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Training Session No. 4

"Matrimonial Property Regimes" and "Circulation of Decisions"

MILAN (ITALY) | 14 June 2019

TRAINING PACKAGE

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

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4 EU Training Sessions on Family Law for Cross-Border Lawyers and Social Services

Training Session No 4 I Milan, 14 June 2019

MATRIMONIAL PROPERTY REGIMES

WARMING-UP AND INTRODUCTION TO SELECTED TOPICS

09:00 – 09:45 **Regulation No 1103 & No 1104/2016 and jurisdiction on property regimes of international couples (married & registered)**
CAROLA RICCI, University of Pavia

09:45 – 10:15 **Regulation No 1103 & No 1104/2016 and the law applicable to matrimonial property regimes**
ORSOLYA SZEIBERT, ELTE University, Budapest

WORKSHOP ON CASES

10:30 – 11:00 Practice case No 5 (small-group work)

11:00 – 11:30 Practice case No 6 (small-group work)

12:00 – 13:00 **General discussion on cases**

13:00 – 14:00 **Lunch break**

CIRCULATION OF DECISIONS

WARMING-UP AND INTRODUCTION TO SELECTED TOPICS

14:30 – 15:00 **Recognition of judgments on matrimonial matters: general frame common to all Regulations**
LILLA KIRÁLY, Kàroli Gáspár University, Pécs

15:00 – 15:30 **Special issues on recognition of matrimonial decisions**
AGNE LIMANTE, Law Institute of Lithuania, Vilnius

15:30 – 16:00 **Enforcement of decisions on maintenance**
ANA PLINER, Law Institute of Lithuania, Vilnius

WORKSHOP ON CASES

16:15 – 16:45 Practice case No 7

16:45 – 17:15 Practice case No 8

17:15 – 18:15 **General discussion and conclusion on cases**

18:15 – 18:30 **Closing remarks**

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PRESENTATIONS

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Jurisdiction on property regimes of international couples

Regulations No 1103 and No 1104 of 2016

Prof. Adv. Carola Ricci
University of Pavia

Training Session No. 4
Milan (Italy), 14 June 2019

Genesis of the Regulations

In its 2000 Programme on measures to implement the principle of mutual recognition, the Council called for solutions that would help international *couples* in the Union facing **difficulties** when ***managing their property on a daily basis*** or when ***liquidating*** it in case of *divorce* or the *death* of one of their members (due to differences in substantial legislation) and underlined the need to ***protect third parties*** in good faith

After many years of discussions, new European Regulations were adopted among 18 Member States on 24 June 2016 on the matrimonial property regimes of couples with a foreign element and on property consequences of registered partnerships, following the ***enhanced cooperation*** **mechanism**

The present session aims to present to you the *main features* of this new Regulations (and specifically No 1103/2016)

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..genesis of the Regulations

Main steps forward and timeline:

I. Nov. 2004: the Hague Progamme
II. July 2006: Green Book launched (public consultation)
III. Dec. 2009: Stockholm Programme: Council invites the Commission to submit a proposal
IV. March 2011: Proposal of two regulations
V. 3 Dec. 2015: it is clear that no unanimity can be found
VI. Dec. 2015-Feb. 2016: Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Finland, France, Germany, Greece, Italy, Luxembourg, Malta, the Netherlands, Portugal, Slovenia, Spain and Sweden manifest their intention to make recourse to enhanced cooperation
VII. March 2015: Ciprus joins the group
VIII. 9 June 2016: Council adopts **decision (UE) 2016/954 authorising the enhanced cooperation**

The Council approved two twin acts on 24 June 2016:

- Regulation (EU) 2016/1103 implementing enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions in matters of **matrimonial property regimes**
- Regulation (EU) 2016/1104 implementing 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**

➢ Same structure, almost same wording and numbering of the provisions

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Aim pursued

- With the final aim of **certainty** and **foreseeability** of solutions the EU legislator has reunited in one act all the relevant provisions (**recital 15**)
- The Regulations establishes harmonized connecting factors to determine the **law applicable** to matrimonial property regimes (MPR) and property consequence of registered partnerships (PCRP) in addition to the **jurisdiction** to rule on all civil law aspects thereof, concerning both the ***everyday management of the couple's property*** and the ***liquidation*** of the property regimes of international couples due to natural termination - death of one spouse- or to divorce, legal separation, annulment of the marriage or dissolution of the partnership (**recital 18**)
- The Regulations simplify the **recognition and enforcement** of judgments and the acceptance and enforcement of authentic instruments linked to MPR and PCRP (**recital 16**)

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Territorial scope of application

- At present 'only' 18 Member States are participating
- Any EU Member can join enhanced cooperation (both Regulations) at any time

BUT till that moment, each non-participating Member States will be considered as a third State

- For existing conventions concluded between participating Member States, the Regulations shall prevail
- An exception is provided to allow the application of specific conventions between Denmark, Finland, Iceland, Norway and Sweden, which continue to be applicable between all their parties

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Temporal scope of application

- Regulations shall apply only to legal *proceedings instituted*, to authentic instruments formally drawn up or registered and to court settlements approved or concluded on or after 29 January 2019
- If the proceedings in the Member State of origin were instituted before 29 January 2019, decisions given after that date shall be recognized and enforced in accordance with the rules of the Regulations as long as the *rules of jurisdiction applied comply with those set out in the twins acts*

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Temporal scope of application

- Regulations shall apply only to legal *proceedings instituted*, to authentic instruments formally drawn up or registered and to court settlements approved or concluded on or after 29 January 2019, regardless of the date of the marriage
- If the proceedings in the Member State of origin were instituted before 29 January 2019, decisions given after that date shall be recognised and enforced in accordance with the rules of the Regs as long as the *rules of jurisdiction applied comply with those set out in the Regs*

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Material scope of application (Art. 1 reg. No 1103/2016)

The following are excluded from the scope:

- ✓ Revenue, customs or administrative matters
- ✓ The legal capacity of spouses (except specific powers and rights of the spouses in relation to of either or both spouses with regard to property, either as between themselves or as regards third parties, **recital 20**)
- ✓ The existence, validity or recognition of a **marriage** (no common definition BUT subject to the law designated by the private international law of the forum, **recitals 17, 21 and 64**) ⇒ **problems of coordination with MS; ≠ reg. 1104 which defines registered partnership at Art. 3(1)(a)**
- ✓ Maintenance obligations (refer to Reg. 4/2009 and to the Hague Protocol of 23 November 2007 on the law applicable to maintenance obligations) ⇒**coordination needed**
- ✓ The succession in general, and in particular between spouses (see Reg. 650/2012 on Successions)
- ✓ Jurisdiction and applicable law in the case of divorce, legal separation or marriage annulment (refer to Reg. 2201/2003) ⇒**coordination needed**
- ✓ Social security
- ✓ The entitlement to transfer or adjustment between spouses, in the case of divorce, legal separation or marriage annulment, of rights to retirement or disability pension accrued during marriage and which have not generated pension income during the marriage (Should be strictly interpreted, **recital 23**)
- ✓ The nature of *rights in rem*, the recording in a register of rights in immovable or moveable property and the effects of recording or failing to record such rights (**recital 24**) but 'adaptation' is possible (**recital 25**)

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Notion of 'matrimonial property'

An **autonomous** concept is required; the EUCJ case-law is indicative, even when the Court decided:

on civil and commercial matters

- *De Cavel II* (case C-143/79, 27-3-1979) confirmed in *Realchemie* (case C-406/09, 18-10-2011)
- *van Den Boogaard* (case C-220/95, 27-2-1997)

on succession matters

- *Iliev* (case C-67/17, 14-6-2017)
- *Mahnkopf* (case C-558/16, 1-3-2018)

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Notion of 'matrimonial property' - Art. 3

= property relationships between the spouses and in their relations with third parties, *as a result of marriage* or its *dissolution*; thus it should encompass as specified in **recital 18**:

As to the nature

- not only rules from which the spouses may **not derogate**
- but also any **optional** rules to which the spouses may agree in accordance with the applicable law
- as well as any **default** rules of the applicable law

As to the substance

- It includes not only **property arrangements** specifically and exclusively envisaged by certain national legal systems in the case of marriage but also
- any **property relationships**, between the spouses and in their relations with third parties, resulting directly from the matrimonial relationship, or the dissolution thereof.

