

European Young Lawyers Conference in Warsaw: Hague, Human Rights and International Issues in Uncertain Times

Thursday 16 and Friday 17 November 2017
Mercure Warszawa Centrum Hotel

EDUCATION PROGRAMME PAPERS



Welcome to the IAFL Warsaw mini-conference. We have 120 Lawyers from at least 20 different jurisdictions, and that's not fake news. We hope you enjoy the mix of panels we have put together and we hope you have a great conference.

One of our themes is international law in uncertain times. As private international family lawyers we are helping to uphold an important system of rules for individuals. We are also fostering an understanding of different legal cultures and the importance of this rule-based system.

Some of these rules (including at an EU level) are sadly today not guaranteed everywhere. We hope however the conference reminds us that, daily, we apply these rules in an ethical, co-operative way to resolve complex family disputes, and they are worth keeping.

The Education Committee: Nick Bennett, William Healing & Nicolas Sauvage.

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European Young Lawyers Conference in Warsaw: Hague, Human Rights and International Issues in Uncertain Times

A conference for recently admitted IAFL Fellows and Lawyers interested in discovering IAFL work

**Thursday 16 and Friday 17 November 2017
Mercure Warszawa Centrum Hotel**

PROGRAMME

THURSDAY 16 NOVEMBER

Registration Desk open from 1:00pm

Welcome Speeches: (2:00-2:15pm)

Dr Daniela Kreidler-Pleus, IAFL European Chapter President and Mikołaj Pietrzak, Dean of the District Bar Association in Warsaw

Session 1 (2:15-3:30pm): Disclosure and Confidentiality Issues

Chair: Natalia Ołowska-Czajka (Warsaw, Poland)

Speakers: Lukas Deppenkemper (Düsseldorf, Germany); Marina Faggionato (London, England); Dr Soma Kölcsényi (Budapest, Hungary); Jakub Biernacki (Warsaw, Poland)

Break (3:30-4:00pm)

Session 2 (4:00-5:15pm): Cross Border Enforcement of Decisions and Injunctions

Chair: William Healing (London, England)

Speakers: Eleri Jones (London, England) and Ruth Innes (Edinburgh, Scotland)

Welcome reception at the at the Polish Bar Association (6:00-7:30pm)

(depart Mercure by coach at 5:40pm)

Pre-Paid Dinner with wine at Pod Gigantami Restaurant (7:30pm)

(directly opposite the Polish Bar; coaches return at 10:30 & 11:00pm)

FRIDAY 17 NOVEMBER

Session 1 (9.45-11am): Oleksander and Maria: a case-study on international prenuptial agreements

Chair: Nicholas Bennett (London, England)

Speakers: Sonia Ryser (Geneva, Switzerland); Federico Cecolin (Milan, Italy); Iryna Moroz (Kiev, Ukraine)

Break (11:00-11:30am)

Session 2 (11.30am-12.45pm): What the Hague Conventions offer

Chair: Philippe Lortie (The Hague, Netherlands)

Speakers: Nicolas Sauvage (Paris, France); Elga Sykiäinen (Moscow, Russian Federation); Philippe Lortie

Lunch (12:45-2:15pm)

Session 3 (2.15-3.30pm): The EU & ECHR Cases

Chair: Julie Losson (Moscow, Russian Federation)

Speakers: Ian Curry (Utrecht, Netherlands) and Dr Konstantinos Rokas (Athens, Greece)

Evening closing drinks at the Mercure Warszawa Centrum Hotel (6:30-7:30pm)

Pre-Paid Dinner with wine at Strefa Restaurant (7:45pm)

(depart Mercure on foot at 7:30pm)

SATURDAY 18 NOVEMBER

Pre-Paid Walking Tour of Warsaw's Old Town, but is it so old? (9:30am-12 midday)

(depart Mercure for the meeting point by minibus at 9:10am)

European Young Lawyers Conference in Warsaw: Hague, Human Rights and International Issues in Uncertain Times

SPEAKER PROFILES

NICHOLAS BENNETT

Farrer & Co
London, England

www.farrer.co.uk



Described by commentators as a “really good youngster” who “finds solutions without fuss”, Nick is a former barrister who was admitted to the partnership at Farrer & Co in 2016. He practises in two connected areas. He is a leading specialist in the drafting and negotiation of pre-nuptial agreements. He acts for business leaders, celebrities, landed families and wealthy international couples in London and overseas. He has lectured on the law and practice of pre-nuptial agreements at Oxford University. The other element of his practice is complex divorce disputes, involving companies, trusts, and jurisdiction issues (including in particular the relationship of the Brussels II and Maintenance Regulations to English law). He is a former winner of the IAFL Annual Award for Young Family Lawyers in Europe.

FEDERICO CECOLIN

**Daniela Missaglia
Milan, Italy**

www.danielamissaglia.com



Federico Cecolin graduated from Alma Mater Studiorum - University of Bologna School of Law. He focused his Master's Degree on Family Law, writing his dissertation on the current state of prenuptial agreements and the financial impact of divorce in Italy, England and Wales. He spent his third year of studies at the University of Bristol Law School on an Erasmus scholarship. From 2015 on, he has participated as an Associate Editor at the "University of Bologna Law Review", a legal journal promoted by the Department of Legal Studies of the University of Bologna and Cleary Gottlieb Steen & Hamilton LLP.

He has been part of Daniela Missaglia's *Studio Legale* team since 2016, dealing with complex legal separations and divorces as well as international disputes concerning child custody, division of marital property and child/spousal support. Daniela Missaglia's *Studio Legale* is an established Family Law firm set in Milan (Italy) and Monaco (Principauté de Monaco) which operates predominantly within both the Italian and Monégasque legal framework.

LUKAS DEPPENKEMPER

**Weiss Hippler Leidinger
Düsseldorf, Germany**

Email: deppenkemper@w-h-l.de

www.w-h-l.de



Lukas is a qualified German lawyer who obtained his law degree from the University of Düsseldorf. He also holds a French master of law degree from the University of Cergy-Pontoise. He qualified as a French lawyer in 2016 but decided to pursue his career in Germany where he joined the specialist family and inheritance law firm Weiss Hippler Leidinger. He is active in all fields of German and international family law. Due to his background in corporate law he has a particular interest in cases involving complex property structures. Lukas is fluent in German, English and French.

MARINA FAGGIONATO

**Queen Elizabeth Building
London, England**

Email: clerks@qeb.co.uk

www.qeb.co.uk



Marina is a barrister in private practice at the Family Bar in England. She specialises in divorce and financial remedy cases, including after a foreign divorce and very often those cases with complex international aspects. She has a particular interest in conflict of laws and those case with a jurisdictional element (whether forum races/fights or in relation to child abduction/relocation).

