



E-TRAINING ON EU FAMILY PROPERTY REGIMES



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INTERNATIONAL SEMINAR

Practical Challenges in the Application of the Twin Regulations

Almería, 19 September 2022

Sala de Grados, Campus University of Almería, Spain

COLLECTION OF ABSTRACTS

Editors

Serena Cancellieri
Adele Emilia Caterini
Sharmin N. Chougule
Francesca Ferretti
Maria Paola Nico

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Foreword

**Serena Cancellieri, Adele Emilia Caterini, Sharmin N. Chougule,
Francesca Ferretti, Maria Paola Nico**

EU-FamPro (E-training on EU Family Property Regimes) is a two-years long international project that kicked-off in April of 2021 and is funded by the European Union's Justice Programme. It concerns the wider field of family law, especially the property relations of cross-border couples in their physiological and pathological phase, in order to guarantee a long-term effective application of EU law (Council Regulation (EU) 2016/1103 and Council Regulation (EU) 2016/1104).

This purpose could only be achieved in close cooperation and through mutual trust among several partners that represent the "old" Member States like Italy and Spain and the "new" ones, like Lithuania or Slovenia and Croatia. In fact, EU-FamPro consortium, led by the University of Camerino (Italy), involves the Lithuanian Centre for Social Sciences (Lithuania), the University of Almeria (Spain), the University of Ljubljana (Slovenia) and the University of Rijeka, Faculty of Law (Croatia). It can be called as a spin-off of PSEFS (Personalised Solution in European Family and Succession Law), a successfully concluded international project between four of the now five team members.

This combination, based on the well-known European motto united in diversity, ensures the implementation of the European key values, such as diversity, pluralism and openness. It is an ideal approach suitable for identifying common solutions at the European level in compliance with national specificities and legal practices.

The project adopts a modern and innovative method of educating and training, like MOODLE e-learning or MOOC self-learning course, consisting of a sustainable, long-term accessible e-format. It is a common platform aiming to offer specialized knowledge and skills to legal professionals dealing with property issues of couples, particularly at a cross-border level (e.g. lawyers, notaries, mediators, judges).

In order to solve the problems regarding rights and obligations of transnational families, more and more widespread, and to foster the values of legal certainty and predictability, it is necessary to study the topic not in isolation but in a harmonized and collaborative way. This approach that combines national legal traditions as well as past experiences is an optimal solution for an adequate training of legal practitioners and, consequently, a uniform, transparent and effective application of EU law.

On September 19, 2022, in Almeria (Spain) at the Sala de Grados, located in the Campus University of Almeria, the International Seminar entitled 'Practical Challenges in the Application of the Twin Regulations' will be held. In order to guarantee a wide and accessible participation, the event

will be held in hybrid format. It can be joined via Zoom by clicking on the following web address:
<https://zoom.us/j/92260727326?pwd=M3QvalRRcUNCMXIOcFFGTzc0Y3dwdz09>.

This event, organized by the University of Almeria, partner of the EU-FamPro consortium, sees the participation of academics and practitioners from different countries to discuss the practical challenges stemming from the application of the Twin Regulations.

The scope of this global scientific Seminar is to enhance the already existing network as well as increase the extraordinary ability to work in synergy with the aim of exchanging and sharing ideas on the issues of property relations of cross-border couples.

In conclusion, the International Seminar is an occasion to foster a transnational and multidisciplinary vision of the practical problems associated with the application of the Twin Regulations and to identify and bring into practice possible shared solutions.

Collection of Abstracts

Session I

Moderator: **Fatima Perez Ferrer**



Fatima Perez Ferrer

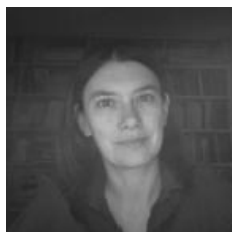
is Professor at University of Almeria and Member of EUFamPro Almeria team in Spain.

The interaction between the EU Regulations 2016/1103 and 2016/1104 and the EU Regulation 2012/650 and the Different Solutions Regarding the Renvoi

I. RIVA

Abstract

The paper aims to analyse the different approaches taken by the Twin Regulations on Family Property Regimes and the EU Succession Regulation on the rule of “Renvoi”. In fact, whereas the former excludes the Renvoi, the latter allows the solution of a 'Limited Renvoi'. Both solutions actually have their own pros and cons. The rule of Renvoi is more complex to apply, but it has the merit of ensuring international consistency. In the context of the aforementioned approaches, it has been observed that problems arise when the liquidation of the matrimonial property regime is in question following the death of one of the spouses.