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Notion of court (art. 3.2)

The term 'court' should be given a **broad meaning** so as to cover (**recital 29**):

- **courts** in the strict sense of the word, exercising judicial functions, but also
- **notaries** in some Member States who, in certain matters of matrimonial property regime, exercise judicial functions (in France under Art. 255 c.c.?)
- and **notaries and legal professionals** who, in some Member States, exercise judicial functions in a given matrimonial property regime by delegation of power by a court
- All courts should be bound by the rules of jurisdiction set out in the Regulation
- Conversely, the term 'court' should **not** cover non-judicial authorities of a Member State empowered under national law to deal with matters of matrimonial property regime (such as the *notaries in most Member States* where, as is usually the case, they are not exercising judicial functions, thus the authentic instruments they issue should circulate in accordance with the provisions of this Regulation on *authentic instruments* – not as judgments)

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Notion of court (Art. 3.2)

Any **judicial authority** and **all other authorities** and **legal professionals** with competence in matters of matrimonial property regimes

- which **exercise judicial functions** or **act by delegation of power by a judicial authority** or **under its control**,
- provided that such other authorities and legal professionals 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 in which they operate (a) may be made the subject of an *appeal* to or *review* by a *judicial authority*; and (b) have a *similar force and effect as a decision* of a judicial authority on the same matter

- Italy has notified pursuant to Art. 64 that are to be considered as court under the regulation: both **lawyers** for the 'negoziazione assistita' procedures provided for Art. 6 law decree no. 132/2014; and **civil servants** *(ufficiali di stato civile)* in the 'de-jurisdictionalised regimes' under art. 12 same l.d.

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General features of jurisdiction rules

- Overall layout of the regime:
  - **'basic' grounds (Art. 4-8):** distinguished differently depending on the existing connection with – weak or strong – between the forum State and the parties/claim;
  - **alternative/exceptional fora (Art. 9):** allows for an exception to the basic rules by enabling the court designated to decline jurisdiction in certain circumstances, identifying the other courts having jurisdiction *in case of dismissal* by the former;
  - **subsidiary/extra-grounds (Arts. 10-11):** jurisdiction may be asserted where no court is having jurisdiction under the previous rules and there's still a *connection* with a participating State
  - **counterclaim (Art. 12):** an already seized court of a MS having jurisdiction on any of the previous grounds, shall have jurisdiction over the counterclaim

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General features of jurisdiction rules

The system is "self-contained" regime, namely because is:

- **Uniform** (without interference from domestic rules and with **no** possibility to decline for reasons other than those indicated, for ex. because another court is considered 'better placed'- no!)
- **Exhaustive** (no gaps; no residual grounds left to other sources: if there is no court having jurisdiction on 'basic' grounds ⇒ jurisdiction can only asserted on the basis of Arts 10-11)

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'Basic' grounds (Arts 4-8)

The final aim is to concentrate jurisdiction on matrimonial property before the same court seized for the matrimonial matters and successions (**one-stop shop**):

- The competent court *already seized* for the succession (pursuant to reg. 650/2012) has jurisdiction also for matters of the matrimonial property regime in the event of the death of one of the spouses (**Art. 4**)
- When the forum is objectively connected to the forum State (**Art. 5.1**), jurisdiction in matters of matrimonial property regimes in cases of divorce, legal separation or marriage annulment falls to the court *already seized* to rule on the matrimonial dispute in compliance with reg. 2201/2003

☞ BUT when the connection is week, the spouses' ***agreement*** is required – see **Art. 5.2**

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Main basic grounds (Art. 5.1)

- When the forum is objectively connected to the forum State?
- The same court, already seized, having jurisdiction under Art. 3(1)(a) (first four indents) reg. 2201/2003 shall decide over **both** the matrimonial matters **and** the matrimonial property regimes whenever the forum State is the:
  - ✓Last common habitual residence;
  - ✓Last habitual residence in case one still resides there
  - ✓Habitual residence of the defendant
  - ✓In case of joint request, habitual residence of one of the spouses
- No further requirement; no agreement between the spouses

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Main basic grounds (Art. 5.2)

When the connection is week, the spouses' ***agreement*** is required where the court that is seized to rule on the application for divorce, legal separation or marriage annulment:

a) is the court of a Member State in which the applicant is habitually resident and the applicant had resided there for at least a year immediately before the application was made, in accordance with the fifth indent of Art. 3(1)(a) of Reg. 2201/2003;

b) is the court of a Member State of which the applicant is a national and the applicant is habitually resident there and had resided there for at least six months immediately before the application was made (sixth indent of Art. 3(1)(a) of Reg. 2201/2003)

c) is seized pursuant to Art. 5 Reg. 2201/2003 in cases of *conversion of legal separation into divorce* (not always possibile); or

d) is seized pursuant to Art. 7 of Reg.m2201/2003 in cases of *residual jurisdiction* (ex.: in Italy, celebration of the marriage or domicile of the defendant)

The agreement must be written, signed and dated (Art. 7)

- *It seems the legislator instituted a hierarchy (forbidden by Hadadi case 16.7.2009)*
- *The agreement being required, procedural tactics could be pursued (the defendant refusing the agreement under Art. 5.2 could in the meanwhile start an action first under art. 5.1)*

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Other basic grounds (Art. 6)

In other cases∗, jurisdiction to rule on the spouses' matrimonial property regime shall lie with the courts of the Member State having an objective/strong connection:

- of the spouses' common habitual residence at the time the court is seised; or failing that

- of the spouses' last habitual resident, insofar as one of them still resides there at the time the court is seised; or failing that

- of the habitual residence of the respondent at the time the court is seised; or failing that

- of the spouses' common nationality at the time the court is seised

∗ when? The court on succession or matrimonial matters has been not seized yet or has already concluded the procedure; the court is potentially competent under Art. 5.2 but no agreement is found or valid; a non-participating Member State is seized

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Derogations from the general rules of jurisdiction

- Jurisdiction based on the **appearance of the defendant** before the court of the Member State whose law is applicable **(Art. 8)**
- **Alternative jurisdiction**: where a court having jurisdiction pursuant to the abovementioned rules does not recognize the marriage in question, it may *decline* jurisdiction. In this case, the spouses may *agree* to confer jurisdiction to *any other* Member State. In the absence of an agreement, the Member *State of the conclusion of the marriage* shall have jurisdiction **(Art. 9)**
- **Subsidiary jurisdiction** : Where no court has jurisdiction, the court of the territory in which one of the spouses has immoveable property shall have jurisdiction to rule in respect of the immoveable property in question **(Art. 10)**

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..derogations from the general rules of jurisdiction

- Finally, the case of **forum necessitatis** is provided **(Art. 11)** where no court has jurisdiction, the courts of a Member State may, on an exceptional basis, rule on the matrimonial property regime if proceedings cannot reasonably be brought or conducted or would be impossible in a third state with which the case is closely connected
- The case must have a **sufficient connection** with the Member State of the court seized

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Possibility of choice of court (Art. 7)

- The spouses may agree that the Member State **whose law is applicable*** or **where the marriage was concluded** shall have jurisdiction to rule on matters of their matrimonial property regime (except for cases of death of one of the spouses or matrimonial dispute)
- Such an agreement shall be expressed in writing and dated and signed by the parties **(Art. 7(2)),** and any communication by electronic means which provides a *durable record* of the agreement shall be deemed equivalent to writing

➢ This provision was included to ensure the coincidence among *forum* and *ius* in order to facilitate the ascertainment and application of law

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Possibility of choice of court (Art. 7)

➢ The spouses may agree that the Member State **whose law is applicable*** or **where the marriage was concluded**

➢ * the choice can be made only among some fora*:*

- indicated in ***Arts. 22*** *in case there is agreement,*

(a) the State where the spouses or future spouses, or one of them, is habitually resident at the time the agreement is concluded; or

(b) State of nationality of either spouse or future spouse at the time the agreement is concluded

- indicated in ***Art. 26 (1),*** *lacking the agreement:*

(a) State of the spouses' first common habitual residence ***after the conclusion*** *of the marriage; or, failing that*

(b) spouses' common nationality ***at the time*** *of the conclusion of the marriage*

(⇒both referred to the past; what if they loose contacts as time goes by?)