Her advocacy has been commended in the Court of Appeal (*Re R (A Child) [2009]2 FLR 819*), and she is ranked as a leading junior in the professional guides. Marina's first language was French and she often acts in cases with a French dimension as well as providing opinions on English law for proceedings continuing in France. She has a busy practice of her own, and is regularly led by silks from across the Family Bar.

Marina is a member of the Family Law Bar Association, Resolution and the Franco-British Lawyers Society. She is a qualified arbitrator and member of the Chartered Institute of Arbitrators.

WILLIAM HEALING

**Alexiou Fisher Philipps
London, England**

www.afplaw.co.uk



William is a dual French and English national, he is a bilingual speaker, and many of his cases have a Francophone angle. Most cases involve high net worth assets. He has been practising family law for 20 years. William is a Fellow of the International Academy of Family Lawyers (and European Chapter secretary). He is a widely acknowledged expert on European family law issues according to the law profession directories.

RUTH INNES

**Westwater Advocates
Edinburgh, Scotland**

www.westwateradvocates.com



Ruth is an advocate at the Scottish bar. She was initially a solicitor in private practice specialising in family law. She called to the bar in 2005. She has been involved in many reported cases. She is instructed primarily in relation to financial provision on divorce and cases involving cross border or international issues.

ELERI JONES

**1 Garden Court
London, England**

www.1gc.com



Eleri is a barrister practising in London in both family finance and private child cases, including internal and international relocation cases. Eleri is often requested to advise upon the international aspects of both children, divorce and financial work including questions of jurisdiction, recognition and enforcement, particularly under the Maintenance Regulation and Brussels IIa.

Chambers and Partners 2018 describes Eleri as “an absolute expert on European legislation. She has an encyclopaedic knowledge and a razor-sharp mind. Eleri is a rising star with a bright future ahead.” Eleri was also ranked as a leading individual in the Legal 500 in 2016 and 2017, which stated in 2017 that she is “exceedingly thorough and her grasp of complex technicalities is excellent.”

Eleri participates in an EU Law working group of 20 international family law experts including barristers, solicitors and academics, considering the possibilities for reform of UK family law as a result of leaving the EU. She drafted a paper submitted to the UK Government in October 2017 setting out the options available in respect of Brexit and Family Law, commissioned by Resolution, FLBA and IAFL.

DR SOMA KÖLCSÉNYI

**Kölcsényi & Némethi Law Firm
Budapest, Hungary**

soma@legalexpert.hu



Dr Soma Kölcseyi is the founder and partner at the Kölcseyi & Némethi Law Firm. He is a member of the Hungarian and the Budapest Bar Association, and also enlisted in the official Hungarian registry of certified family law mediators. He is specialized in family law, especially in cases involving non-Hungarian clients having family legal issues under Hungarian jurisdiction. His practice area embraces a wide range of marital and divorce law related matters. Out of personal conviction primarily he focuses on child custody and visitation issues by providing attentive representation to clients facing contested divorce, as well as to those able to seek a more amicable settling through uncontested divorce.

International Academy of Family Lawyers (IAFL) - Fellow member; European Judicial Network EJM - delegated expert of the Hungarian Bar Association; Budapest Bar Association Lawyers Academy Family Law Division - Head of Division; Central European Mediation Institute - member.

PHILIPPE LORTIE

**First Secretary
Hague Conference
On Private International Law (HCCH)**



Philippe Lortie (1965, Canada), B.A.A. H.E.C. Montreal, LL.L., LL.B. and LL.M. University of Ottawa. He joined HCCH as a First Secretary in 2001 after working for the Department of Justice of Canada for a period of 10 years where he held different positions in connection to international law including Head of delegation for a number of international negotiations of private international law instruments.

Philippe Lortie works primarily in the area of international child protection and family law. He has primary responsibility for the Hague 1980 Child Abduction, 1996 Child Protection, 2000 Protection of Adults and 2007 Child Support Conventions, for which, in the latter case, he played a key role in the development. He also has responsibility for the International Hague Network of Judges and issues concerning Direct Judicial Communications under the Hague 1980 Child Abduction and 1996 Child Protection Conventions. He steers the Hague Conference feasibility studies on the development of a possible future instrument on access to foreign law and on the recognition and enforcement of civil protection orders. Finally, he has the responsibility for a number of Hague Conference IT tools including the iSupport electronic case management and secure communication system under the Hague 2007 Child Support Convention.

JULIE LOSSON

**Villard Cornec & Partners
Moscow, Russian Federation**

Email: losson@villard-avocats.com

**www.interjurist-avocats.ru
www.villard-avocats.com**



Qualified Attorney - Paris Bar. Partner and co-founder of the French law firm Villard Cornec & Partners. Registered on the list of foreign lawyers of the Ministry of Justice of the Russian Federation. Legal Advisor for the French Consulate in Moscow.

Member of la Société des Juristes Franco-Russe (SJFR – Society of Franco Russian jurists). Member of the International Association of Lawyers. Member of the Cercle Kondratieff.

Medal of Merit from the Russian Federal Chamber of Lawyers for the protection of rights and freedoms of citizens (2015 - 1st level). Master in Private International Law and European Law (Université Paris I Sorbonne). Master of Law (Russian Law) (Université Paris X Nanterre). Master of Arts (Russian language) (Université Marc Bloch - Strasbourg)

Practice areas: international family law (private clients), matrimonial and estate law, expatriation and impatriation, international adoption.

Member of the Paris Bar for almost ten years, Julie LOSSON co-founded the French law firm “Villard Cornec & Partners” and since 2012 manages its Moscow office under the “OOO Interjurist”. She is experienced in general international family law, especially with Russian citizens. She defends cases involving financial disputes pertaining to divorce settlements and inheritance issues (prenuptial agreements, removal and jurisdiction disputes, child and spousal support, child abduction, registration and enforcement of foreign court decisions...).

IRYNA MOROZ

**AGA Partners
Kiev, Ukraine**

Email: moroz@agalawyers.org

www.agalawyers.org



Iryna Moroz is the head of Family law department at AGA Partners. She possess wide experience of advising clients on the issues of international family law, marriage registration, division of property, child support, maintenance, temporary or permanent relocation, abduction, adoption, inheritance, ART treatment, surrogacy etc. Iryna specializes in resolving complex family disputes involving multiple jurisdictions and maintains close ties with leading law firms in Europe and the United States.

Iryna is Membership Officer of the Family Law Committee of the International Bar Association (IBA). She also holds the position of a Deputy Head of the Committee on Civil and Family Law of the Ukrainian Bar Association (UBA) and constantly organizes conferences and events to discuss burning problems of Ukrainian family law with leading practitioners.