Ilaria Riva

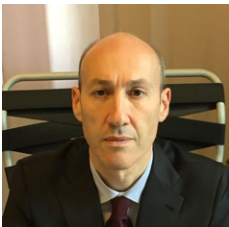
is an Attorney and a Professor at the Department of Law, University of Turin. She is a Member of PhD programme “Diritti e Istituzioni” at the University of Turin. She is, also, a Member of the Steering Committee AIDA (Associazione Internazionale di Diritto delle Assicurazioni – Sezione Piemonte e Valle d’Aosta).

Succession Regulation and Common Law Countries

D. MURITANO

Abstract

The paper addresses some issues emerging from cross-borders successions involving citizens of common law countries. Considering that common law countries provide for a system of scission, the paper analyzes the method of determination of the applicable law and the opportunities that the Succession Regulation offers to achieve the principle of unity of the succession, which basically is the unique applicable law to such succession. To conclude, some remarks about problems concerning the administration where the estate includes foreign assets.



Daniele Muritano

is a Public Notary in Empoli (Florence, Italy) since 1994. He is also a member of the Commission for Civil Law Studies of the National Council of Notaries Member of STEP (Society of Trusts and Estate Practitioners) and of the Association "Il trust in Italia".

Divorce in Twin Regulations Perspective

R. VESTERTE

Abstract

This paper discusses the Divorce issues before Twin Regulation and possibilities after Twin Regulation. Main points of discussion revolve around Settlement agreement, Disputes and Enforcement of judgments.



Rita Vesterte

is an Attorney, specialized in International Law and Family Law from Lithuania.

The European Certificate of Succession in Practice

C. LOSCERTALES MARTIN DE AGAR

Abstract

The European Certificate of Succession is the legal document, created by the EU Regulation 650/2012 that enables heirs, legatees, executors of a will and administrators of the estate to prove their status and exercise their rights and powers in other EU Member States. This Certificate, issued by the authority dealing with the succession, is especially useful in cross-border successions as it is recognised in all Member States without any special procedure being required. This paper analyses the regulation of the Certificate as well as its main characteristics regarding its use in legal practice.



Carmen Loscertales Martin de Agar

graduated in Law, Economics and Business Administration Degree, Universidad Pontificia de Comillas (Madrid). She has been a Notary since 1998 and a Civil and Commercial Mediator. She has obtained a Diploma in Mediation Techniques and Skills, Universidad Pablo de Olavide, Sevilla.

Recital 29 of the Twin Regulations and notion of ‘court’: the Italian choice

C. ASTORI

Abstract

In accordance with Rect. 29 and the last subparagraph of Art. 3 (2), Italy has notified the Commission of the mentioned authorities and legal professionals, i.e., i) lawyers and civil registrars acting under the assisted negotiation procedure in line with Art. 6 of Decree-Law No. 132 of 2014 and Art. 12 of Decree-Law No. 132 of 2014, respectively. Art. 6 in turn, provides an alternate dispute resolution. While Art. 12 provides for a “slim” procedure. Assisted negotiation by lawyers has been successful for its time efficiency and as an opportunity of growth for lawyers.



Cristina Astori

is Italian Attorney Partner at “Studio Benessia – Jorio” with offices in Turin and Milan. She is also a member of the Italian Association of Family Lawyers.

Determining the Applicable Law Under the Twin Regulations

N. POGORELČNIK VOGRINC

Abstract

In determining applicable law in matters of matrimonial property regimes and property consequences of registered partnerships, the relevant agreement between the parties should be considered. In its absence, the applicable law shall be determined by reference to the connecting factors set out in Twin Regulations. However, this may be unviable option in certain cases. The applicable law can then be determined by an escape clause under the Twin Regulations. Ordre public and the overriding mandatory provisions of the forum must be considered in determination of applicable law. This presentation will draw attention to all these specificities.



Neža Pogorelčnik Vogrinc

is Assistant Professor of Civil and Commercial Law, Researcher at the Institute for Comparative Law at the Faculty of Law in Ljubljana, and head of the Ljubljana Project Team “E-Training on EU Family Property Regimes - EU-FamPRO”. After an internship at the Ljubljana Court of Appeals, she passed the Slovenian Bar Exam in 2012. She defended her doctoral thesis with the title “Provisional measures in civil court procedures” in 2014 at the University of Ljubljana (cum laude).