Example - A bi-national homosexual couple (Belgian/French) concluded their marriage in Paris. Having lived in Vienna since their marriage, they preferred to submit any matters relating to their matrimonial property regime to the French courts (place marriage concluded). The same couple will also have the possibility to submit any matter relating to its matrimonial property regime to French law and the French courts /or to Austrian law and the Austrian courts.

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Common rules

- **Art. 12 Counterclaims**
- **Art. 14 Seising a court** (except *ex officio* under lett. c)
- **Art. 15** (*mutual trust*)
- **Art. 16 Examination as to jurisdiction**
- **Art. 19 Examination as to admissibility**

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Common rules

- **Lis pendens (Art. 17)**

1. Where proceedings involving the **same cause of action** and between the same parties are brought before courts of different Member States, any court 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.

2. In the cases referred to in paragraph 1, upon request by a court seised of the dispute, any other court seised shall without delay inform the former court of the date when it was seised.

3. Where the jurisdiction of the court first seised is established, any court other than the court first seised shall decline jurisdiction in favour of that court.

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Common rules

- **Related actions (Art. 18)**

= so closely connected that it is expedient to hear and determine them together to avoid the risk of irreconcilable decisions resulting from separate proceedings

1. Where related actions are pending in the courts of different Member States, any court other than the court first seised **may stay** its proceedings
2. Where the actions are pending at first instance, any court other than the court first seised **may** also, *on the application of one of the parties*, **decline** jurisdiction if the court first seised has jurisdiction over the actions in question and its law permits the consolidation thereof

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Thank you!

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Law applicable to matrimonial property regimes

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Training Session No. 4
Milan (Italy), 14 June 2019

Contents of this session

1) Meaning of 'matrimonial property regime'
2) Differences among matrimonial property regimes
3) Definition of 'matrimonial property agreement'
4) Main issues conc. applicable law in Regulations
5) Applicable law in absence of choice
6) Matrimonial property agreement in the Regulation
7) Choice of applicable law
8) Scope and adaptation *in rem*
9) Considerations of public interest

2

Introduction

Two Regulations

little differences between Reg 1103/2016 and 1104/2016

Importance of family law/property

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1. Matrimonial property regime

Recital (18)

autonomous interpretation is needed

„all civil-law" aspects

any property relationships between the spouses and in their relations with third parties,

resulting from the matrimonial relationship or the dissolution thereof

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1. Matrimonial property regime

Matrimonial property regime – matrimonial property relations

Civil law aspects, family law aspects

'Matrimonial property regime' has a meaning in family law sense

Applicable law will determine the matrimonial property regime

Therefore the regime itself is of huge relevance

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2. Different regimes

Enormous differences among them

civil law / common law

different techniques in their function

deep connection with property law

deep connection with contract law and general law of obligations

3 regimes may be hightlighted in Europe

- separation of property regime
- regime of participation in acquisitions
- regime of community of acquisitions

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2. Different regimes

- separation of property regime
- regime of participation in acquisitions
- regime of community of acquisitions

What are similarities and differences?

Are there differences concerning any regime in European countries?

Default regime

Alternative regimes

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2. Different regimes

Hungary
Italy
Lithuania
Portugal

DEFAULT REGIME:
community of property

e.g. in Catalonia – separation of assets

e.g. in Germany – participation of acquisitions

e.g. in Austria – deferred community

(2013 CEFL Principles)

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2. Different regimes

Hungary
Italy
Lithuania
Portugal

ALTERNATIVE REGIMES
community of property
or/and separation of property

e.g. in Hungary – also participation of acquisitons (2014)

Changes

Consciousness, legal help (notaries, lawyers, attorneys)

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3. Matrimonial property agreement

Definition (CEFL 2013)

any agreement by which spouses organise their property relations

differences in family law rules

freedom to enter into an agreement

freedom to choose another regime

freedom to modify a regime

Default regimes

Alternative regimes

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4. Main issues concerning applicable law

- **Universal application**

  Art 20 → even if it is not a MS's law

- **Unity of applicable law**

  Art 21 → to all assets falling under that regime, regardless of their location

- **Limited freedom to choose the applicable law**

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5. Applicable law in absence of choice

for spouses there is an order [Art 26(1)]

1. first common HR after conclusion of marriage
2. common nationality at time of conclusion of marriage
3. closest connection at the time of conclusion of marriage

DIFFERENCE for registered partners –

Law of the State under which the RP was created

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5. Applicable law in absence of chioce

[Art 26(3)] is exceptional rule

derogating to Art 26(1) → the applicable law is the law of the last common HR

- if they lived there a significantly longer period
- such law was taken into attention when arranging property relations
- these are demonstrated by applicant

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6. Matrimonial property agreement

Applicable law of a country

- for its default matr. property regime
- for its alternative matr. property reg.

Possibility of entering into a matrimonial property agreement

Formal validity (Art 25)

simple – written, dated, signed

communication by electronic means

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6. Matrimonial property agreement

Formal validity

further possible formal requirements

- common HR when concluding this agreement

  if different - one is enough

  if only one has HR in MS

- the law which is the applicable law

Material validity

- the law which is the applicable law

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7. Choice of applicable law

Autonomy (Art 22)

Spouses/future spouses

Limited options

- common HR or HR of either of them at the time of conclusion of the agreement on applicable law
- nationality of either of them at the time of conclusion of the agreement on applicable law

Prospective effect

Protection of creditors

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7. Choice of applicable law

Formal validity (Art 23)

simple – written, dated, signed

communication by electronic means

further possible formal requirements

- common HR when concluding this agreement
  - if different - one is enough
  - if only one has HR in MS
- the law which is the applicable law

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7. Choice of applicable law

Existence

Material validity (Art. 24)

according to the law which would govern it, if the agreement or terms were valid

DIFFERENCE for registered partners –

They can choose also the law of the State under the law of which the RP was created

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8. Scope

Non-exhaustive list (Art 27)

- ✓ classification of property
- ✓ transfer of property between categories
- ✓ rights and obligations of parties with regard to property
- ✓ dissolution of matrimonial property regime
- ✓ effects of the regime

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8. Adaptations of rights *in rem*

Matrimonial property rules are embedded in national property law

Art 29

the right in rem will be adapted to the closest equivalent right under the law of that State

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9. Considerations of public interest

Court can take into attention public interest

However – strict interpretation is needed

- ✓ **Imperative rules (Art 30)**

'overriding mandatory provisions' are to be applied (e.g. protection of family home)

- ✓ **Public order (Art 31)**

certain foreign law provisions should not be applied

- ✓ **Charter of Fundamental Rights!**

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Recognition of judgments in matrimonial matters:

general frame common to all Regulations

Lilla Király
Full Associated Professor of Civil Procedure
(Károli Gáspár University, Law Dept.,
Budapest, on behalf of ELTE)

Training Session No. 4
Milan (Italy), 14 June, 2019

Session contents

1. Introduction – cross border legal cases at PIL level and EC/EU regulations
2. Enforcement of judgment
   - Application for a declaration of recognition
   - Recognition procedure/ Grounds for non-recognition of judgments
   - Appeal/Remedy
3. Enforcement procedure
4. Abolition of exequatur?
5. Conclusion

2

Cross border cases

PIL instruments come into play whenever a case is characterized 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 recognized and enforced in the requested State? (***recognition and enforcement***)

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Different types of EC/EU regulations

- Rome Regulations – applicable law (e.g. 593/2008; 864/2007 Reg.)
- Brussels Regulations – jurisdiction + enforcement (e.g. 2201/2003; 1215/2012 Reg.)
- Mixture of both (e.g. 4/2009; 650/2012; 2016/1103; 2016/1104 Reg.)
- Judicial cooperation (e.g. 1393/2007;1206/2001 Reg.)