Iryna regularly participates as speaker at international conferences organized by the International Academy of Family Lawyers (IAFL), the International Bar Association (IBA), the International Association of Young Lawyers (AIJA). She frequently participates in pro-bono projects related to the protection of children and family rights, regularly speaks on Ukrainian television as an expert in the field of family law. Moreover, Iryna is one of the few practitioners in the Ukrainian legal market who have deep knowledge and experience in ART and surrogacy treatment for foreigners in Ukraine.

Membership in professional associations: Kiev City Bar Association; Ukrainian Bar Association; International Bar Association (IBA), Membership Officer.

NATALIA OLOWSKA-CZAJKA

Warsaw, Poland

Email: olowska-czajka@jasna17.pl



Graduated from the University of Warsaw with Merit (1999) and entered into the Warsaw Bar Advocates vocational training – completed with Merit (2004) and became Advocate immediately thereafter. Specialist in Marital and Family Law; divorce, contact orders, parental rights and division of matrimonial property.

During her studies, simultaneously studied law of England and Wales together with European Law (co-operation of Warsaw Faculty of Law and Cambridge University) and afterwards the Spanish Law (co-operation of Warsaw Faculty of Law and University of Cuenca, Spain).

Represents clients in proceedings before ECHR in Strasbourg
Languages spoken: English, Spanish, German, Russian and Polish
Active member of IAFL since 2015

DR KONSTANTINOS ROKAS

**Konstantinos A. Rokas Offices
Nea Smyrni, Greece**

**+30 6972172788
+41 76779 7108**



Konstantinos Rokas after his undergraduate studies in law at the University of Athens, he went on to obtain two LLM degrees from the University of Athens (in private international law and EC law) and the University of Paris II-Panthéon Assas (in international commercial law and private international law), finishing second in his class. He has defended his PhD on "Medically assisted reproduction in comparative private international law" in the University Paris 1 Panthéon-Sorbonne under the supervision of Professor Etienne Pataut.

He is admitted to the Athens Bar Association since 2004 and admitted to the Supreme Court of the Country, he is actually a teaching assistant at the University of Lausanne.

SONIA RYSER

**Borel & Barbey
Geneva, Switzerland**

Email:
sonia.ryser@borel-barbey.ch

www.borel-barbey.ch



Sonia Ryser practices in all areas of family law. Her particular specialties include: marriage and divorce proceedings; and all matters involving children, in particular international proceedings relating to the abduction of children. She also advises on matrimonial planning, particularly prenuptial agreements with a national or international context.

She is a member of the Geneva Bar Association, the Swiss Lawyers Federation and the Lawyers and Specialized Lawyers Association SBA Family Law VF/FA.

NICOLAS SAUVAGE

**Véronique Chauveau & Associés
Paris, France**

Email:
n.sauvage@avocats-associes.com

www.chauveau-associes.com



A short CV : Nicolas Sauvage is a member of the Paris Bar (2016) and a partner of the Law Firm Véronique Chauveau & Associates dedicated to international family law. Nicolas is a former legal officer of the Hague Conference on private international law (2009-2011) and had the opportunity to be designated as an expert by the United Nations (2015) and the European Commission (2017) in the field of children's rights. He speaks French, English and Arabic.

DR IAN SUMNER

**Voorts Legal Services
Utrecht, Netherlands**

www.voorts.com



Ian Sumner graduated with a first class honours degree from Christ's College Cambridge before proceeding to obtain his PhD from Utrecht University in 2005. He has also since obtained his bachelors and masters degrees in Dutch law, and is currently an independent legal adviser and owner of Voorts Legal Services. He provides expert legal advice in international family law cases, as well as training to lawyers, notaries, judges, central authorities and ministries. Since 2015, he is also a deputy court judge at the District Court Overijssel.

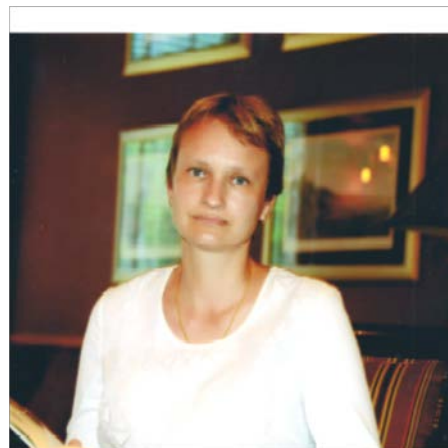
ELGA SYKIÄINEN
Private Legal Practice
Moscow, Russian Federation

Email:

sykiainen@gmail.com

www.RuFamilyLawyers.com

(operational from January 2018)



Graduated with honors from the Law School of Lomonosov Moscow State University. Practicing law for over 22 years. Concentrates practice on international family law: Child Custody/Residence/Visitation/Contact, Relocation/Removal from Jurisdiction, Child Support, Divorce, Hague Convention/Child Abduction, Mediation. Regularly acts as an expert to give opinions on the Russian legislation and jurisprudence in cross border family disputes.

For more than 20 years has been working in the field of international legal cooperation, with such organizations as the World Bank, the Commission of the European Communities, the Council of Europe. Within the extensive experience in international legal cooperation, has contributed to Russia's accession to the 1996 and 1980 Hague Conventions. Co-authored the Academic Review of the 1980 Hague Convention (Moscow, 2016).

Frequent author and speaker on matrimonial litigation and related matters. Also, as an accredited and professional mediator regularly delivers mediation training programs.

Disclosure in Financial Proceedings

IAFL Warsaw November 2017

Marina Faggionato
QEB
www.qeb.co.uk
+44 207 797 7837

**Context is legislation:
s.25 Matrimonial Causes Act 1973**

(1) It shall be the duty of the court in deciding whether to exercise its powers ... to have regard to **all the circumstances of the case**, first consideration being given to the welfare while a minor of any child of the family who has not attained the age of eighteen.

(2) As regards the exercise of the powers of the court ... the court shall in particular have regard to the following matters—

- (a) the **income, earning capacity, property and other financial resources which each of the parties to the marriage has or is likely to have in the foreseeable future**, including in the case of earning capacity any increase in that capacity which it would in the opinion of the court be reasonable to expect a party to the marriage to take steps to acquire;
- (b) the **financial needs, obligations and responsibilities** which each of the parties to the marriage has or is likely to have in the foreseeable future;
- (c) the **standard of living** enjoyed by the family before the breakdown of the marriage;
- (d) the age of each party to the marriage and the duration of the marriage;
- (e) any physical or mental disability of either of the parties to the marriage;
- (f) the **contributions which each of the parties has made or is likely in the foreseeable future to make** to the welfare of the family, including any contribution by looking after the home or caring for the family;
- (g) the **conduct of each of the parties**, if that conduct is such that it would in the opinion of the court be inequitable to disregard it;

Marina Faggionato, QEB

**As applied by the Family Procedure Rules
2010 – Rule 9.14**

(1) Not less than 35 days before the first appointment both parties must simultaneously exchange with each other and file with the court a **financial statement** in the form referred to in Practice Direction 5A.

