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Issue 1/2021 of RabelsZ is now available online! It contains the following articles:

Reinhard Zimmermann (Hamburg): Zwingender Angehörigenschutz im Erbrecht - Entwicklungslinien jenseits der westeuropäischen Kodifikationen (Mandatory Family Protection in the Law of Succession), RabelsZ 85 (2021) 1–75 – DOI: 10.1628/rabelsz-2020-0092

> *Following on from an earlier contribution devoted to the development of the notions of forced heirship and compulsory portion, this contribution pursues the development of mandatory family protection for legal systems beyond the West European codifications: in postsocialist countries of Central and Eastern Europe, in Nordic states, in South and Central American codifications, and in countries without a code of private law, i.e. England and the legal systems originally based on English law. An interesting panorama of different solutions thus presents itself, in particular legal systems operating with fixed shares in the estate, those making available a fixed share only in cases of need, those awarding asum substituting for maintenance claims, or those turning the claim of the closest relatives into a discretionary remedy. Overall, an observation made in the previous essay is confirmed: a tendency towards achieving greater flexibility in legal systems traditionally operating with fixedshares. The concept of family provision originating in New Zealand, while providing a maximum degree of flexibility, cannot however serve as a model to be followed. The question thus arises whether maintenance needs are the criterion balancing legal certainty and individual justice in the comparatively best manner.*

Florian Eichel (Bern): Der „funktionsarme Aufenthalt“ und die internationale Zuständigkeit für Erbscheinverfahren (International Jurisdiction in Simple Succession Cases with an “Habitual Residence of Minor Significance”), RabelsZ 85 (2021) 76–105 – DOI: 10.1628/rabelsz-2020-0093

> *In order to prevent inefficient parallel proceedings in international succession*

cases, the EU Succession Regulation concentrates jurisdiction in a single Member State. In the Oberle case (C-20/17), the ECJ decided that this jurisdiction also extends to non-contentious proceedingsregarding the issuance of certificates of succession. In cases in which the deceased had moved abroad late in life, this could lead to a "remotejustice", as the certificate of succession would have to be issued there, even when the heirs and the assets are located in another MemberState. This concerns in particular non-contentious succession cases which are of a simple nature, but such cases were not in the focus of lawmakers. The article shows that the Succession Regulation crafts solutions so as to avoid "artificial jurisdictions". Whereas a flexibledetermination of the habitual residence is not a viable solution, there is room to allow proceedings in the Member State whose law isapplicable by way of exception and thus to establish jurisdiction in that state. In the cases WB (C-658/17) and EE (C-80/19), the ECJ hasshown another way of dealing with these cases and thereby enabling a citizen-friendly way of treating international succession cases.

Leonhard Hübner (Heidelberg): Die Integration der primärrechtlichen Anerkennungsmethode in das IPR (The Primary Law Recognition Method and Its Integration into Private International Law), RabelsZ 85 (2021) 106–145 – DOI: 10.1628/rabelsz-2020-0094

Since Savigny, private international law (PIL) has been chiefly shaped by the referral method. More recently, EU primary law has appeared on the scene as a rival that threatens to override the traditional system as a result of the influence that the fundamental freedoms and the freedom of movement have on PIL. This can be observed in the case law of the ECJ dealing with the incorporation of companies and names as personal status rights. The ECJ has determined certain results based on EU primary law without touching upon the (national) conflict rules. This "second track" of determining the applicable law was already labelled as the recognition method almost twenty years ago. According to previous interpretations of case law, it is limited to the two areas of law mentioned above. In particular, controversial topics in the culturallysensitive area of international family law, such as the recognition of same-sex marriages, are according to the prevailing opinion not coveredby the recognition method. However, various developments, such as the ECJ's Coman decision and the discussion on

underage marriage in German PIL, raise doubts as to whether this purported limitation is in line with the integration concept of EU primary law. The questiontherefore arises as to how a meaningful dovetailing of conflict-of-law rules and EU primary law can be achieved in PIL doctrine.

Christiane von Bary / Marie-Therese Ziereis (München): Rückwirkung in grenzüberschreitenden Sachverhalten: Zwischen Statutenwechsel und ordre public (Retroactive Effect in International Matters, Change of the Applicable Law, and Public Policy), RabelsZ 85 (2021) 146–171 – DOI: 10.1628/rabelsz-2020-0095

While German law does provide for a detailed differentiation as regards retroactive effect in the domestic context (II.), retroactivity has rarelybeen discussed in transnational cases relating to civil matters. The national solutions cannot generally be transferred to the international level; instead, it is crucial to rely on the methods of private international law – in particular rules dealing with a change of the applicable law and withpublic policy. German private international law largely prevents retroactive effects from occurring through the methodology developed for dealing with a change of the applicable law (III.). Distinguishing between completed situations, ongoing transactions and divisible as well as indivisible long-term legal relationships, it is possible to ensure adherence to the principle of lex temporis actus. If the retroactive effect iscaused by foreign law, it may violate public policy, which allows and calls for an adjustment (IV.). When determining whether a breach of publicpolicy occurred in a case of retroactivity, it is necessary to consider the overall result of the application of foreign law rather than just the decision as to which foreign law is applicable. For guidance on whether such a result violates public policy, one has to look at the national principles dealing with retroactive effect.