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Family law matters

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EC/EU Regulations concerning enforcement in Family Law

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

- 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) 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**.
  - Regulation (EU) 2016/1104 of 24 June 2016 implementing 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**

6

International Private Law and National Laws

- Multilateral and bilateral treaties, e.g.:
  - Lugano Convention (30 October, 2007) between the EU member states and Norway, Switzerland and Iceland
  - Hague Convention of 23 November, 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance
- National laws

7

2.Enforcement of judgments

Recognition and enforceability of the judgment

- Court/Notary

Enforcement of the judgment

- Bailiff

8

2. Application for a declaration of recognition

- Jurisdiction of the court/notary
- Application for the declaration of recognition
  - EC 2201/2003 Reg.
  - EU 1103/2016 Reg.
  - EU 1104/2016 Reg.

Except for:

- EC 4/2009. Reg. (under Hague Protocol)
- EC 805/2004. Reg.
- EC 1896/2006. Reg.
- EC 861/2007. Reg.
- EU 1215/2012. Reg.

9

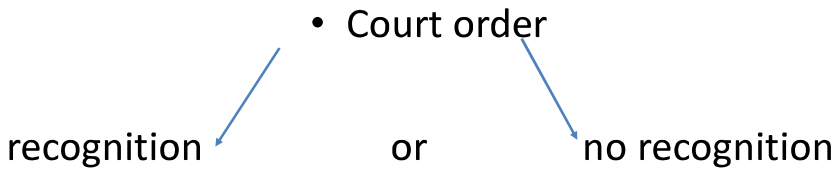
Application for a declaration of recognition

- Documents to be attached:
  - The judgment - state of origin (its translation)
  - Certificate (application form) of the court of origin (no translation) e.g.:
    - 2201/2003 EC Reg. Article 28., 39 (exercising parental responsibility) – exequatur
    - 2201/2003 EC Reg. Article 40, 41 (1) or 41 (2) – (right of access; child return in child abduction) – no exequatur

10

Recognition procedure

- The court of the enforcement issues an enforcement certificate for the foreign judgement
- It is a court order, which means that the foreign judgment = national judgment in terms of enforceability



11

Recognition procedure

- The judgment must not be reviewed as to its substance
- Grounds for non-recognition of judgments
  - recognition is manifestly contrary to the public policy of the Member State in which recognition is sought
  - in default of appearance, if the respondent was not served with the document, to arrange for his or her defense
  - Res iudicata (national judgments)
  - Res iudicata (foreign, recognized judgments)

12

Appeal/Remedy

- Both parties receive the court order
- Both parties can appeal against the court order (second instance)
- Deadline: national rules or under e.g. 2201/2003 EC Reg. Article 33 (5) one month
- Another remedy (third instance)
- Final order enters into force without any further remedies

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3. Enforcement procedure

- The court/notary issued writ of execution

Bailiff's procedure

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Abolition of exequatur ?

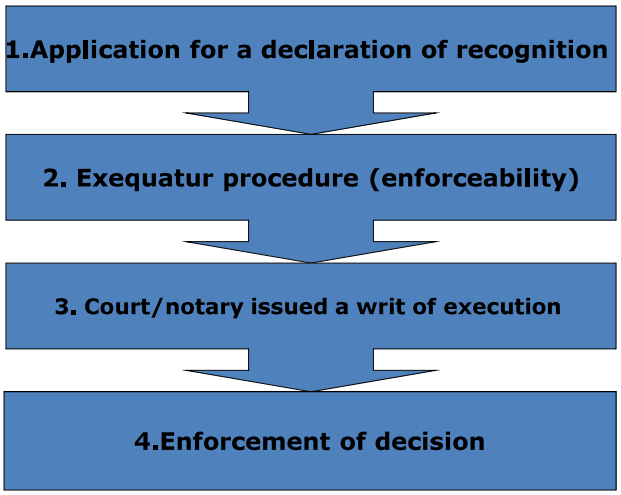
1215/2012/EU Reg.

from 10/01/2015

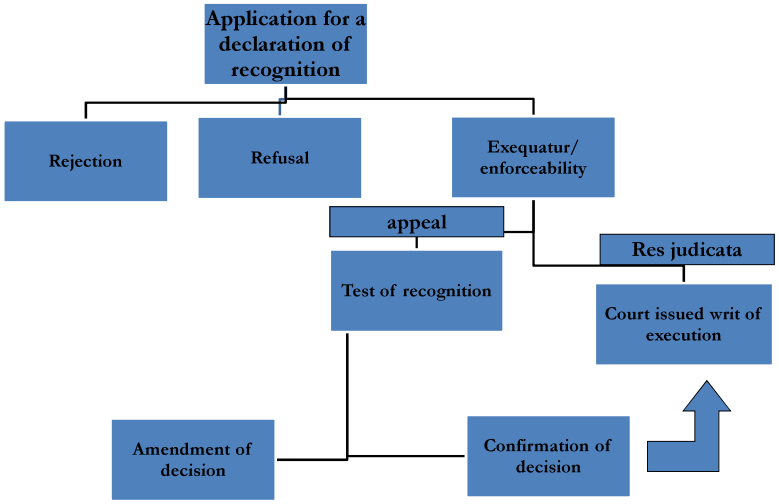
judgment of state of origin= judgment of the state of enforcement

15

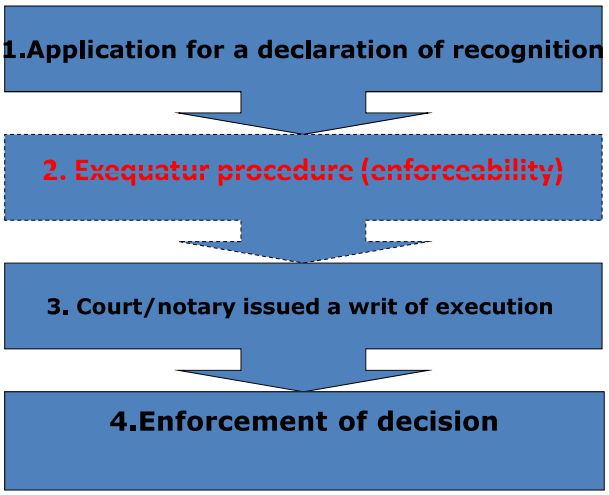
Previous enforcement procedure



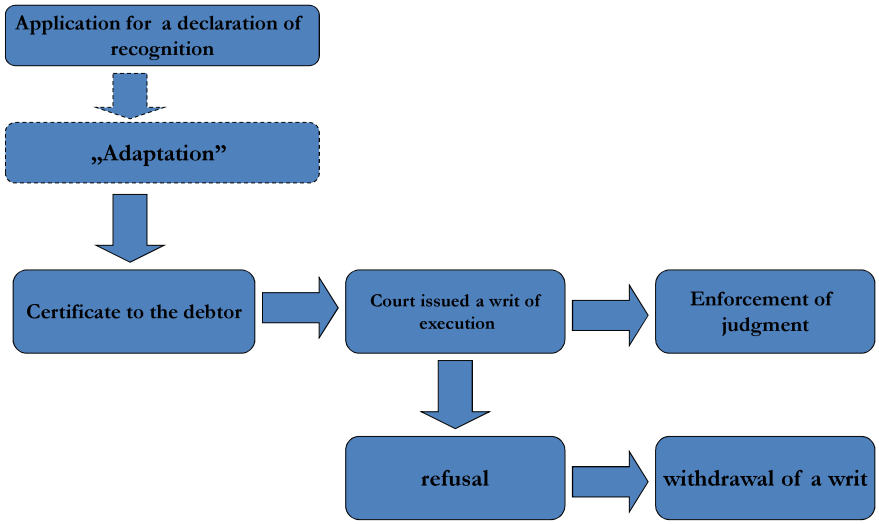
Previous enforcement procedure



New enforcement procedure



New enforcement procedure



Abolition of exequatur

- 44/2001 EC Reg.

  the debtor was allowed to defend his grounds for non-recognition of judgments in the appeal procedure

- 1215/2012 EU Reg. (recast)

  the grounds for non- recognition of judgments transferred to the stage of recognition and enforcement

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No application for a declaration of recognition

- 4/2009. EC Reg. (under Hague Protocol)
- 805/2004. EC Reg.
- 1896/2006. EC Reg.
- 861/2007. EC Reg.
- 1215/2012. EU Reg.