(2) The financial statement must—

- (a) be verified by a statement of truth; and
- (b) accompanied by the following documents only—
 - (i) any documents required by the financial statement;
 - (ii) any other documents necessary to explain or clarify any of the information contained in the financial statement; and
 - (iii) any documents provided to the party producing the financial statement by a person responsible for a pension arrangement...

Marina Faggionato, QEB

And accompanying Practice Directions:
Family Procedure Rules 2010 PD9A

Gives us the Form E, and a clue as to the volume of material that may be generated

§5.1 Financial Statements and other documents

...Where on account of their bulk, it is impracticable for the exhibits to a financial statement to be retained on the court file after the First Appointment, the court may give directions as to their custody pending further hearings.

Martina Faggionato, Q&B

The Form E: “An almost numinous status”

W v W [2003] EWHC 2254 (Fam) Mr Nicholas Mostyn QC

The very point of Form E is to give an honest and conscientious estimation of the true net worth of the party at the time of swearing it. For these purposes sensible and fair figures have to be attributed to unrealisable or deferred assets. The maker of the Form E is fully entitled to qualify those figures in the narrative part of the section. But a proper figure has to be put in. It is unacceptable, in my view, that simply because an asset is not realisable on the day that the Form E is sworn, but is assuredly realisable, or likely to be realisable, at some future date, for a zero figure to be inserted.

The theory behind the new procedure is that it should be possible, if the Forms E are filled in truthfully, carefully and fully, and are accompanied by all the prescribed essential documents, for the case to be tried without further inquiry or disclosure. Of course, it is idealistic to think that this actually happens in practice and in the majority of cases further inquiry is authorised. But that does not mean that the ideal is not something to be strived for. For this reason the Form E has an almost numinous status, and where it is found that a party has deliberately filled in a Form E falsely or has misrepresented facts then he must expect judicial censure and penalties in costs.

Martina Faggionato, Q&B

Investigation by questionnaire:
Family Procedure Rules 2010 Rule 9.14

(5) Not less than 14 days before the hearing of the first appointment, each party must file with the court and serve on the other party –

- (a) a concise statement of the issues between the parties;
- (b) a chronology;
- (c) **a questionnaire setting out by reference to the concise statement of issues any further information and documents requested from the other party or a statement that no information and documents are required; and**
- (d) a notice stating whether that party will be in a position at the first appointment to proceed on that occasion to a FDR appointment.

Martina Faggionato, Q&B

The First Appointment: Family Procedure Rules 2010 Rule 9.15

Duties of the Court at the First Appointment

- (1) The first appointment must be conducted with the objective of defining the issues and saving costs.
- (2) At the first appointment the court must determine –
 - (a) **the extent to which any questions seeking information under rule 9.14(5)(c) must be answered; and**
 - (b) **what documents requested under rule 9.14(5)(c) must be produced, and give directions for the production of such further documents as may be necessary.**
- (3) The court must give directions where appropriate about –
 - (a) the valuation of assets (including the joint instruction of joint experts);
 - (b) obtaining and exchanging expert evidence, if required;
 - (c) the evidence to be adduced by each party; and
 - (d) further chronologies or schedules to be filed by each party.

Martina Faggionato, QEB

“Full and frank disclosure”

The law of financial remedies following divorce has many commandments but the greatest of these is the absolute bounden duty imposed on the parties to give, not merely to each other, but, first and foremost to the court, full frank and clear disclosure of their present and likely future financial resources. Non-disclosure is a bane which strikes at the very integrity of the adjudicative process.

NG v SG (Appeal: Non-Disclosure) [2011] EWHC 3270 (Fam)

Martina Faggionato, QEB

Consequences of non-disclosure

Part 1: At the time of the proceedings:

- 1. If discovered (and remedied) during the proceedings – likely to sound in (a) costs and (b) damaged credibility
- 2. If not remedied by the time of the final hearing, a very strong weapon in the arsenal of the court is the doctrine of adverse “inferences”

Part 2: After the proceedings

Set aside

Martina Faggionato, QEB

Part 1: Inferences

Doctrine with a long history, and recent application (see for example Al Baker v Al-Baker [2016] EWHC 251 (Fam))

Principles set out in NG v SG (Appeal: Non-disclosure) [2011] EWHC 3270 (Fam), Mostyn J

- Sets out principles where the court is satisfied the disclosure is materially deficient:
- Consider, by drawing adverse inferences whether funds have been hidden
- Inferences must be properly drawn and reasonable
- Attempt a realistic and reasonable quantification, even in broad terms
- First look to direct evidence (documentation and observations)
- Look to scale of business activities and lifestyle
- Vague evidence of reputation or opinions or beliefs of 3rd parties is inadmissible
- Assuming at least twice what the Claimant seeks should not be sole metric
- *The court must be astute to ensure that a non-discloser shouldn't be able to procure a result from his non-disclosure better than that which would be ordered if the truth were told. If the result is an order that is unfair to the non-discloser it is better that than that the Court should be drawn into making an order that is unfair to the Claimant.*

Martina Faggiolato, OBE

Part 2: Set Aside

After the proceedings → “set aside”

- Considered recently by the UK Supreme Court in two cases with judgment handed down on the same day
- Sharland (Appellant) v Sharland (Respondent) [2015] UKSC 60 and Gohil v Gohil [2015] UKSC 61
- Both cases which concerned fraudulent (ie deliberate) misrepresentation/non-disclosure
- Depriving the court of the ability to conduct independent assessment of outcome
- Original orders “set aside”

Martina Faggiolato, OBE

Conclusions

- Disclosure sought and expected in English courts tends to be anathema to European lay litigants
- Product of statute, rules and practice, but perhaps also of financial affairs of litigants before our courts – complex often international affairs in trusts/foundations/corporations
- Parties MUST provide full, frank and clear disclosure
- Protection of financial information by way of the implied undertaking (confidentiality) and compulsive nature of disclosure. If there is media interest in a case, ordinarily possible to protect financial information, and even if very “public” case that will extend to commercially sensitive financial information (see for example Cooper-Hohn v Hohn at [2014] EWHC 2314 (Fam))

Martina Faggiolato, OBE

Disclosure and Confidentiality

The lawyer's secrets to happiness


Dr. Soma Kolcsenyi
HBA expert delegate to the European Judicial Network
listed family law mediator
specialized in cross-border issues
practicing family lawyer

16 November 2017 – Warszawa, Polska




Outline

- Confidentiality rules and breaking those rules
- Disclosure obligations
- Exchanging info between lawyers
- Preventing conflicts of interests
- Protection of confidentiality



11/14/17 | 1



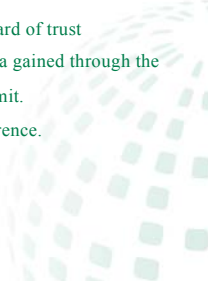

Confidentiality

Dilemma: trust vs transparency, new law passed by parliament:
having to work with the authorities

Free and independent lawyer: the safeguard of trust

Subject to confidentiality: facts, info, data gained through the assignment. Prevails without any time limit.

