case before an authority, legal representation and exemption from costs of proceedings
agreement in writing	an agreement recorded in any medium, the information contained in which is accessible so as to be usable for subsequent reference
maintenance arrangement	<p>an agreement in writing relating to the payment of maintenance which</p> <p>i) has been formally drawn up or registered as an authentic instrument by a competent authority; or</p> <p>ii) has been authenticated by, or concluded, registered or filed with a competent authority, and may be the subject of review and modification by a competent authority</p>
vulnerable person	a person who, by reason of an impairment or insufficiency of his or her personal faculties, is not able to support him or herself

BIBLIOGRAPHY

BIBLIOGRAPHY*

In English

C. HONORATI (ed.), *Jurisdiction in Matrimonial Matters, Parental Responsibility and International Abduction. A Handbook on the Application of Brussels IIa Regulation in National Courts* (Giappichelli Editore – Peter Lang, 2017)

U. MAGNUS, P. MANKOWSKI (ed.), *Brussels IIbis Regulation* (Otto Schmidt, 2017)

Practice guide for the application of the Brussels IIa Regulation (EU Publications, 2016), available at: <https://publications.europa.eu/en/publication-detail/-/publication/f7d39509-3f10-4ae2-b993-53ac6b9f93ed/language-en>

P. BEAUMONT, B. HESS, L. WALKER, S. SPANCKEN (eds.), *The recovery of maintenance in the EU and worldwide* (Hart Publishing, 2016)

In Italian

P. BRUNO, *Le controversie familiari nell'Unione europea: regole, fattispecie, risposte* (Giuffrè, 2018)

F. ALBANO (a cura di), *La Convenzione dell'Aja del 1996. Prontuario per l'operatore giuridico* (Marchesi Grafiche Editoriali Spa, 2018)

S. BARIATTI, I. VIARENGO, F.C. VILLATA (a cura di), *La giurisprudenza italiana sui regolamenti europei in materia civile e commerciale e di famiglia* (CEDAM - Wolters Kluwer, 2016)

In Lithuanian

A. LIMANTĖ, E. KAVOLIŪNAITĖ, Reglamentas „Briuselis II a“ peržiūra: siūlomos naujos ir jų įtaka Lietuvos teisinei sistemai (Mokslo studija, Lietuvos teisės institutas, 2017)

K. PRANEVIČIENĖ. Jurisdikcijos nustatymo taisyklės ir jų taikymas bylose dėl tėvų pareigų vaikams pagal Tarybos Reglamentą (EB) Nr. 2201/2003 (Briuselis II a) (Daktaro disertacija, 2014)

* In chronological order.

2015 m. gruodžio 2 d. Lietuvos Aukščiausiojo Teismo apžvalga dėl tarptautinės ir Europos Sąjungos teisės taikymo šeimos bylose (Teismų praktika, Nr. 43)

2016 m. kovo 30 d. Lietuvos Aukščiausiojo Teismo apžvalga dėl Europos Sąjungos ir tarptautinės teisės aktų, reglamentuojančių taikytinos teisės nustatymo taisyklės šeimos bylose (Teismų praktika, Nr. 44)

In Portuguese

L. PINHEIRO, *Direito Internacional Privado, Competência Internacional e Reconhecimento de Sentenças Estrangeiras*, Vol. III, Coimbra, Almedina, 2012.

A. GONÇALVES, «Âmbito de aplicação do regulamento n.º 2201/2003 e reconhecimento de decisões em matéria matrimonial, Acórdão do Tribunal da Relação do Porto de 15 de Janeiro de 2013, Processo 2186/06», *Cadernos de Direito Privado*, n.º 44 (Outubro/Dezembro 2013), p. 37-57.

A. GONÇALVES, «O caso Rinau e a deslocação ou retenção ilícitas de crianças», *Unio EU Law Journal*, Nº 0, pp. 124-147.

A. GONÇALVES, «El principio de la autonomía de la voluntad en los reglamentos europeos sobre derecho de familia y sucesiones», *La Ley Unión Europea*, n.º 40, 2016, pp. 42-64.

In Hungarian

RAFFAI K. (szerk.), *Határokon átnyúló családi ügyek. Nemzetközi személyes- és családjogi kérdések a XXI. században* (Pázmány Press, 2018) (tanulmánykötet, szerzők Barta et. al.)

BERKE B. – NEMESSÁNYI Z. (szerk.), *Az új nemzetközi magánjogi törvény alapjai. Kodifikációs előtanulmányok I-II* (HVG-ORAC, 2016) (tanulmánykötet, szerzők Vékás et al.)

SZEIBERT O., *A családjogi harmonizáció kérdései és lehetőségei Európában. A házasság, a házasságon kívüli partnerkapcsolatok, szülői státusz, közös szülői felelősség és kapcsolattartás területein* (HVG-ORAC, 2014)

WOPERA ZS., *Aaz európai családjog kézikönyve* (HVG-ORAC, 2012)