- Documents to be attached:

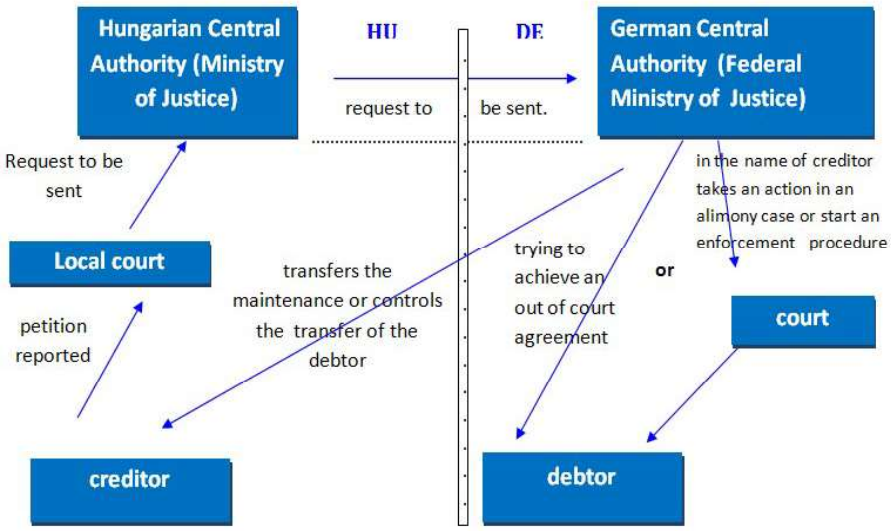
- The judgment (its translation) - state of origin
- The court certificate – state of origin
- court/notary issued a writ of execution – state of the execution

21

provisional measure

Competent authority (jurisdiction)	No competent authority (no jurisdiction)
decision	decision
Legal effect in all EU member states	Legal effect only in the given EU member state
Recognizable and enforceable	Not recognizable and enforceable in another EU member

Maintenance Regulation



Conclusion

characteristics of the execution procedure

- Mutual recognition [Article 36 (1)]
- Foreign judgment = national judgment in execution
- The law of the state of enforcement is applicable[Article 41 (1)]
- The State of enforcement has the exclusive competence for enforcement procedures [Article 24 , point 5]
- Under no circumstances may a judgment given in a Member State be reviewed as to its substance in the Member State addressed [Article 52]

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Special issues on recognition of matrimonial decisions

Dr. Agne Limante
Senior researcher
Law Institute of Lithuania

Training Session No. 4
Milan (Italy), 14 June 2019

Main contents

- Recognition in case of violation of *lis pendens*
- Recognition of private and out-of-court divorces
- Recognition of matrimonial decisions and Brexit

2

Recognition in case of violation of lis pendens

- Is violation of *lis pendends* a ground not to recognise a judgment rendered in another country?
- **C-386/17 – Liberato (decision of 16 January 2019)**

3

CJEU in *Liberato*

The rules of lis pendens must be interpreted as meaning that where, in a dispute in matrimonial matters, parental responsibility or maintenance obligations, the court second seised, in breach of those rules, delivers a judgment which becomes final, those articles preclude the courts of the Member State in which the court first seised is situated from refusing to recognise that judgment solely for that reason. In particular, that breach cannot, in itself, justify non-recognition of a judgment

4

Recognition of private and out-of-court divorces: types of divorces

Out of court divorce

- Divorce without court
- The court is often replaced by another public authority
- Also includes private divorces
- --> not all EU countries provide for out-of-court divorces

Private divorce

- One of the types of out-of-court divorces
- 'Private divorces' - divorces pronounced without the constitutive intervention of a court or public authority.

5

Divorce before notary /civil registry

- Rome III Regulation explicitly states that those divorces are treated as a "public divorce" by a court
- Article 3(2) Rome III Regulation: "the term 'court' shall cover all the in the participating Member States with jurisdiction in the matters falling within the scope of this Regulation"
- Also Brussels IIa Regulation defines: "the term "court" shall cover all the authorities in the MS<…>

6

Recognition of divorce before the notary/civil registry

→the parties may ask the notary who has officially recorded the divorce agreement to issue them with the certificate under Brussels II a

Notary/civil registry divorce is available in: Romania, Latvia, Estonia, Spain, Portugal

NB: (check for limitations if divorce will need to be recognised out of the EU)

Other out-of-court divorces

Italy

- possibility of *negoziazione assistita* (assisted negotiations)
- agreement on divorce is made, lawyers file the document to public office (Procura della Repubblica) and wait for the security clearance (nulla osta) by the competent Public Officer (Procuratore)
- Public Officer has the possibility to declare the divorce invalid for reasons of substantive law

France

- divorce by mutual consent → court proceedings are not required
- agreement is drafted and signed by the counsels and spouses
- agreement is sent to public notary to register it
- *notaire* has no duty to check the fairness of the contract

8

Brussels II a Recast

"Having regard to the growing number of MS which allow extra-judicial agreements on legal separation and divorce or on matters of parental responsibility, the Presidency compromise text makes it clear that the circulation of such authentic instruments and agreements is a horizontal issue, and ***should be facilitated, subject to certain safeguards****.*

As the Regulation ***should not allow free circulation of mere private agreements****, the solution should be that circulation is possible* ***only if an authority depending on each national system - formally drew up or registered the authentic instrument or registered the agreement****. "*

9

Recognition of divorces between EU MS and UK after Brexit

Cases ongoing in England and Wales on exit day

UK MoJ Guidance "Family law disputes involving EU after Brexit: guidance for legal professionals" 29/03/2019

"If the UK leaves the EU without a deal, the court in England and Wales will continue to recognise divorces granted in EU Member States in the same way under Brussels IIa, if the recognition proceedings started ahead of exit."

10

Recognition of divorces between EU MS and UK after Brexit

Cases ongoing in EU MS on exit day

EU Commission.
"Notice to stakeholders.
Withdrawal of the UK and EU rules in the field of civil justice and private international law"
18/01/2019

"Where the relevant instrument foresees exequatur, if a judgment of a UK court has been exequatured in the EU-27 before the witdrawal date but not yet enforced before that date, the judgment can still be enforced in the EU-27, and the fact that it was originally a judgment handed down by UK courts is irrelevant."

11

Recognition of divorces between EU MS and UK after Brexit: New cases

UK	EU MS
The court in England and Wales will, after a no deal exit, recognise divorces granted in EU Member States in the same way as they currently do for orders from non-EU countries.	EU law will not apply

12

Possible instruments

- 1970 Hague Divorce Convention - will provide a framework for recognition of divorces and legal separations Cyprus, Czech Republic, Denmark, Estonia, Finland, Italy, Luxembourg, Netherlands, Poland, Portugal, Slovakia, Sweden, and the UK
- Bilateral agreements, national rules

13

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Thank you!

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Recognition and enforcement in maintenance cases

Ana Pliner
Researcher
Law Institute of Lithuania

Training Session No. 4
Milan (Italy), 14 June 2019

Contents

- Recognition and enforceability
  - Interplay of legal sources
  - Maintenance Regulation (No. 4/2009)
    - Abolition of exequatur and its scope Hague/non-Hague Protocol
    - Procedures and documents
- Enforcement
  - Assistance by cooperation between Central Authorities (Maintenance Regulation No. 4/2009)
  - National rules

Interaction of legal sources

- Regulation No. 4/2009 (Chapter IV, Art. 75)
- Lugano Convention (30 October 2007) between the EU member states and Denmark, Norway, Switzerland and Iceland
- Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance
- Multilateral and bilateral treaties
- National law

Maintenance Regulation
Abolition of exequatur (I)

Maintenance Regulation 4/2009

Preamble (paragraph 9)

A maintenance creditor should be able to obtain easily, in a Member State, a decision which will be automatically enforceable in another Member State without further formalities.

EUCJ case M.S. v P.S. (C-283/16)

"Member States are to adjust all the procedures to make direct applications for enforcement to competent institutions possible. This also includes change of case-law, and reusal to apply contradicting provisions of the national law."

