

# Van Den Eeckhout on CJEU Case Law in PIL matters

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On 29 April 2023, Veerle Van Den Eeckhout gave a presentation on recent case law of the Court of Justice of the European Union. The presentation, now available online, was entitled “CJEU case-law. A Few Observations on Recent CJEU Case Law with Attention for Some Aspects of Logic and Argumentation Theory.” The presentation was given during the Dialog Internationales Familienrecht 2023 at the University of Münster. This presentation builds upon a previous presentation of the Author, “Harmonized interpretation of regimes of judicial cooperation in civil matters?”, which is now also available online.

## **CJEU case-law. A Few Observations on Recent CJEU Case Law with Attention for Some Aspects of Logic and Argumentation Theory**

The presentation focuses on case law of the CJEU regarding international family law, but adopts a broad view, particularly by taking into account also case law outside the field of international family law – especially when issues arise both in the context of international family law and in the context of PIL outside the field of international family law –, and by paying attention to case law of the CJEU outside the pure interpretation of PIL regulations – where a national court is not asking in its question referred for a preliminary ruling, as such, for an interpretation of a PIL regulation, but the case might, possibly, affect PIL or interrelate with PIL; thus, for example, a recent judgment such as *Belgische Staat (Réfugiée mineure mariée)*, Case C-230/21, regarding a right to family reunification based on Directive 2003/86 was also considered in the analysis.

While presenting case law of the CJEU in PIL matters, the presentation particularly aimed to explore some aspects of methodology, reasoning, deductions and “consistency”. The research thus presents some aspects of methodology of interpretation of European law by the CJEU – regarding methods

the CJEU is using to interpret European law -, as well as some issues of analysis of case law of the CJEU - whereby a case of the CJEU subsequently raises questions regarding its content and reasoning -, and some questions regarding possible further deductions based on the case law of the CJEU. The presentation does not pretend any exhaustiveness in this regard, but rather explores and presents some of these aspects, looking at recent cases of the CJEU.

The PowerPoint of the presentation is available [here](#). A version of this PowerPoint including also an extended version thereof is available [here](#).

## **Harmonized interpretation of regimes of judicial cooperation in civil matters?**

The presentation of 29 April 2023 continued on some aspects that were presented in a discussion of case law of the CJEU at the “Lugano Experts Meeting” in June 2022. The Lugano Experts Meeting 2022 was organised in Bern. The previous Lugano Experts Meeting had taken place in 2017.

The presentation at the Lugano Experts Meeting 2022, on 1 June 2022, essentially concerns case law of the CJEU between 2017 and 2022. It discusses issues of harmonised interpretation of regimes of judicial cooperation in civil matters. It includes some notes on case law of the CJEU regarding the Lugano convention 2007, the Brussels 1 bis regulation, and several second generation regulations such as the European Enforcement Order Regulation, the European Order for Payment Procedure Regulation, and the European Small Claims Procedure Regulation.

As a matter of fact, one may observe a wide range of instruments that are indicated as instruments of “Judicial cooperation in civil matters” (Chapter 3 of Title V of the Treaty on the Functioning of the European Union), interpreted in a continuous stream of decisions (judgments and orders) by the CJEU. The presentation of case law of the CJEU at the Lugano experts meeting offers, inter alia, a discussion of issues of (in)consistency and influence/interaction between regimes, of giving or not a harmonised interpretation, of making possible deductions from a judgment in one context to another context. The relevance thereof is presented particularly in light of preliminary questions to the CJEU, with attention for article 53, paragraph 2, and article 99 of the Rules of Procedure

of the Court. Issues and questions arising thereby include, inter alia, the following: what are national judges “supposed to know already” when reflecting about asking a preliminary question to the CJEU; how wide should the CJEU’s field of vision be when assessing whether a question should be answered by order of by judgment, and when deciding about the content of the judgment – taking thereby or not into account the interpretation that has already been given in the context of another instrument.

The PowerPoint of this presentation is available [here](#).

*\*Any view expressed in these presentations is the personal opinion of the author.*