Source of information does make a difference.
Among teammates!
Boundaries of confidentiality!



Breaking confidentiality

By permission of Client – entails no sanction

Upon judicial order – entails no sanction

By default – sanctions

- Disciplinary procedures before the Bar Association
- Sued by Client or opposing party for damages
- Possible criminal charges

In family law: unlike criminal law, for the best interest of the child, the judge may take evidence into account even if acquired unlawfully



Disclosure in Court

- Extent set by Client
- Principle of free methods of taking evidence
- New procedural code: groundbreaking rules, court may oblige the opponent to disclose (was not possible under old regulation)
- Court cannot oblige the lawyer to reveal info on Client



Exchanges between lawyers

No explicit statutory (law) background

Ethical and disciplinary rules set by the bar association apply

Lawyer in correspondence must explicitly call up the opposing lawyer not to disclose content of the exchange.

Many colleagues disregard it, profession is not rooted in fairness traditions

End of the day: lawyer can be ultimately disbarred

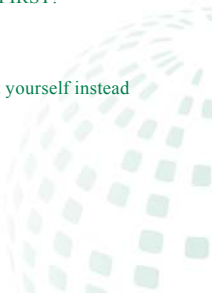


Preventing conflict of interest

ASK FOR THE OPPONENT'S NAME FIRST!

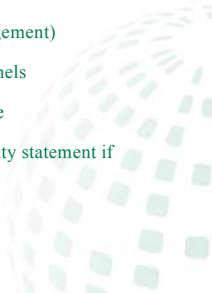
Be able to prove you did!

Must avoid the „Sopranos way”, apply it yourself instead



Protection of confidentiality

- Ask for details first → Who are you? Who you be with?
- Do not act before framework is clear (engagement)
- Communicate in writing on encrypted channels
- Ask for meetings in person first – if possible
- Have everyone involved sign a confidentiality statement if possible (not really possible)




Thank you for your attention!

„Good Night, Sleep Tight”

soma@legalexpert.hu



Kanzlei für Familien- und Erbrecht Weiss | Hippler | Leidinger



Disclosure in German Family Law

IAFL Warsaw Conference, November 2017

Lukas Deppenkemper
Rechtsanwalt at Weiss Hippler Leidinger
Düsseldorf, Germany
deppenkemper@w-h-l.de
+49 211 4998860

Disclosure – When?

- Maintenance (child/spouse)
- Matrimonial Property Regime
- Pension Rights

Disclosure – General

- Germany ≠ UK
 - must be requested: “principle of party presentation”
 - is being requested systematically (risk of liability!)
- First contact: letter to husband/wife

Disclosure – Maintenance

- What the law says you get:
 - a systematic and comprehensive list of all revenues, expenditures and assets
 - corresponding documentation
- What you get:
 - payslips (last 12 months)
 - company financial statements (minimum last three years)
 - tax bills

Disclosure – Matrimonial Property

- What the law says you get:
 - a systematic and comprehensive list of all assets at
 - date of marriage / date of separation / date of service of the divorce petition
 - corresponding documentation
- What you get:
 - all types of contracts
 - bank statements
 - affidavits
 -

Disclosure – Failure to disclose

- Petition in court: petition „by stages“
 1. Disclose information
 2. Provide corresponding documentation
 3. Affirmation in lieu of an oath under penalty of perjury (minimum 1 year)
 4. Pay the amount resulting from disclosure
- Can be used strategically
 - slow down divorce proceedings
 - pressure opponent into settlement

Disclosure – Example petition

Wir beantragen.

1. der Antragsgegnerin aufzugeben, dem Antragsteller Auskunft zu erteilen durch eine in sich geschlossene und nachvollziehbare Aufstellung, aus der sich sämtliche Aktiva und Passiva sowie wertbildende Angaben ergeben müssen, über die Höhe ihres Vermögens am **10.02.2009**, sowie am **03.07.2015**, und am **14.08.2016**.
2. gegebenenfalls nach Erfüllung der ersten Stufe der Antragsgegnerin aufzugeben, dem Antragsteller noch zu benennende Belege vorzulegen.
3. gegebenenfalls, für den Fall, dass Anhaltspunkte dafür bestehen, dass die Auskunft nicht mit der erforderlichen Sorgfalt, unvollständig oder unrichtig erteilt worden ist, der Antragsgegnerin aufzugeben, an Eides statt zu versichern, dass sie nach bestem Wissen den Bestand so vollständig angegeben hat, als sie dazu imstande sei.
4. der Antragsgegnerin aufzugeben, für den Fall der Scheidung ab Rechtskraft der Scheidung an den Antragsteller den sich aus der Auskunft ergebenden Zugewinnausgleich zu zahlen nebst Zinsen in Höhe von 5 Prozentpunkten über Basiszinssatz ab Rechtskraft der Scheidung.

Disclosure – § 235 FamFG

- In maintenance cases since 2009
- Court can order disclosure of its own motion (§ 235 FamFG)
- Some do, most don't (it's the lawyer's job!)

Disclosure – Enforcement

- Court order stage 1 or 2
 - disclose/provide documentation
- Enforcement
 - court imposed penalty up to 25.000,00 €
 - disadvantage: slow
- Failure to disclose may provide grounds for preservation order (seizure and freezing of assets)

Disclosure – Pension rights

- Mandatory in divorce proceedings (except agreement)
- Court acts of its own motion
 - asks for current and previous employers (form V10)
 - requests disclosure directly from employers/pension funds

Thank you!

**European Young Lawyers Conference in Warsaw:
Hague, Human Rights and International Issues in Uncertain Times**

AUDIENCE QUESTIONS

THURSDAY 16 NOVEMBER

Session 1: Disclosure and Confidentiality Issues

1. What are the general rules applicable to confidentiality in your country and what are the sanctions for not respecting these rules?
2. In particular, do you have the obligation to reveal to the court all information you may know about your client?
3. Are exchanges between lawyers confidential by operation of law in your country?
4. What is the first step you take in practice to prevent conflict of interests and protection confidentiality in international cases?