Session II

Moderator: **Agne Limanté**



Agne Limanté

is a Chief Researcher at the Law Institute of the Lithuanian Centre for Social Sciences, and head of the LCSS Project Team “E-Training on EU Family Property Regimes - EU-FamPRO”. She has received an MA in EU law from King’s College London and a PhD from Vilnius University, Lithuania. Recently, she took part in several EU co-funded projects that were designed to train Judges, Lawyers and social services on Private International Family Law instruments.

Application of Regulation 2016/1104 in the Reality of Spain's Multi-Unit State: International Jurisdiction and Applicable law

M. SOTO MOYA

Abstract

Although several years have passed since the implementation of Regulation (EU) 2016/1104, of 29 January 2019, in Spain, there is still no case law regarding its application. For this reason, it was considered most appropriate to analyse a realistic case study, far removed from theoretical suppositions, which could reflect the problems of applying the said Regulation in Spain. The territorial, temporal and personal scope of the EU legal instrument is studied as a preliminary question. The paper then proceeds to establish which court of which Member State is competent to hear the matter, as well as the law applicable to the case.



Mercedes Soto Moya

is a Full Professor of Private International law. She obtained a PhD at the University of Granada. She is a member of the research project "Retos de la regulación jurídico-patrimonial del matrimonio y de otras realidades (uniones de hecho) en los planos supraestatal y estatal", funded by the Ministry of Science and Technology.

Application of the Twin Regulations in States with More than One Legal System: The Spanish Experience

G. PÉREZ DE COLOSIA

Abstract

Article 33 of the Council Regulations (EU) 2016/1103 in matters of matrimonial property regimes and 2016/1104 on economic regimes of registered partnerships regulates the remission for enforcement of law to member states with different internal legal regimes, as a subsidiary system for determining the applicable law, as the specific case of Spain. Furthermore, article 35 of the Twin Regulations, following the criterion of Regulation 650/2012 on succession matters, introduces the exclusion clause for exclusively internal conflicts. These are issues of particular relevance that need to be addressed.



Gloria Pérez de Colosía

Member of the Bar Association of Murcia, forming part of the International and Family with an office in Garrucha (Almería) since May 2001. She is member of the following organizations: Spanish Association of Family Lawyers (AEAFA), Board of Directors of ASEMIP (Spanish Multidisciplinary Association of Research on Positive Parenting), Law and Family Platform (P F&D), Family Collaborative Lawyers Association (ACF), International Association de la Asociación of Family Attorneys (AIJUDEF), and Association against International Children Abduction in Spain (ASIME). She is vicepresident of (WeMe), Space of mediation and solution of conflicts. She has a master's degree in Family Law from the Autonomous University of Barcelona, and a university degree in civil, commercial, and family Mediation, with access to the Spanish Justice Department mediator's register. She is also Parenting Coordinator with training at the "Rovira i Virgil" University of Tarragona and she has completed a specialist course in European procedural law in civil and commercial matters at the "Menéndez Pelayo" International University.

The Application of Twin Regulations in Spain as a Multi-Legislative Country

M.T. LOSADA FERNÁNDEZ

Abstract

Spain is a multi-legislative State. Matrimonial property regimes and property relations in unmarried couples is one of such areas in which some territories in Spain have different regulations. The twin Regulations 2016/1103 and 2016/1104, expressly provide in Article 33 for these so-called territorial conflicts of law by establishing a general rule on the law of the territorial unit.

This paper will specify a number of cases and the basic criteria for determining under the Spanish law, the law of the territorial unit to be applied.



María Teresa Losada Fernández

is a Public Notary in Spain.

Prohibition of the Choice of Foreign Law to Matrimonial Property in Croatian Legislation: Any Effect Against the Twin Regulations?

I. KUNDA

Abstract

The Croatian Family Act has a very controversial provision prohibiting choice of foreign law in matters of matrimonial property regimes. As to its scope, the scholars of family law in Croatia, claim its applicability to all cross-border situations, while those of private international law, claim its effects being limited to Croatian law as applicable law under the conflict of law rules. With the new EU Regulation 2016/1103, the scope of this provision remains to be re-examined in the light of the principles of EU law and private international law. The key issue is whether this provision will still apply or the new Regulation will prevail.



Ivana Kunda

is a Full Professor and the Head of the International and European Private Law Department at the Faculty of Law of the University of Rijeka, Croatia and the Vice-Dean for Research. She received grants as the Fulbright Research Fellow at Columbia University and the GRUR scholar at the MPI for Innovation and Competition. She passed the Croatian Bar Exam.