Abolition of exequatur (II)
2 sets of rules

Article 17(1) – decision originating from the Member State bound by the 2007 Hague Protocol – no special procedure required – no possibility to oppose recognition

Article 23 – decision originating from the Member State NOT bound by the 2007 Hague Protocol – declaration of enforceability – possibility of appeal

Abolition of exequatur (III)
Ratione temporis

EUCJ C-467/16 (Schlomp v. Austria)

Procedure and documents Decision is from Member State bound by the 2007 Hague Protocol

Documents to be presented to the enforcement authority in the Member State of enforcement:

- Copy of the decision sufficient for establishing its authenticity (no need to translate as a general rule)
- Extract from the decision (Annex I)
- Optional:
  - Documents related to calculations
  - Translation or transliteration of the extract (Annex I)

Rights of the Debtor to oppose enforcement (I)

Apply for review in the Member State of origin:

- Non-awareness of the process

- Force majeure or extraordinary circumstances prevented the Debtor from contesting the maintenance claim

Non-extendable term of 45 days.

Rights of the Debtor to oppose enforcement (II)

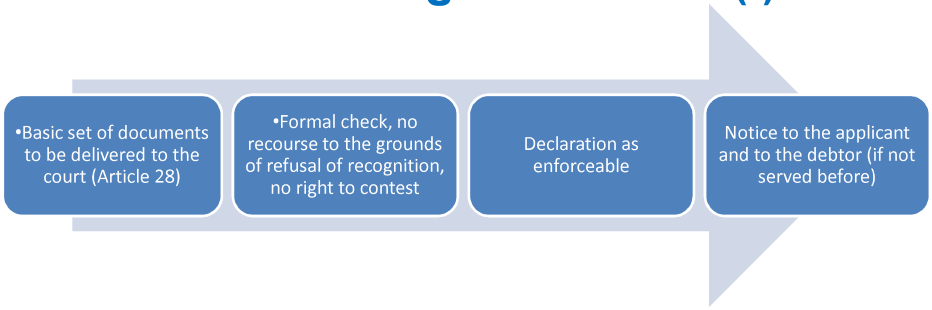
Apply for suspension or refusal of enforcement

- Where the right to enforce is extinguished under the law of either the Member State of enforcement or of origin, whichever provides for a longer limitation period;

- For the time period of review of the decision as requested under Article 19

- If the decision from another Member State is irreconcilable with a decision given in the Member state of enforcement

Procedure and documents: Decision is from Member State NOT bound by the 2007 Hague Protocol (I)



Similar to the procedure under Regulation Brussels I (No. 44/2001), however with strict time limits.

Decision is from Member State NOT bound by the 2007 Hague Protocol. Appeal – Grounds for revocation

Exhaustive list in the Article 24

- Contradiction to public policy (autonomous interpretation of the definition)
- Failure to notify the debtor of the proceedings
- Irreconcilable with another decision, as set in the Article 24(c) and (d)

Central Authorities

Right or obligation to act through a Central Authority? (EUCJ case M.S. v. P.S, No. C-283/16)

It follows from Articles 51 and 56 of Regulation No 4/2009, read in the light of recitals 31 and 32 thereof, that a person has a right but is not under any obligation to make an application to the Central Authorities for assistance pursuant to the provisions in Chapter VII of the regulation. It is, therefore, optional and that right will be exercised only if the maintenance creditor wishes to avail herself of it, in order, for example, to overcome certain specific difficulties, such as the location of the maintenance debtor.

Enforcement

- National law applies:
  - Direct application of national law of other States?
  - Challenges due to cross-border nature of the case
- Cooperation through Central Authorities
  - Applies to all stages of the case
  - Repetitious requests to be granted
- Numerous enforcement cases for recovery of debt with different legal nature

Thank you!
Any questions or comments?

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CASE STUDIES

C.L.A.S.S. 4EU
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Case Study No 1

MAIN TOPIC

Matrimonial property regimes: jurisdiction

FACTS – Departing from case practice no 3 on jurisdiction in alimentary obligations (left in *Italics* fot the relevant part) some <u>new circumstances</u> are added in capitol letters

A couple of Italian nationals, Giovanna and Marco, married in Milan (Italy) in February 2010 **CHOOSING THE REGIME OF COMMUNITY OF PROPERTY («COMUNIONE DEI BENI») SET UNDER THE ITALIAN LAW,** *and shortly after (in mid-2012) moved to Lisbon (Portugal) due to professional grounds of both spouses. Notably, Giovanna is the executive director of an important fashion brand and Marco works in the restaurant business. They have been habitually resident in Portugal for several years*, **IN A NICE RENTED APARTMENT IN THE CENTER OF LISBON, PAID ENTIRELY BY THE GIOVANNA.**

In January 2015 they had a child, Tommaso, who was born and grown up in Portugal.

Few years later, the husband had some financial problems due to the loss of a business opportunity. As a consequence of the difficult and stressing situation, difficulties arose in the marriage too.

In December 2017 they went back to Italy to spend Christmas holidays with their relatives. During their stay, the spouses decided to relocate in Italy by Spring 2019, hoping that the change would have helped their relationship.

Marco stayed in Italy in order to take care of the renovation of the home in Milan, which was owned by both spouses at 50% each and where they would have wanted to reside. He also started a new commercial activity in Milan, **WHICH TURNED OUT TO BE VERY SUCCESSFUL ALLOWING MARCO TO INVEST JUST AFTER TWO MONTHS IN A SMALL FLAT HE DECIDES TO LOCATE FOR SHORT PERIODS, EARNING A RELATIVELY GOOD INCOME THEREFROM. THE ECONOMICALLY ADVANTAGEOUS TERM CONTINUES: AT THE END OF FEBRUARY 2019 HE DISCOVERS TO BE THE UNIQUE HEIR BY ITS DEAR UNCLE, WHO PASSED AWAY WITHOUT CHILDREN AND OTHER RELATIVES. HIS UNCLE'S ASSETS COMPRISE BOTH 100.000 EUROS DEPOSITED IN A BANK ACCOUNT AND A WONDERFUL VILLA IN CRANS-MONTANA, SWITZERLAND, WHERE HE USED TO SPEND LONG PERIODS BECAUSE OF THE HIGH QUALITY OF THE AIR, BENEFICIAL FOR HIS BAD PHTHISIS.**

The wife returned to Portugal with the child. They were supposed to move to Italy when the renovation was finished. **UNFORTUNATELY, SOON AFTER THEIR RETURN TOMMASO'S STARTED FEELING SERIOUSLY SICK, REQUIRING CONTINUOUS ASSISTANCE BY GIOVANNA WHO, BEING ALONE, COULD NOT COPE WITH HER JOB RHYTHM AND HAD TO STOP WORKING TO ASSIST HER CHILD.**

However, due to continuous arguments mainly related to financial issues, Marco decided to seek divorce. So, on 20 March 2019 he applied before the Tribunal of Milan (Italy) asking for:

- *Separation of the couple,*
- *joint custody of the child,*
- *placement of the child with the father,*
- *maintenance for him and the child,*
- **THE AWARD OF BOTH HOMES IN MILAN.**

*With the introductory claim Marco submits a written agreement signed by both spouses and concluded in Milan in 2010, few days **after** the marriage, which provided, the following clauses for the case of separation or divorce:*

- *the choice of Portuguese law with regard to the matrimonial disputes (according to which the divorce can be declared after one year of de facto separation);*
- *the choice of Italian courts with regard to both spousal and children maintenance;*
- *the choice of Italian law on both spousal and children maintenance;*
- **THE CHOICE OF ITALIAN COURTS WITH REGARDS TO MATRIMONIAL PROPERTY REGIME.**

Meanwhile, on 19 April 2019, Giovanna initiated custody proceedings in Portugal asking for the sole custody of Tommaso on the ground that Marco had not been taking proper care of the child and was often away from home when they lived together in Portugal. She did not file a claim for maintenance as she recalled the signed agreement giving jurisdiction to the Italian court.

The first hearing before the President of the Tribunal of Milan will take place in early July 2019.