 International Academy of Family Lawyers

European Young Lawyers' Conference in Warsaw

Cross border enforcement of decisions & injunctions

17 November 2017


Ruth Innes, Advocate Eleri Jones, Barrister



 

 International Academy of Family Lawyers

Mini Agenda

- ❖ Mechanisms for implementation & enforcement
- ❖ Enforcing injunctions (including freezing orders)
- ❖ Direct applications for enforcement / variation
- ❖ Capital, maintenance and the 'needs' principle
- ❖ Enforcing pension sharing orders
- ❖ Recognition
- ❖ Drafting considerations




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Mechanisms – implementation/enforcement

- ❖ Mechanism varies depending on what is being enforced – e.g. maintenance/capital – and the other country involved
- ❖ England
 - Complex procedure, specialist knowledge needed, litigants in person
 - Maintenance Regulation, 2007 Protocol, 2007 Hague Convention
 - MR: remember relevant Annex and consider drafting carefully
- ❖ Scotland
 - Which court?
 - Mirror orders?






 



Enforcing injunctions

- ❖ Orders *in personam* and mechanics
 - How will it take effect if the person is outwith the jurisdiction?
 - Contempt of court?
 - Steps to protect assets
- ❖ Alternatives
- ❖ Problems not limited to family law





Direct applications

- ❖ Enforcement
 - EDG v RR [2014] EWHC 816 (Fam) – English High Court
Application to enforce French order for child maintenance
 - S v S (Case C-283/16) EU:C:2017:104 – CJEU, Sixth Chamber
Application to enforce German order for child maintenance
- ❖ Variation
 - AB v JJB [2015] EWHC 192 (Fam) – English High Court
Application to vary a German spousal maintenance order
 - B v B ? [2017] EWHC 1029 (Fam) – English High Court
Lis pendens between Italy (variation) and England (enforcement) – English order




Capital, maintenance and 'needs'

- ❖ Differences in substantive law give rise to difficulties in enforcement
 - Capital as shared capital
 - Capitalised maintenance or
 - Capital to meet needs?
- ❖ Van den Boogaard v Laumen (Case C-220/95)






 


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Enforcing pension sharing orders

- ❖ Differences in the way in which pension schemes operate give rise to difficulties in enforcing orders in respect of pensions
- ❖ Check first – ideally before proceedings are raised – as to how any pension based in another country will be shared following divorce
- ❖ Consider alternatives






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Recognition Drafting considerations

- ❖ Recognition
 - Ramadanj [2015] EWCA Civ 1138 – English Court of Appeal
Proceedings in Slovenia, wife applied for further orders in England - issue of wife's entitlement to maintenance: terminated in Slovenia – a decision to be recognised?
 - Key question: what is 'decided' or forms part of a 'court settlement'?
- ❖ Drafting
 - Consider the wording (and translation) of orders to ensure proper understanding



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Group discussions

1. What legal process must be followed in your country to enforce and/or implement a financial order?
2. In particular, what is your experience of enforcing injunctions, including freezing orders (incoming or outgoing)?
3. What are the biggest challenges you face in enforcing, implementing or varying foreign financial orders in your country or your orders abroad?

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AUDIENCE QUESTIONS

THURSDAY 16 NOVEMBER

Session 2: Cross Border Enforcement of Decisions and Injunctions

1. What legal process must be followed in your country to implement a financial order?
2. What are the biggest challenges you face in implementing foreign financial orders in your country?
3. In particular, what is your experience in enforcing foreign freezing orders?

**OLEKSANDER AND MARIA
a case-study on international prenuptial agreements**

Nicholas Bennett, Farrer & Co, London
Federico Cecolin, Segreteria Studio Daniela Missaglia, Milan
Irina Moroz, AGA Partners, Kiev
Sonia Ryser, Borel & Barbey, Geneva

Oleksander and Maria are engaged. Oleksander is the son of one of Vladyslav, one of Ukraine's wealthiest men. He has Ukrainian nationality. Maria is the daughter of a poor, but happy, restaurant-owner in the canton of Ticino in Switzerland. She is Swiss, but also holds an Italian passport thanks to her great-grandparents.

Maria and Oleksander met in London, where she was studying English and he was doing nothing. They like London, and want to stay there for the foreseeable future. They are keen to have children, and plan for them to be educated at one of England's finest public schools.

Vladyslav is delighted that Oleksander has found such a charming person to marry. However, he is determined that none of his money should ever go to her. You have been asked to advise Oleksander; Vladyslav wants to meet you today. The wedding is on 1 December.

In your jurisdiction—

- does there need to be financial disclosure?
- do Oleksander and Maria need independent legal advice?
- is there a legal issue that the wedding is so near?
- can Oleksander and Maria choose the law applicable to property or maintenance in a binding manner?
- can Oleksander and Maria choose the jurisdiction for disputes to be heard in a binding manner?
- if Vladyslav insists on a regime of complete separation of property, could Maria challenge that on a divorce?
- if Vladyslav insists that no maintenance will be payable to Maria on divorce, and the agreement records this, could Maria challenge that too?

FARRER&Co



Oleksander and Maria
a case-study on international pre-nuptial agreements

IAFL European Young Lawyers' Conference: Warsaw 2017

Nicholas Bennett, Farrer & Co, London
Federico Cecolin, Segreteria Studio Daniela Missaglia, Milan
Irina Moroz, AGA Partners, Kiev
Sonia Ryser, Borel & Barbey, Geneva

F&Co

The facts

- Oleksander and Maria are engaged. Oleksander is the son of one of Vladyslav, one of Ukraine's wealthiest men. He has Ukrainian nationality. Maria is the daughter of a poor, but happy, restaurant-owner in the canton of Ticino in Switzerland. She is Swiss, but also holds an Italian passport thanks to her great-grandparents.
- Maria and Oleksander met in London, where she was studying English and he was doing nothing. They like London, and want to stay there for the foreseeable future. They are keen to have children, and plan for them to be educated at one of England's finest public schools.
- Vladyslav is delighted that Oleksander has found such a charming person to marry. However, he is determined that none of his money should ever go to her. You have been asked to advise Oleksander; Vladyslav wants to meet you today. The wedding is on 1 December.

F&Co

In your jurisdiction: some procedural questions

- Does there need to be financial disclosure?
- Do Oleksander and Maria need independent legal advice?
- Is there a legal issue that the wedding is so near?

F&
Co

In your jurisdiction: some substantive questions

- can Oleksander and Maria choose the law applicable to property or maintenance in a binding manner?
- can Oleksander and Maria choose the jurisdiction for disputes to be heard in a binding manner?
- if Vladyslav insists on a regime of complete separation of property, could Maria challenge that on a divorce?
- if Vladyslav insists that no maintenance will be payable to Maria on divorce, and the agreement records this, could Maria challenge that too?

**European Young Lawyers Conference in Warsaw:
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AUDIENCE QUESTIONS

FRIDAY 17 NOVEMBER

Session 1: Oleksander and Maria: a case-study on international prenuptial agreements

1. What are the legal steps required in your country to sign a prenuptial agreement?
2. What is your experience in implementing international prenuptial agreements or foreign matrimonial regimes in your country?
3. In your opinion what is good practice to follow to give effect to continental prenups before common law courts?