Twin Regulations in Practice: Analysis from a Belgian Perspective

D. THIENPONT

Abstract

This presentation addresses two issues that arised - or are likely to arise - in Belgian case law, involving the application of the twin Regulations. The first issue concerns the international jurisdiction of Belgian courts on the attribution, the valuation and the settlement of right of ownership of an immovable property located in Belgium. The second issue relates to the determination of which rule of the so-called 'primary regime' falls within the scope of Regulation 2016/1103 and which of these issues can be qualified as 'overriding mandatory rules'.



Delphine Thienpont

is a Researcher and a Teaching assistant at UCLouvain (Belgium). Her fields of specialisation are Family Law and Private International Law. She is currently writing her PhD thesis about the circulation of parent-child relationships through Europe.

The Patrimonial and Matrimonial Property Regimes in Cyprus and the Challenges Presented by the Twin Regulations

N. MOUTTOTOS

Abstract

The legal system of Cyprus is increasingly influenced by European derivative law, particularly, in the area of private international law, where the Brussels regime, after initial reluctance, is often referenced before courts in jurisdictional issues. Nevertheless, this influence is gradual due to lack of familiarity and limited reference by the litigants of the case. This is similarly seen in the application of EU Regulations 1103/2016 and 1104/2016. A recent court decision where the question of the application of Regulation 1103/2016 arose, provides a good example of the problems that come to the forefront because of the Twin Regulations.



Nicholas Mouttotos

is a postdoctoral Researcher at the University of Bremen. His research focuses on Private International Law, Comparative Contract Law and Consumer Law. He acquired his PhD from the University of Maastricht and has been part of the first Young Universities for the Future of Europe cohort of postdoctoral researchers.

Jurisdiction in Matters of the Property Regimes of Cross-Border Couples from the Perspective of an Italian Practitioner

M. DI COLA

Abstract

With particular attention to the Italian legal system (the applicable law and the court competent to decide the specific case), the paper offers an overview of the dissolution of marriage or registered union of cross border couples.

The paper highlights the difference between the concept of internal public policy of the individual State and the public policy of the EU. Before the coming into force of Regulation (EU) 2016./1103, the jurisdiction of judges was determined by the internal rules on procedural jurisdiction of each Member State. In Italy, such jurisdiction is regulated by the reform law of private international law, n. 218 of 1995.



Margherita Di Cola

Is an Attorney, Civil Mediator and a Student of the Specialization's School of Civil law at the University of Camerino, Italy.

Session III

Moderator: **Sandra Winkler**



Sandra Winkler

is Associate Professor of Family Law of the University of Rijeka, Faculty of Law. She was a Visiting Professor at the Faculties of Law in Verona, Trieste, Trento and Camerino. She is a member of the Croatian Comparative Law Association, as well as of the European Law Institute (ELI). She led the PRAVRI team in the projects "Personalized Solution in European Family and Succession Law - PSEFS" and "E-Training on EU Family Property Regimes - EU-FamPRO".

What Can We Expect in the Future with the Implementation of the Twin Regulations in Practice?

B. ČMRLEC-KIŠIĆ

Abstract

EU Regulations stipulate the choice of law applicable to issues regarding matrimonial and registered partnerships property regimes. In case of a lack of agreement, primarily, the law applicable is that of the State of the habitual residence. The secondary criterion is that of common nationality. Enhanced Cooperation brings about overcoming obstacles to the free movement of persons and guaranteeing the certainty and predictability of the applicable law, respecting national values. The EU Regulations implement the “Europa union” idea of Robert Schuman.



Biserka Čmrlec-Kišić

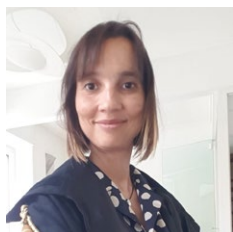
is Public Notary and Representative at the Croatian Notaries Chamber in Croatia.

The Italian Perspective on Property Issues Between International Couples. A Few Cases and Many Hopes

A. FONDA

Abstract

The paper begins with the presentation of data recorded in the public registers of the City of Milan Civil Status Office and a number of consensual proceedings. It offers insights into the application of the twin Regulations in Italy, with an eye to the future. In fact, regulatory provisions may find new application opportunities as part of the recent reform of the civil trial in Italy (Law No. 206 of 2021), to prevent and contain judicial conflict.



Alessia Fonda

is a trained Lawyer specialised in Family Law with years of experience in children matters and cohabitation breakdown. She is often involved in proceedings in which professionals are appointed by the court as special receivers of minors. She is a member of AIAF (Italian Association of Family Lawyers). She practices in Italy.