Giovanna is asking your legal assistance. She is asking to:

- *contest the validity of that agreement;*
- *enter an appearance before the Italian court and contest the Italian jurisdiction over parental responsibility;*
- *have the Italian court dismiss the spousal maintenance claims, on the ground that her husband has never provided financial support to the family and she has always paid for family subsistence both in Italy and in Portugal;*
- *contest the Italian jurisdiction over the child maintenance claim filed by the father;*
- *She wants to know if she can claim damages, in case the husband does not pay the child maintenance;*
- *She informs you that she will move to Switzerland by the end of 2019* **BECAUSE SHE HAS DISCOVERED THAT THE CHILD IS AFFECTED BY PHTHISIS (AS THE GRANDUNCLE) AND THE DOCTOR HAS ADVISED TO BRING THE KID TO CRANS-MONTANA, FAMOUS FOR THE HIGH QUALITY OF AIR; …**
- *She also wants to be able to sell the* **TWO** *homes in Milan and receive half of the price,* **AND TO RECEIVE HALF OF THE GAINS FROM THE RENTALS OBTAINED BY MARCO;**
- **SHE ASKS FOR THE JUDICIAL DECLARATION OF A QUOTA OF THE ASSETS INHERITED BY MARCO TO HERSELF (AS A 'COMPENSATION' FOR ALL HER PERSONAL AND ECONOMIC EFFORTS AND COMMITMENT IN THE FAMILY *MENAGE* DURING THE MARRIAGE, INCLUDING THE COSTS INCURRED FOR THE HOUSE IN LISBON, THE LOST PROFITS FROM HER PREVIOUS JOB SHE HAD TO INTERRUPT TO ASSIST THEIR CHILD**

AND THE BURDEN OF THE RESPONSIBILITY SHE BEAR ALONE, GIVING THE CONTINUOUS ABSENCE OF THE HUSBAND) AND TO THEIR CHILD (IN NEED OF MEDICAL TREATMENTS AND REHABILITATION CARE).

NAMELY, SHE ASKS FOR: BOTH 50.000 EUROS AND THE TRANSFER TO HER OF 50% OF THE BARE OWNERSHIP ("NUDA PROPRIETÀ") AND TRANSFER OF THE RIGHT OF UTILIZATION OF THE HOUSE IN CRANS-MONTANA ("USUFRUTTO") TO HER AND THE CHILD FOR THE ENTIRE LIFE-TIME OF THEIR KID, IN ORDER FOR THE LATTER TO BENEFIT OF THE BEST AIR QUALITY POSSIBLE AND ENJOY A HEALTHIER STANDARD OF LIVING, WITH THE PHYSICAL SUPPORT OF THE MOTHER.

Questions

1) *Is the agreement valid? Which are the relevant legal instrument and provision?* **IS IT *VALID ALSO FOR THE PART REFERRING TO THE JURISDICTION ON THE MATRIMONIAL PROPERTY REGIME*?**

2) *Has the Tribunal of Milan jurisdiction over spousal maintenance claims?* **HAS THE SAME TRIBUNAL JURISDICTION OVER MATRIMONIAL PROPERTY REGIME?**

3) *How would you consider the claim concerning the award of the **LARGER** home in Milan? Could it be qualified as the family home? If yes, which are the relevant provisions to determine jurisdiction and applicable law?* **WOULD YOU CONSIDER THE CLAIM OF PROPERTY OF THE FLAT AND THE GAINS FROM THE RENTALS DIFFERENTLY? WHICH PROVISIONS WOULD YOU APPLY TO DETERMINE THE JURISDICTION AND APPLICABLE LAW FOR THE SMALLER APARTMENT?**

4) **WHICH COURT SHOULD HAVE JURISDICTION TO SETTLE THE AWARD OF MONEY DEPOSITED IN THE BANK ACCOUNT? WOULD IT BE THE SAME COURT TO SETTLE THE TRANSFER OF THE USE OF THE IMMOVABLE PROPERTY LOCATED IN SWITZERLAND? WOULD YOU CONSIDER SUCH CLAIMS AS PERTAINING TO MAINTENANCE OBLIGATION OR MATRIMONIAL PROPERTY DEFINITION? WOULD THE FORM CHOSEN FOR THE AWARD –LUMP SUM PAYMENT/TRANSFER OF RIGHTS *IN REM* – BE RELEVANT IN SUCH DEFINITION?**

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Case Study No 2

MAIN TOPIC

Law applicable to matrimonial property regimes.

Regulation 1103/2016 (Regulation 1104/2016)

FACTS

Ingrid is a Hungarian woman living in Austria. One day she meets a man, Salvatore, from Italy, who is an Erasmus doctorate student in Wien. Salvatore is Italian but he lives in Portugal with his family, as his father has a Portuguese background.

They fall in love with each other, but their personal plans for the future differ. They decide to live together, as a first step before marrying. Salvatore is deeply in love with Ingrid but is uncertain as to whether they should get properly married, or if they should not enter into a registered partnership, maybe under Italian law. Salvatore strongly promotes an agreement on the matrimonial property regime, even before they decide for their future marriage /relationship. (Salvatore seems to be very conscious about property relations as he comes from a family being moderately rich and with a lot of legal experiences.)

Ingrid is a bit embarrassed. She wants to get married. Marriage is important to her. Plus she does not like registered partnership, as in Hungary a registered partnership is maintained for same-sex couples.

She seeks for some legal advice. Her questions are the following:

Questions

They are thinking about a property agreement and not sure whether there is such an agreement for registered parterns and/or spouses.

1) **Is it possible for them to agree on any property regime before they get married but formalize their partnership/and when they marry? What are the main differences?**
2) **What are the (substantial and formal) requirements for the validity of such a property agreement?**

The lawyer informs them that even if they do not enter into a property agreement they can choose the applicable law which can be useful if they terminate their eventual registered parternship or divorce.

3) **Is it possible for them to agree on applicable law before entering a registered partnership/marriage or only as registered partners/spouses?**
4) **If yes, which law can be chosen?**
5) **What is needed for the validity of such an agreement?**
6) **Does such an agreement comprise all their assets?**
7) **What if she changes her mind? Can they change their agreement after some time?**

She is unsure whether an agreement on applicable law is useful at all and asks :

8) **What happens if they do not agree on applicable law concerning their matrimonial property regime but they terminate their registered partnership/divorce later?**
9) **If they enter into an agreement on applicable law, can it happen that the court will not apply it?**

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Case Study No 3

MAIN TOPIC

Special issues on recognition of matrimonial decisions

FACTS

Oliver (British national) and Valentina (Italian national) met in Brussels where they were both working for a British company. They married in 2010 in Bruge (Belgium). In 2004, their son Leonardo was born, and in 2016 they welcomed their daughter Rebecca. In 2017, Oliver lost his job and at the same time Valentina got a very good job proposal in Verona. The family moved to Italy.

However, their family life was not going well. They started living separately in September 2018 and since November 2018 the father lives and works in London. In 2019, they decided they should divorce. In fact, they both agree on divorce and its consequences. Their son who was going to private British school, will live with the father in London (Leonardo prefers so, in a couple of years he will finish school and plans to start university in the UK). The daughter is small and will stay with the mother. They agree on visiting rights. As for maintenance, until the son will get 18, no maintenance would be paid by the father or the mother or vice versa (set-off), later, the father will pay maintenance (500 euros/month) for Rebecca. Spouses do not ask maintenance for themselves. They have 3 apartments – in London, Verona and Bruge, and they decided that the one in London will be for Oliver and the ones in Verona and Bruge for Valentina.

They approach you as a lawyer and ask for your advice. They have several questions.

Related questions

1. They heard of *negoziazione assistita* (assisted negotiations) and think this could be a good option as it might be quicker and, possibly, cheaper. Would this fit in their case? Or better is to go to court?

2. Does *negoziazione assistita* fall into the Brussels IIa Regulation? Would it be recognised in the UK? And in Belgium?

3. They need the court to divide their real estate. Is this possible through *negoziazione assistita* and would this be recognised in the UK and Belgium?

4. What would be the documents that Oliver would need to present in London?

5. Brexit is coming. How this will affect their divorce? Can they still divorce in Italy? Would such divorce be recognised under the Regulation Brussels II a?