Friday Session 2: What the Hague Conventions offer

VCA VÉRONIQUE CHAUVEAU ET ASSOCIÉS



THE 2007 HAGUE CHILD SUPPORT CONVENTION

Nicolas Sauvage, Lawyer, VCA Law Firm, Paris
IAFL European Young Lawyers Conference, Warsaw 17 nov. 2017

WHY ONE MORE CONVENTION ON CHILD SUPPORT?

At the time of the negotiations (2001-2007):

- United Nations Convention on the Recovery Abroad of Maintenance of 20 June 1956
- Hague Convention of 15 April 1958 concerning the recognition and enforcement of decisions relating to maintenance obligations towards children
- Hague Convention of 2 October 1973 on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations
- Montevideo Convention
- Brussels I Regulation
- Lugano Convention
- Bilateral treaties
- Letters of understanding...

VCA VÉRONIQUE CHAUVEAU ET ASSOCIÉS

WHY ONE MORE CONVENTION ON CHILD SUPPORT?

States do not want to pay instead of the debtors any longer

LEGAL GROUND FOR ACTION:

Article 27 of the UN Convention on the Rights of the Child (1989)

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development. (...)
4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. (...)

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Friday Session 2: What the Hague Conventions offer

MAIN FEATURES OF THE 2007 CONVENTION

Efficiency :

- Cheap mechanism
- Effective mechanism
- Quick mechanism

Flexibility:

- For the State parties:
 - No Direct Jurisdiction Rules
 - No Applicable Law Rules
 - Reservations/Declarations
- For the parties:
 - recognition of agreements,
 - use of information technology,
 - all Child Support requests may be addressed to Central Authorities



BASIC STRUCTURE OF THE 2007 CONVENTION

1st Pillar: Administrative cooperation – Central Authorities :

- General functions of Central Authorities
- Specific functions of Central Authorities
- Available applications
- Free legal assistance to child support applications

2nd Pillar: Recognition and Enforcement Rules :

- Bases for R&E
- Procedure for R&E
- Alternative procedure for R&E
- Maintenance Arrangements

3rd Pillar: Enforcement by the State addressed



EVEN MORE FLEXIBILITY FOR LAWYERS

Article 37 of the 2007 Convention

Direct requests to competent authorities

(1) *The Convention shall not exclude the possibility of recourse to such procedures as may be available under the internal law of a Contracting State allowing a person (an applicant) to seise directly a competent authority of that State in a matter governed by the Convention (...).*



Friday Session 2: What the Hague Conventions offer

DIRECT REQUESTS TO COMPETENT AUTHORITIES (ART.37)

- To have a maintenance decision established or modified: Limit on proceedings (art. 18)
- For Recognition and enforcement (2nd pillar)
 - Bases for R&E
 - Procedure for R&E
 - Maintenance Arrangements
- For Enforcement rules in the State addressed (3rd pillar)
- For vulnerable children: a decision issued when the child was below 21 years, can be R&E through direct request even after the vulnerable child reaches 21 years old

VCA VÉRONIQUE CHAUVEAU ET ASSOCIÉS

USEFULL TOOLS FOR LAWYERS

- **Child Support Section** of the HCCH Website
- **E-Country profiles**
- **Explanatory Report**, drawn up by Alegría Borrás and Jennifer Degeling with the assistance of William Duncan and Philippe Lortie
- **Practical Handbook** for Caseworkers under the 2007 Child Support Convention

VCA VÉRONIQUE CHAUVEAU ET ASSOCIÉS

THANK YOU FOR YOUR ATTENTION!

For any questions:

Nicolas SAUVAGE, Partner, Paris


n.sauvage@chauveau-associes.com

+33 1 55 42 55 25

VCA VÉRONIQUE CHAUVEAU ET ASSOCIÉS

WHAT THE HAGUE CONVENTIONS OFFER?

Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children

Elga Sykiäinen 

Warsaw
November 2017

THE CONVENTION ON CHILD PROTECTION 1996

- Full title:
Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children
- Entered into force on 1 January 2002
- As of 13 November 2017: 50 Contracting States (including all the EU-Member States);
- Newest accession:
 - Turkey; Cuba; Honduras
- Countries signed but not ratified (yet) the 1996 Convention: Argentina, Canada, USA

CONTRACTING STATES

ALBANIA	DOMINICAN REPUBLIC	LESOTHO	SERBIA
<u>ARGENTINA</u>	ECUADOR	LITHUANIA	SLOVAKIA
ARMENIA	ESTONIA	LUXEMBOURG	SLOVENIA
AUSTRALIA	FINLAND	MALTA	SPAIN
AUSTRIA	FRANCE	MONACO	SWEDEN
BELGIUM	GEORGIA	MONTENEGRO	SWITZERLAND
BULGARIA	GERMANY	MOROCCO	TURKEY
<u>CANADA</u>	GREECE	NETHERLANDS	UKRAINE
CROATIA	HONDURAS	NORWAY	UNITED KINGDOM
CUBA	HUNGARY	POLAND	<u>UNITED STATES OF AMERICA</u>
CYPRUS	IRELAND	PORTUGAL	URUGUAY
CZECH REPUBLIC	ITALY	ROMANIA	
DENMARK	LATVIA	RUSSIAN FEDERATION	

OBJECTIVES

- To provide for the better protection of children in cross-border situations – under civil, not criminal, law;
- To avoid conflicts between legal systems in decisions concerning child protection;
- To improve co-operation among States for the protection of vulnerable children;
- The best interests of the child are a primary consideration in matters related to the protection of the child.

OBJECTIVES II

- The 1996 Convention may be applicable in:
- Cross-border parental disputes over custody or contact;
 - Situations in which refugee or internationally displaced children are in need of protection;
 - Cross-border placements of children;
 - Cases of international child abduction.

OBJECTIVES III

- Common rules on **jurisdiction** to avoid conflicts (see Chapter II of the Convention), *art. 1 a*);
- Universal rules on the **law applicable** to parental responsibilities and child protection measures (see Chapter III), *art. 1 b) and c*);
- **Recognition and enforcement** mechanisms in all Contracting States for protective measures made in one Contracting State (see *Chapter IV*), *art. 1 d*);
- A practical but flexible system of **inter-State co-operation** through Central Authorities and other channels (see *Chapter V*), *art. 1 e*).

“MEASURES OF PROTECTION” (ART. 3)

includes a non-exhaustive list:

- The attribution, exercise, termination, restriction or delegation of **parental responsibility**;
- Rights of **custody and of access**;
- **Guardianship, curatorship** and analogous institutions;
- The designation and functions of any person or body having charge of the child’s person or property, **representing or assisting** the child;
- The placement of the child in a **foster family or in institutional care**, or the provision of care by kafala or an analogous institution;
- The **supervision** by a public authority of the care of a child by any person having charge of the child;
- The administration, conservation or disposal of **the child’s property**.