The Autonomy of Parties and the Role of Lawyers, who are to be Considered as Court Under Regulation 2016/1103, in Assisted Negotiation for Legal Separation or Divorce Proceedings with Cross-Border Implications

L. MUSSI

Abstract

Lawyers assisting negotiations under Art. 6 of Decree-Law 132/2014, converted into Law 162/2014, are considered as courts, under Regulation 2016/1103 on matters of matrimonial property regime. Negotiated agreement, constitutes a decision, pursuant to Art. 3 Par. 1 of Regulation 2016/1103, and is recognized in the other Member States.

In this context, in resolving a family dispute with cross-border implications, the question is whether the Italian Courts have international jurisdiction with respect to the separation or divorce procedure? thereby referring not to domestic rules but to Art. 3 of the Brussels II-ter Regulation.



Lidia Mussi

Is a Lawyer in Como and an expert in Family Law. She focuses on assisted negotiation training with the O.A.S.I. method. She is a Member of AIAF, Italian Association of Lawyers for the Family and for Minors.

Why Party Autonomy Should be Strengthened Across the EU Family Law Instruments?

A. LIMANTÉ

Abstract

The EU has developed a number of private international law instruments that are designed to address specific legal aspects of family law. When regulating jurisdiction and applicable law questions, typically these instruments provide for a list of connecting factors that should be consulted and strictly applied. The possibility to choose jurisdiction or applicable law remains limited as the EU legal instruments allow party autonomy only in cases expressly provided in the regulations. This paper discusses the arguments in favour of party autonomy also considering whether the arguments against it can be rebutted.



Agnė Limantė

is a Chief Researcher at the Law Institute of the Lithuanian Centre for Social Sciences, and head of the LCSS Project Team “E-Training on EU Family Property Regimes - EU-FamPRO”. She has received an MA in EU law from King’s College London and a PhD from Vilnius University, Lithuania. Recently, she took part in several EU co-funded projects that were designed to train Judges, Lawyers and social services on Private International Family Law instruments.

Jurisdiction under the Twin Regulations: Who is the “Respondent?”

D. VRBLIJANAC

Abstract

In context of the Regulation 2016/1103, along with the Twin Regulation, the paper analyses one of the decisions of Croatian courts on Regulation 2016/1103. Here, the Court established its jurisdiction relying on Art. 6(c) of Regulation 2016/1103, i.e., the court of the Member State in whose territory the respondent is habitually resident at the time the court is seized. The Regulation and its recitals are silent on the term “respondent” if it refers only to spouses or understood broadly. To interpret correctly, comparable provisions in other sources of EU private international family law are considered, as well as arguments for both approaches.



Danijela Vrbljanac

is an Assistant Professor at the Chair of International and European Private Law, University of Rijeka, Faculty of Law. She is a member of the Croatian Comparative Law Association. Danijela participated in “Personalized Solution in European Family and Succession Law - PSEFS” and “E-Training on EU Family Property Regimes - EU-FamPRO”.

The Rights that Can be Mediated and the Rights Reserved for a Judicial Decision: A Practical Assessment of the Twin Regulations

P.L. ORRICO

Abstract

Most conflicts in family law concern both the issues of the relationships between the parties and the property aspects. The identification of the competent Judge and applicable law in cross-border disputes can be complex despite the existence of the Twin Regulations. Mediation can be an excellent solution to conveniently resolve the terms and conditions of a conflict although the parties will still have to request a judicial decision as they cannot be bound by a mediation agreement. This paper will present a practical case of mediation and subsequent filing of the case in the Court in Italy.



Pasquale Lino Orrico

is an Attorney at Adivakta and a Mediator practicing in Milan. Since 2019, he has been Secretary of the Equal Opportunity Committee at the Bar Association of Milan and in this role he carries out training and consultancy activities.

Applicability of the Twin Regulations to the Assets Located in a Non-Participating States

K.I. MOLNAR

Abstract

Council Regulation (EU) 2016/1103 in its Article 21 provides that the applicable law under Articles 22 and 26 covers any property irrespective of their actual placement. Starting from this article, the path and the result of a proceeding concerning the spouses' assets may change radically. This paper discusses the applicability of the twin regulations to the assets located in a non-participating state and ponders on the fact that all it takes is the slightest difference in legislation which may change the fate of assets forever.



Krisztina Ilona Molnar

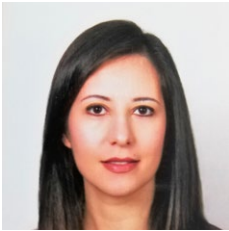
is a Bilingual Lawyer, registered with the Pisa Attorney Association and Lawyer established at the Budapest Attorney Association with practice in both countries. She deals mainly with International and Family Law.