6. Knowledge sharing: Do you have private divorces in your own jurisdiction? Did you have any practical cases on this? You are kindly invited to share your knowledge and experience.

LEGAL INSTRUMENT(S) TO BE APPLIED

Regulation No 2201/2003, 1996 Hague Convention, Regulation No 1259/2010, national law.

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Case Study No 4

MAIN TOPIC

Maintenance Obligations: Recognition and Enforcement

FACTS

Eric and Catherine, both French nationals, married in 2005 in Nantes, France, hometown of both. They have a son Paul,of 12 years old now, and a daughter Isabelle of 10 years old now.

Right after marriage the couple moved to London, where Eric has started his own small investment firm. Catherine, after graduating from the university has never worked. Her primary occupation was taking care of the home, family life in general, and children, as they were born very soon after the marriage; in her spare time, Catherine participated in voluntary and charity programmes supported by local women club in the place of their residence.

While Eric was devoting a lot of his time for building his career, Catherine was not happy living in London. Affection between spouses has passed away gradually, as each of them has started living his own life.

In 2011, Eric and Catherine divorced in England. They also consented on division of family assets and spousal maintenance, the arrangement being approved by order of the Central Family Court of London. The terms of consent were as follow:

1. Eric retained sole ownership in investment firm and ancillary rights to profit from his investment business, as Catherine waived any right in regards to it.
2. In regards to Catherine and children, the court order provided for:

   (a) the family home in Hampstead, London was to be sold and, after discharge of the mortgage and other associated costs of sale, the net proceeds (GBP 925,389) were to be paid to the wife;

   (b) the husband was to pay a lump sum of GBP160,000. This amount was a compensation for the sum that the couple has accumulated up to the date of delivery of the court order through the life insurance plan, which has further been modified by splitting into two separate plans: Eric has retained the existing plan and a new life insurance plan has been made for Catherine and children. Eric undertook to further pay Catherine's and children insurance fees;

   (c) In respect of Catherine's income for herself (spousal periodical payments) and the two children of the family (child support), the husband agreed to pay a total sum of GBP 70,000 per annum (index-linked) "for the benefit of herself and the children of the family" until Paul reaches age of 18; then until Isabelle's 18 year old the sum would be reduced by 25 percent, and upon age of maturity of both children, the sum of maintenance would constitute 40% of the initial amount (always indexed);

   (d) Eric was to pay the children's school fees and summer camps (up to GBP 20 000 per year);

(e) Finally, Eric had to compensate to Catherine the expenses of her lawyers in England, in total GBP 30,000 for carrying out her total divorce case; and

(f) For any delay of payment, Eric would pay to Catherine monthly penalty amounting to 3% of the total unpaid sum.

While Eric has been providing financial support to Catherine from time to time, however he has never paid any of listed sums in full, thus Catherine decided to seek for assistance to enforce the order of the London family court in France, from where, due to approaching Brexit, Eric has started servicing the EU customers.

Related questions

1. Which legal instruments would apply at the stage of recognition and enforcement of the maintenance order? If further, Catherine may need to seek recovery of maintenance debt in Switzerland or the United States, which legal instrument(s) would apply then?
2. In order to enforce the English court order (maintenance and other claims) in France, does it need to be recognized and/or declared as enforceable? What would be the procedure, and which documents does Catherine need to deliver?
3. Suppose that the court order originates from France and Catherine needs to enforce it in England. What would be the procedure for recognition and enforcement, and which documents would be neccessary then?
4. Which Annex of the Regulation 4/2009 should the Family Court of London use for issuing the extract of the court decision? Working in group, fill in the appropriate Annex of the Regulation 4/2009 by deciding which categories of payments could be recovered as “maintenance”.
5. Should Catherine need legal aid, could she refer to Central Authorities? How else Central Authorities may assist Catherine in seeking for enforcement of the English court order in France?

Variation No 1

Suppose that Catherine has succeeded to initiate recovery procedure of maintenance order in France, however it does not go successfully, as suspiciously Eric’s bank accounts are from time to time in deficit of money. At the meeting in the club, she finds out that Eric’s firm has now moved its activities to Frankfurt, Germany, as his investment firm has merged into a German company. Now Eric’s income is split between England and Germany. Catherine files petition to the court in England pleading for issuance of another extract of court order intended for starting enforcement procedure in Germany, however her petition is rejected on the ground of civil procedure rules, stating that at the same time only one enforcement document shall be issued in respect of the same claim.

Related questions

1. Is English court’s refusal to issue second extract of the court decision in breach of the Regulation 4/2009?

Variation No 2

Suppose that Catherine moves to Belgium, where maintenance income is subject to the maintenance tax (applicable under Belgian law, payable by recipient of the maintenance), payable by the person in receipt of maintenance instalments.

Related questions

1. Can tax on maintenance, applicable in Belgium, be recovered through mechanism of recognition and enforcement of maintenance decisions under the Regulation 4/2009? How would this circumstance affect procedure of English court order enforcement?
2. What could Catherine do in order to receive the amount of tax which she is paying from the amount of received maintenance?

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LEGAL TERMINOLOGY

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Glossary of 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 of the Member State where the child was habitually resident immediately before the removal or retention; and (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.

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: (i) relates to the signature and the content of the instrument, and (ii) has been established by a public authority or other authority empowered for that purpose; or, (b) an arrangement relating to maintenance obligations concluded with administrative authorities of the Member State of origin or authenticated by them
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	Includes 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: (i) may be made the subject of an appeal to or review by a judicial authority; and (ii) have a similar force and effect as a decision of a judicial authority on the same matter. 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.
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.

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	
scope	This Regulation shall apply, 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 (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, and **Council Regulation (EU) 2016/1104 of 24 June 2016 implementing 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**	
matrimonial property regime	a set of rules concerning the property relationships between the spouses and in their relations with third parties, as a result of marriage or its dissolution.
matrimonial property agreement	any agreement between spouses or future spouses by which they organise their matrimonial property regime.
authentic instrument	a document in a matter of a matrimonial property regime which has been formally drawn up or registered as an authentic instrument in a Member State and the authenticity of which (i) relates to the signature and the content of the authentic instrument; and (ii) has been established by a public authority or other authority empowered for that purpose by the Member State of origin.
registered partnership	the regime governing the shared life of two people which is provided for in law, the registration of which is mandatory under that law and which fulfils the legal formalities required by that law for its creation.
property consequences of a registered partnership	the set of rules concerning the property relationships of the partners, between themselves and in their relations with third parties, as a result of the legal relationship created by the registration of the partnership or its dissolution.
partnership property agreement	any agreement between partners or future partners by which they organise the property consequences of their registered partnership.

Hague Convention on the civil aspects of international child abduction of 25 October 1980	
wrongful removal or retention	where 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 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.
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 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	a) the attribution, exercise, termination or restriction of parental responsibility, as well as its delegation; 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; c) guardianship, curatorship and analogous institutions; d) the designation and functions of any person or body having charge of the child's person or property, representing or assisting the child; 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; f) the supervision by a public authority of the care of a child by any person having charge of the child; g) the administration, conservation or disposal of the child's property.

wrongful removal or retention	where: 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 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.

Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance and Hague Protocol on the Law Applicable to Maintenance Obligations of 23 November 2007	
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	an agreement in writing relating to the payment of maintenance which i) has been formally drawn up or registered as an authentic instrument by a competent authority; or 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
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

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BIBLIOGRAPHY

The project is co-funded by the Justice Programme of the European Union
JUST-JTRA-EJTR-AG-2016-763874

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

C. HONORATI, M.C. BARUFFI, *Codice del diritto internazionale privato della famiglia. Annotato con la giurisprudenza della Corte di giustizia dell'Unione europea* (Pacini Giuridica, 2019)

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, Reglamento „Briuselis II a“ peržiūra: siūlomos naujovės ir jų įtaka Lietuvos teisinei sistemai (Mokslo studija, Lietuvos teisės institutas, 2017)

* In chronological order.

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)

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 taisykles šeimos bylose (Teismų praktika, Nr. 44)

In Portugese

L. PINHEIRO, *Direito Internacional Privado, Competência Internacional e Reconheicimento 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)