Issue 2015.1 Nederlands Internationaal Privaatrecht on Brussels IIbis revision

The first issue of 2015 of the Dutch journal on Private International Law, *Nederlands Internationaal Privaatrecht*, is a special issue on the upcoming revision of the Brussels IIbis Regulation. Renowned scholars reflect on topical issues that need to be addressed in the revision. It includes the following contributions:

Ian Curry-Summer, 'The revision of Brussels IIbis' (Editorial).

Alegría Borrás, 'Grounds of jurisdiction in matrimonial matters: recasting the Brussels IIa Regulation', p. 3-9.

Abstract. *The recasting of the Brussels IIa Regulation implies different considerations. The first one is the review of the existing grounds of jurisdiction and how they can survive in the new text. The second is the possibility of the introduction of party autonomy and the hierarchization of the grounds of jurisdiction. These modifications imply the possibility of including changes in other rules related to jurisdiction. Although it would be a good result if all member states could accept the rules on matrimonial matters, as well as on jurisdiction and on the applicable law, this still seems to be difficult, taking into account the need for unanimity and the experience with the Rome III Regulation.*

Th.M. de Boer, 'What we should *not* expect from a recast of the Brussels IIbis Regulation', p. 10-19.(sample copy)

Abstract. *If the European Commission decides to recast the Brussels IIbis Regulation, it is likely to submit a proposal in which the focus will be on practical matters, such as judicial cooperation, the return of abducted children, or the further abolition of exequatur. The questionnaire that was used for the public consultation on the 'functioning' of Brussels IIbis did not leave much room for criticism of the Regulation's points of departure with regard to jurisdiction in matters of parental responsibility. Yet, there are a few issues that may be more important than the prevention of parallel proceedings or the free circulation of*

judgments within the EU. One of them concerns the virtually unlimited scope of the regulation in cases in which jurisdiction is determined by prorogation (Article 12). Another problem results from the perpetuatio fori *principle underlying Article 8. Both provisions confer jurisdiction even if the child is habitually resident outside the EU, which casts considerable doubt on the effectiveness of the court's decision.*

Marco Mellone, 'Provisional measures and the Brussels IIbis Regulation: an assessment of the status quo in view of future legislative amendments', p. 20-26.

Abstract. *The European Commission is assessing the need for legislative amendments to EC Regulation No. 2201/2003 on the recognition and enforcement of decisions in the field of matrimonial and parental responsibility matters (the so-called 'Brussels IIbis' Regulation). One of the key points of that Regulation is jurisdiction and the enforcement of provisional measures. This delicate issue has generated an intense debate among scholars and many decisions of the European Court of Justice have dealt with this subject. Therefore, the author returns to the outcomes of this debate and focuses on the parallel solutions adopted by the Brussels system of jurisdiction and the enforcement of decisions in civil and commercial matters. Following this path, the author tries to assess the right legislative approach for eventual future interventions by the European legislature.*

Janys M. Scott QC, 'A question of trust? Recognition and enforcement of judgments', p. 27-35.

Abstract. *The European Commission and the European Council propose to revise Brussels IIa to abolish* exequatur *in all matters of parental responsibility. There are some good reasons for extending direct enforcement, but this should not be at the expense of abandoning safeguards including those relating to public policy, nor should it involve diluting protection for children. If the Regulation is to deliver enforcement measures that work, then consideration must be given to how enforcement is made effective. This is likely to involve a continued role for the courts of the member state where a judgment is to be enforced.*

Francisco Javier Forcada Miranda, 'Revision with respect to the cross-border placement of children', p. 36-42.

Abstract. *Concerning the current Council Regulation (EC) 2201/2003, in application for almost 10 years, on 15 April 2014 the Commission adopted a*

report on its application in practice that was followed by an extensive public consultation. In 2015, the Commission has launched a call for expressions with a view to setting up a group of experts to assist the Commission in the preparation of a legislative proposal for a revision of the Regulation. Within this process, one of the most important topics to be discussed is the proper functioning of the placement of a child in another member state in accordance with Article 56. In this field, this report helps to identify precedents, challenges and problematic points to be addressed and details and discusses the national procedures as well as topics of mutual trust, the case law of the Luxembourg Court of Justice and the best interests of the child in these situations, all of which aim to highlight the many prospective improvements to be achieved.

This issue also includes a conference report authored by Jacqueline Gray 'Congress report: ERA Annual Conference on European Family Law 2014', p. 43-45.