The Concept of Habitual Residence in Family Property Relations in the CJEU Case Law

M.P. BOTTONI

Abstract

In the regulation of the personal and property relations of family unions characterised by elements of transnationality, habitual residence is a criterion of privileged connection, of which the European legislator does not offer a definition, but which the European Courts use very often. This article explores the objective and subjective elements that characterise the structure of the judicial title and the risks involved with the use of a case without any notion.



Maria Paola Bottoni

is Specialist in legal Professions, Lawyer and PhD Student in Legal Social Sciences at the University of Camerino. She is developing a research project on contractual relations in the agribusiness market and corporate responsibility. During the past two years, through her participation in the EuFamPro Project, she has begun to study international family relations.

Session IV

Moderator: **Nuria Martínez Sanchez**



Nuria Martínez Sanchez

is a Researcher at University of Almería & a Member of EU-FamPro Almería Team, Spain.

The Impact of Interpretation in Cross-Border Couples' Decisions

L. RUGGERI

Abstract

Art 29, Regulations 1103 and 1104 of 2016 introduces “adaption”, to demonstrate an interpretation considerate to the facts of the matter and in line with the interpretative tools of foreign legal system. In Italy however, Art 15 of L 218/1995 is applied to determine the applicable foreign law. This application elucidates the meaning of the juridical expressions per the lex fori to stipulate categories in the abstract case and simultaneously, substantiate by comprehending their existence in a given case. However, to match with the dynamics of Private International Law, Italian Courts need to characterize cases by transnationality.



Lucia Ruggeri

is Full Professor of Civil Law, Director of the Specialization School of Civil Law at the University of Camerino, author and editor of numerous publications, and Coordinator of the EU Projects “Personalized Solution in European Family and Succession Law - PSEFS” and “E-Training on EU Family Property Regimes - EU-FamPRO”.

Why some EU Member States did not join the Twin Regulations?

E. KAVOLIUNAITE RAGAUSKIENE

Abstract

The EU-family related legal issues were earlier the responsibility of individual Member States. However, with the Schengen agreement, people started moving freely and eventually settling with a citizen of another Member State. This is not just a good opportunity, but also a challenge to EU citizens and couples. The national legislation regulating family matters is insufficient, especially in conflict situations or termination of relationship.

Further, with Twin Regulations being joined by only 18 Member States, the attempt to unify the rules in this regard is concerning.



Egle Kavoliunaite-Ragauskiene

is an experienced researcher and trainer, especially in Family Law and Private International Family Law. She has written several publications and conducted numerous training sessions for professionals in the area of EU private international family law, including training organized by ERA (Academy of European Law) on EU Legislation on property effects of marriage and registered partnership. She was a team member of an EU co-funded project "EU Judiciary Training on Brussels IIa Regulation: From South to East".

Interconnection between Succession and Matrimonial Property Regime

H. HOBALJ

Abstract

The notary or the court, when conducting succession proceedings with cross-border implications, should also decide on the matrimonial property regime arising in connection with that succession case. In order to ensure legal certainty and efficiency, the notaries or the courts should apply the Regulation No. 650/2012 on succession and the Regulation No. 2016/1103 on matrimonial property regime simultaneously. However, when applying these regulations, they should take into account different provisions in determining the applicable law and jurisdiction, as well as the territorial, temporal, and material scope of application.



Hana Hobljaj

graduated from the Faculty of Law in Zagreb, in 2007. In 2017, she passed the notary exam and started working as a notary assessor in Croatia, which she still does today. Since 2020, she has also been a court interpreter for the Slovenian language. From 2021 onwards, she is also the deputy notary of the notary Rankica Benc from Varaždin, Croatia. From 2022 she is a Member of the International Cooperation Committee of the Croatian Notaries Chamber.

Jurisdiction in the Event of the Death of One of the Spouses or On of the Partners

E. BERNARDELLO

Abstract

The art. 4 of the Twin Regulations is an apt example of jurisdiction by connection ensuring coherent cross border succession. Where a court of a Member State is seized in matters of succession of a spouse or registered partner pursuant to Regulation (EU) No. 650/2012, the courts of that State shall have jurisdiction to rule on matters of matrimonial property regime or property consequences of the registered partnership. This provision helps to set out jurisdiction thereby reflecting the certainty in administration of justice in dealing with the consequence of a succession case given the increase in mobility of couples during their life.