GENERAL RULE:

- Primary jurisdiction to make decisions about the child is with the authorities of the State of the **habitual residence** of the child, *art. 5 (1)*;
- In case of a **change** of the child’s habitual residence to another Contracting State, the authorities of the State of the **new** habitual residence have jurisdiction, *art. 5 (2)*;
- A change of the habitual residence of the child may however not terminate any measures already taken, *art. 14*.

RECOGNITION AND ENFORCEMENT

- Measures of protection taken in one Contracting State are **automatically recognised** in all other Contracting States, with limited exceptions, *art. 23* (**NB: art.13(b) of the 1980 Convention is not applicable**);
- They are **enforceable** in accordance with the procedure of the law of the requested Contracting State, *art. 26 (1)*;
- A simple and rapid procedure must be applied to the declaration of enforceability or registration, *art. 26 (2)*;
- There shall be no review of the merits of the measure taken, *Art. 27*;
- Enforcement is to take place in accordance with the **law of the requested Contracting State** and to the extent provided by such a law, taking into consideration the best interests of the child, *art. 28*.

Friday Session 2: What the Hague Conventions offer

CENTRAL AUTHORITIES

- In particular the co-operation provisions of the Convention rely on Central Authorities either directly to put them into effective practice, or to assist and facilitate the direct co-operation of other Convention actors;
- Central Authorities play an important role in transmitting requests and information to the appropriate competent authority(ies) in their State or another, as well as in transmitting requests and information to other Central Authorities;
- Central Authority functions under the 1996 Convention have different emphasis than those under the 1980 Convention

THE 1996 CONVENTION ↔ THE HAGUE 1980 CHILD ABDUCTION CONVENTION

The 1996 Convention, Article 50:

“This Convention shall not affect the application of the Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, as between Parties to both Conventions. Nothing, however, precludes provisions of this Convention from being invoked for the purposes of obtaining the return of a child who has been wrongfully removed or retained or of organising access rights”

THE 1996 CONVENTION ↔ THE HAGUE 1980 CHILD ABDUCTION CONVENTION

The 1996 Convention	The 1980 Convention
The Convention applies to children from the moment of their birth until they reach the age of 18 years (art.2)	The Convention shall cease to apply when the child attains the age of 16 years (art.4)
In case of wrongful removal or retention of the child, the authorities of the Contracting State in which the child was habitually resident immediately before the removal or retention keep their jurisdiction until the child has acquired a habitual residence in another State, and a) each person, institution or other body having rights of custody has acquiesced in the removal or retention; or b) the child has resided in that other State for a period of at least one year after the person, institution or other body having rights of custody has or should have had knowledge of the whereabouts of the child, no request for return lodged within that period is still pending, and the child is settled in his or her new environment (art.7)	Where a child has been wrongfully removed or retained ...and, at the date of the commencement of the proceedings before the judicial or administrative authority of the Contracting State where the child is, a period of less than one year has elapsed from the date of the wrongful removal or retention , the authority concerned shall order the return of the child forthwith (art.12)

Thank you for your attention!

European Young Lawyers Conference in Warsaw: Hague, Human Rights and International Issues in Uncertain Times

AUDIENCE QUESTIONS

FRIDAY 17 NOVEMBER

Session 2: What the Hague Conventions offer

1. How have you been using the Hague Conference website so far? For which purpose?
2. Have you ever tried to be in touch with a Hague network judge or refer your case to him or her by any means ?
3. Have you ever been in contact with Central authorities designated under Hague Conventions (except Child abduction matters)? What has been your experience? What kind of concrete support did they offer to you or to your client?
4. Have you ever applied the 1996 Hague Convention between EU Member States (outside Denmark)?




CJEU case-law & Brussels II-bis amendments

Prof. dr. Ian Sumner
17 November 2017, Warsaw, IAFL



Structure


1. Case law of the CJEU
 - a) Brussels II-bis Regulation
 - b) Maintenance Regulation
 - c) Rome III Regulation
 - d) Succession Regulation
 - e) Brussels I-bis Regulation
2. Proposal to amend Brussel II-bis



CJEU cases on Brussels II-bis

Brussels II-bis Regulation

- ✓ *OL v. PQ* 8 June 2017, C111/17
- ✓ *W&V v. X15* February 2017, C499/15
- ✓ *CFA v. JD* 27 October 2016, C428/15
- ✓ *Mikolajczyk* 13 October 2016, C294/15
- ✓ *MH* 22 June 2016, C173/16
- ✓ *R v. ST* 7 June 2016, C492/15



CJEU cases; other instruments

Maintenance Regulation

- ✓ *MS v. PS* 9 February 2017, C283/16
- ✓ *W&V v. X15* February 2017, C499/15
- ✓ *A v. B* 6 October 2015, C489/14
- ✓ *L v. M* 12 November 2014, C656/13

Rome III Regulation

- ✓ *Sahyouni* 12 May 2016, C281/1



CJEU cases; other instruments

Succession Regulation

- ✓ *Kubicka* C218/16

Brussels I-bis Regulation

- ✓ *Iliev* 14 June 2017, C67/17



Future decisions

Succession Regulation

- ✓ *Oberle*, C20/17
- ✓ *Mahnkopf*, C558/16

Brussels II-bis Regulation

- ✓ *IQ*, C478/17
- ✓ *Liberato*, C386/17
- ✓ *Valcheva*, C335/17
- ✓ *Saponaro*, C656/16

Maintenance Regulation

- ✓ *Mölk*, C214/17



Amendments

- ✓ Divorce
 - ✓ No changes, thus
 - ✓ No hierarchy in jurisdiction provisions
 - ✓ No choice of court clause
 - ✓ Still first-past the post
- ✓ Parental Responsibility
 - ✓ No *perpetuatio fori* principle
 - ✓ Amendments to choice of forum clause
 - ✓ Provisional measures independent ground for jurisdiction
 - ✓ Separate chapter for child abduction cases
- ✓ Recognition and enforcement
 - ✓ Abolition of *exequatur*



Contact details

A: Wijnstraat 172
3311 BZ Dordrecht

M: (06) 4709 4427

E: info@voorts.com

W: www.voorts.com



**European Young Lawyers Conference in Warsaw:
Hague, Human Rights and International Issues in Uncertain Times**

AUDIENCE QUESTIONS

FRIDAY 17 NOVEMBER

Session 3: The EU & ECHR Cases

1. How do you think BREXIT will change our practice in cases between the UK and an EU member?
2. Based on your experience, what should be changed or improved in the Brussels II a Regulation?
3. Do you think that, in case of a change of the child's habitual residence to another EU Member State, the authorities of the State of the new habitual residence should have jurisdiction as under the 1996 Hague Convention?
4. Has your law society taken step to prepare the entry into application of the matrimonial property regulations?