

# **Lex & Forum, Volume 4/2022 - A special on cross border family law**

Family disputes constitute the majority of cases of cross-border nature. The free movement of people within the European judicial space and the integration of third-country nationals has created a considerable number of multinational family structures, that give rise to a significant number of legal disputes, leading to complex conflict of law issues. It is no coincidence that in the area of family disputes one could identify the most extended number of EU legislative initiatives, from Regulation 1347/2000 (Brussels II Regulation) on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility for children of both spouses, followed by the “successors”, i.e., Regulation No 2201/2003 (Brussels IIa Regulation) and Regulation 2019/1111 (Brussels IIb Regulation), Regulation 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations, Regulation 1259/2010 (Rome III Regulation) on the applicable law to divorce and legal separation, as well as and Regulations 2016/1103 and 2016/1104 on international jurisdiction, applicable law, recognition and enforcement of decisions in matters of matrimonial property regimes and, registered partners, respectively, covering the maximum scope of personal or property family disputes. It is also notable that, as concluded after examining the data kindly brought to our attention by the Thessaloniki Court of First Instance Department of Publications, out of one hundred court judgments related to international law issued in the year 2022 by the above mentioned Court, approximately 70% of them concerned family disputes in a broader sense, either within the EU, or related to third countries, demonstrating the importance of the matter in practice.

Cross-border family disputes are the Focus of the current issue and were examined in an online conference of Lex and Forum (8.12.2022), under the Presidency of the Supreme Court Judge, *Ms. Evdoxia Kiouptsidou-Stratoudaki*. The topics of the conference concern the international jurisdiction on matrimonial and child custody disputes according to Regulation No 2019/1111, by *Ioannis Delikostopoulos*, Professor at the Faculty of Law of the University of Athens; the practical problems of the application of the Regulations for family disputes and

parental custody disputes, by *Ms. Aikaterini Karaindrou*, Judge at the First Instance Court; the agreements on the exercise of parental care according to Regulation No 2019/1111 and their relationship with Greek law, by *Aikaterini Fundedaki*, Professor at the Law Faculty of the University of Thessaloniki; Law No 4800/2021 and the harmonization of the Greek legal provisions with international law, by *Ioannis Valmantonis*, Judge at the Court of Appeal, and the new Hague Convention for the protection of adults, by *Dr. Vasileios Sarigiannidis*, Head of the Private International Law Department at the Hellenic Ministry of Justice.

The present issue also contains case comments on the CJEU judgment, 15.11.2022, *Senatsverwaltung/TB*, on the recognition of dissolution of marriage from another member state, by *Dr. Apostolos Anthimos*; the CJEU judgments, 15.11.2021, *??/FA* and 10.2.2022, *OE/VY*, on the concept of habitual residence and, respectively, the importance of the length of residence of the claimant in a member state for the establishment of international jurisdiction under the Brussels IIa/b Regulation, by *Paris Arvanitakis*, Professor at the University of Thessaloniki, and *Stefania Kapaktsi*, Judge at the Court of First Instance; the Greek Supreme Court judgment No 30/2021 on the declaration of enforceability of a foreign decision on the distribution of the spouses' common property, by *Dr. Apostolos Anthimos*; the Greek Supreme Court cases No 48/2021 and 54/2021 on international child abduction, by *Ioannis Valmantonis*, Judge at the Court of Appeal; the judgment of the Thessaloniki First Instance Court No 1285/2022, on the temporary regulation of contact rights according to the Brussels IIb Regulation and the 1996 HAGUE Convention, by Professor *Delikostopoulos*, and the German Supreme Court judgment dated from 29.9. 2021, on the non-opposition to public order of a marriage performed by a proxy, with a note by *Dr. Anthimos*. The jurisprudence section also contains the CJEU decisions, 22.4.2022, *Volvo/RM*, regarding the temporal scope of the Directive No 2014/104 and their incorporation into substantive or procedural EU law, accompanied by the Opinion of the Advocate General, *Mr. Athanassios Rantos*, with a case comment by *Dr. Stefanos Karameros, PhD*, and the Court of First Instance case No 13535/2019, on the possibility of implicit prorogation of jurisdiction in case of provisional measures in the Brussels Ia Regulation, despite a contrary agreement, with a case comment by *Ioanna Pissina, PhD Candidate*.

The issue is completed with the Praefatio by *Vassilios Christianos*, Emeritus Professor at University of Athens, and former Director of the Center of

International and European Economic Law, regarding the contribution of the comparative method to EU procedural law; the expert opinion by *Dimitrios Tsikrikas*, Professor at the Athens Faculty of Law, on the scope of application of choice-of-court agreements in bond loans and interest rate contracts; and finally, the analysis of practical issues on the recognition of foreign divorce decrees, focusing on the difficulties of the applicants to prove the finality of the foreign decision (L&F Praxis), by *Dr. Anthimos*.

[editorial prepared by Professor *Paris Arvanitakis*, scientific director of Lex & Forum]