Erika Bernardello

is an Attorney in Padua, expert in Family Law. She graduated in Law from the University of Padua in 2004 and obtained a Master of First Level in Environmental Law from the University of Venice in 2006. She followed a course for Trustee Councilor, University of Verona in 2008, in Real Estate in 2014 and a Master in Information Technology Contracts in 2018, both online by Altalex. She is currently attending the AIAF National School of Higher Education in Family Law.

Agreements as to Succession and Choice of Applicable Law

M.C. GRUPPUSO

Abstract

The Succession Regulation EU No 650/2012, provides for a definition of agreement as to succession under Article 3(1)(b). It indicates the criteria for identifying the law applicable (Article 25). The choice of applicable law in succession by contract, is useful against some national legal systems including those who prohibit the stipulation of these types of agreements.

Upon looking into the differences between Article 22 and Article 25(3), it is interesting to highlight the advantages linked to the choice of the law applicable to these types of disposition of property upon death and to discuss the main legal issues that may arise.



Maria Cristina Gruppuso

Is graduated cum laude in Law from the University of Turin. She is, currently, PhD student in “Law, Person and Market” at the Doctoral School of the University of Turin, with a research project in the field of Law of successions. She attended the Postgraduate Course in “Families cross- border: discipline of the crisis and the generational transfer of wealth” organized by the University of Milan, through which she examined the regulation of family relationships, in the perspective of Private International Law.

The importance of Considering the Matrimonial Property Regimes of One Country in Inheritance Proceedings Conducted under Another Law: An Example of Croatia and Austria

A. VLATKA

Abstract

In Croatia de facto cohabitation is recognised as marital equality. This paper analyses a case in which a man with Croatian and Austrian citizenship, dies in Croatia, after living there with his de facto wife for 15 years. Succession proceeding starts in Austrian upon the death certificate of his children from his first marriage. Austrian family law does not recognise de facto cohabitation. The paper discusses the habitual residence first and then the applicable law.



Adler Vlatka

is a 20-years experienced Croatian e Austrian Attorney-at-law and Mediator, active mostly in the field of cross-border Family and Inheritance law. She is practicing Family and Inheritance law in Austria (with the office in Vienna) and in Croatia (with the office in Zagreb). Vlatka has also been a Mediator since 2010 with the focus of family and succession mediation.

Session V

Moderator: **Danijela Vrbljanac**



Danijela Vrbljanac

is an Assistant Professor at the Chair of International and European Private Law, University of Rijeka, Faculty of Law. She is a member of the Croatian Comparative Law Association. Danijela participated in “Personalized Solution in European Family and Succession Law - PSEFS” and “E-Training on EU Family Property Regimes - EU-FamPRO”.

What Legal Protection for the Property Relationships of Cross-Border Couples Excluded from the Scope of the Twin Regulations?

S. WINKLER

Abstract

This paper aims to examine the legal protection of the property relationships of cross-border *de facto* couples excluded from the scope of the Twin Regulations. This exclusion implies that these couples are in a less protected legal position as against the cross-border couples covered by the Twin Regulations.

Given the number of *de facto* couples in the EU, it seems appropriate to contemplate this category of 'outsiders', thereby resonating the choice of the European legislator. Given the different national legal systems on the subject matter, this paper will take a comparative approach in order to answer the question posed in the title.



Sandra Winkler

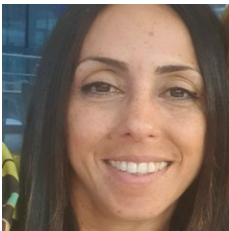
is Associate Professor of Family Law of the University of Rijeka, Faculty of Law. She was a Visiting Professor at the Faculties of Law in Verona, Trieste, Trento and Camerino. She is a member of the Croatian Comparative Law Association, as well as of the European Law Institute (ELI). She led the PRAVRI team in the projects "Personalized Solution in European Family and Succession Law - PSEFS" and "E-Training on EU Family Property Regimes - EU-FamPRO".

When Judgements Cross the Borders: Exequatur

A.L. HALEBLIAN ACOSTA

Abstract

When dealing with cross border proceedings, the chances that a decision will have to be implemented in another country are exponential. Therefore, the recognition, the declaration of enforceability (exequatur) and enforcement of decisions are compulsory subjects to consider amongst many others in this regard, particularly, in the context of the Twin Regulations.



Anahi Luz Haleblian Acosta

Is the Administrative Director for “postgraduate degree and entrance exam Madrid-España Consejo General de Gestores Administrativos” and she also postgraduated in Marketing UNED in 2010 in Community Manager, Madrid (Spain).

'No Review as to the Substance' in the Twin Regulations

S. COSCARELLI

Abstract

In context of legislator's inclination to the majority of decisions, and accordingly, to the rules that tend to limit the intervention of the court being called upon to rule on recognition and enforceability of those decisions, the principle of prohibition of review of the merits is crystallized in Art. 40 of the Twin Regulations. Consequently, a decision when delivered in a Member State, shall in no circumstances be subject to a review on the substance. The court judging cannot interfere in assessment of merits or proceedings, which must remain the prerogative of the court of the State from which the title aspiring to such enforcement comes.



Salvatore Coscarelli

Is an Attorney and PhD student in Legal and Social Sciences - curriculum "Civil Law and Constitutional Legality" at the University of Camerino. His research project in the context of the doctorate concerns the health obligation of prevention. He is the author of various publications on Health law and Family law. He is co-author of the Commentary "European Family Property Relations Article by Article Commentary on EU Regulations 1103 and 1104/2016" and is a student in the European project Eufampro.

Recognition of a Foreign Divorce Decision: the Italian Perspective

M.A. RAVAGNAN

Abstract

Lis pendens in intra-Community matrimonial matters, pursuant to Article 19 Reg 2003/2201, provides for the mandatory suspension of proceedings for legal separation, divorce or marriage annulment subsequently brought before a Member State. Instead, Italian private international law for non-EU lis pendens requires that the claims should have the same subject, matter and title. Intra-Community lis pendens in matrimonial matters ensures the effective circulation and recognition of judgments within the EU and is based on mutual trust between EU Member States. What needs some pondering is what happens if a Member State breaks the lis pendens rule.



Maria Augusta Ravagnan

graduated in Law from the University of Padua in 1991 and enrolled in the Padua Bar in 1995. She has been a Commercial Civil Mediator since 2011 and she practises in the Forensic Mediation Organization of Lawyers of Padua. She is a board member of the Lawyers' Committee for Negotiation and a member of IACP, "International Academy of Collaborative Professionals", and of AIAF.

Matrimonial Property and Maintenance Obligations - Problems Arising from Fragmentation of European Family Law

F. DOUGAN

Abstract

Divorce may bring about uncertain financial and social position. To address this issue, EU Member States take various approaches in their national family law, these can be divided into two groups, where Member States protect the weaker spouse i) through rules on matrimonial property regimes; ii) through rules on maintenance obligations. Due to fragmentation of the European Family Law, the conflict rules on matrimonial property regimes and maintenance obligations are not sufficiently coordinated. This can sometimes leave the weaker spouse without any protection and guarantee no means of sustenance after the divorce.



Filip Dougan

obtained his bachelor 's and master 's degree at the University of Ljubljana, Slovenia, where he now works as a Teaching and Research Assistant at the Department of Civil Law. Currently, he is also enrolled in a doctoral degree programme at the University of Ljubljana, where he researches property regimes of cross-border couples. In 2021 he passed the Slovenian Bar Exam.

Comunio de Residuo and Credit Rights of the Entrepreneur's Spouse: Notes in the Margin of an Italian Jurisprudence

G. DI BENEDETTO

Abstract

In the Italian legal system, if a company established after marriage and owned by only one of the spouses, falls into the "*communio de residuo*". The Italian Court of Cassation, under its sentence of 17th May 2022, established that, at the time of the dissolution of the legal community, the other spouse is entitled to credit equal to 50% of the valuation of the company.

The theme seems to be particularly relevant and frequent in cross-border families.

To any disputes, the European Regulations 1103 and 1104 of 2016 must be considered applicable, since they are concerned with the family property regime.



Giovanna Di Benedetto

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Closing Remarks and Discussion

Moderator: **María Jose Cazorla Gonzalez**



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The Twin Regulations and Successions in the Recent CJEU Case-Law

J.I. SIGNES DE MESA

Abstract

The existence of a wide variety of EU norms regarding couple's economic regimes requires a consistent and homogeneous application, which finally leads to refer interpretative questions to the European Court of Justice (ECJ). While EU law is to be applied by any court of the Member States by virtue of the principle of direct effect, the ECJ ensures, according to article 19 TEU, that the interpretation and application of EU law is observed. The majority of cases that raise issues of Family law were brought before the ECJ pursuant to its exclusive jurisdiction to deliver preliminary rulings on the interpretation of EU law.



Juan Ignacio Signes de Mesa

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Final Closing

Ramón Herrera de las Heras



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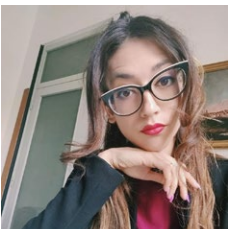
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