

## REVIEW OF HUNGARIAN SCHOLARLY LITERATURE

# Csongor István Nagy (ed.), *Cross-border Litigation in Central Europe* (Book Review)

Kluwer Law International, The Netherlands, 2022, 520 p,  
ISBN 978-94-035-3705-4

Gábor Hajdu\*

Private international law is a uniquely complex field. Its importance in settling conflict of laws and jurisdictional issues when it comes to cross-border disputes cannot be underestimated. In the past two decades, the field has to a large part come under the aegis of EU law. While national private international law acts continue to exist and exert influence where appropriate, the various EU instruments, such as the Rome I or Brussels I regulations, took the centerstage. The application of these instruments in western EU Member States by courts and other national authorities is fairly well-documented. The same cannot be said however, of the newer, Eastern Member States. In these countries, the application of private international law EU instruments by the courts is still studied in a rather fragmented fashion, often by lone researchers. There is hardly a definite book available on the topic in the reviewer's opinion. This volume, which is essentially a collection of national reports, skillfully edited together by Prof. Csongor István Nagy, aims to correct this issue.

The book is the culmination of years of research conducted by the 'Cross-border litigation in Central-Europe: EU private international law before national courts' (CEPIL) project. This project consisted of a consortium of several universities across the EU. These included the University of Szeged (*Szegedi Tudományegyetem*, Hungary, project coordinator), the *Masarykova univerzita* (Czech Republic), the *Sveučilište u Zagrebu* (Croatia), the *Universitatea Sapientia din municipiul Cluj-Napoca* (Romania), the *Univerzita Mateja Bela v Banskej Bystrici* (Slovakia), and the *Uniwersytet Śląski* (Poland). For the purposes of this review, it would be quite difficult to discuss every single author and researcher involved with the project here. The editor, Prof. Csongor István Nagy, is a renowned expert of private international law himself, chairing the department of private international law at the University of Szeged. The other authors are also recognized experts of private international law in their home countries, as shown by the short biographies of contributors listed in the book's opening pages. In the reviewer's opinion, this level of international cooperation is quite commendable.

\* Gábor Hajdu: junior research fellow, Eötvös Loránd Research Network, Centre for Social Sciences, Institute for Legal Studies; junior research fellow, University of Szeged.

An important merit of the volume is that it covered a wide range of newer EU Member States, namely, Croatia, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia. While this range is impressive, the reader may notice that an EU Member State that otherwise fits into this group is missing: Bulgaria. In the reviewer's opinion, this omission is unfortunate, but perhaps counterbalanced by the otherwise wide scope of countries examined in the book. Nevertheless, the book is capable of ameliorating the lack of consolidated research that was pointed out at the beginning of this review. Its chosen topic is of considerable scientific relevance, if we consider that with each passing decade, the importance of transnational legal relations only increases. From business contracts to mixed marriages, the four fundamental freedoms (goods, services, capital, persons) only enhance the frequency of these legal relations. In this regard, the volume covers all the various legal relations, displaying and interpreting case law related to each in the given national reports.

The reviewer established the relevance of topic and general scope of the work. Thus, it is time to dive into the next aspect of the book, the structure. Each of the countries listed above has a dedicated chapter. These chapters are presented in alphabetic order. In the reviewer's opinion, this is sufficient, but the question arises whether a more thematic grouping would have been possible. For example, the Baltic states are almost together even in the present form but are broken up by the inclusion of Hungary after Estonia. It would have been perhaps possible to group the Member States based on their geographical area, or by finding some common thread of legal traditions that would tie some countries closer together than others. Of course, such an attempt could be hampered by one of the earlier strengths of the volume the reviewer had previously mentioned: the wide range of Member States covered. With so many states included in the book, perhaps it would have been unfeasible to artificially attempt to find common threads to group jurisdictions together. It would be perhaps easy to group the Baltic states together through either method (geographical and legal traditions), but the task may have been much more difficult with the other countries included in the present volume. As such, the alphabetical order of countries was perhaps the most convenient editing solution in the end.

The chapters themselves all follow the same standardized structure. They begin with a descriptive explanation of how the judicial system in their given countries operates, the general legislative framework and how EU private international law instruments are applied before national courts in general. Thereafter, all reports delve into more specific questions. First, civil and commercial disputes (with cross-border elements), from the perspectives of the Rome I, Rome II and Brussels I Regulations. Then they all move on to family law disputes (including Brussels II, Rome III, the Maintenance and Matrimonial Property Regulations), before finishing with succession and insolvency. The reader may typically find a short conclusion at the end of each chapter. Overall, the reviewer cannot find much fault with this chapter structure. The topics have a certain logical flow to them, and it seems wise to put civil and commercial disputes first, since they are undoubtedly the most important and relevant, followed by family law and then succession and insolvency. While it may seem

repetitive at first glance, given the nature of the book (an edited collection of individual national reports), a standardized structure and identical thematical templates are very much justified. Still, there is some variation with the exact subheadings, which can be explained by the authors adjusting to the slightly different angles each Member State may present. The reviewer would particularly like to highlight how useful the introductory sections to these chapters are. Few scholars can be considered knowledgeable on the particular court systems and case law databases of all these different EU Member States. The reviewer believes that integrating this information into the chapters not only helps contextualize the analyzed case law, but also provides useful knowledge to the reader that can be potentially applied even outside of the confines of private international law.

It is worth devoting a few words to the somewhat uneven length of the chapters, since this is quite apparent to the readers. Some chapters are of considerable length, while others are comparatively shorter. Of course, this can be owed to the volume of available case law. If a given jurisdiction has fewer cases relating to the application of a particular EU instrument, or if most of those cases involve an 'automatic', unremarkable application of the given instrument by the courts, there is little left for the author to analyze. At least for the reviewer, this unevenness in the chapters' length never seemed to point to a lack of sufficient analysis.

Within the chapters themselves, the attention paid to the different topics is likewise interesting, with most chapters only briefly covering succession matters. This might seem startling at first glance. Given the countries involved, and the high level of emigration taking place towards Western EU Member States (or temporary migration for the sake of work), one would assume that there would be plenty of disputes with cross-border elements that involve matters of succession. However, as Nagy pointed out in the volume's final chapter (discussed below) this does not necessarily imply that there is a dearth of succession disputes with cross-border elements. Rather, in most cases, the dispute simply never reaches the courts. As such, the primary users of the Succession Regulation would be the figures involved in succession proceedings pre-trial, such as public notaries. This is an elegant explanation, but also unfortunately creates a potential gap in the comprehensiveness of the volume. Naturally, accessing succession proceedings that never developed into court disputes is a much more difficult, and a very different task than collating court case law. Furthermore, the book's stated scope and aim was the examination of court cases. Therefore, in the reviewer's opinion, this does not take away from the book's value as a comprehensive overview of EU private international law in the examined Member States.

In the reviewer's opinion, while the various national chapters all present intriguing insights into the application of EU private international law within the Member States, it is the final chapter that ties the book together. Despite the shared subject matter, general structure and standardized methodology, the various chapters each represent partially individual inquiries conducted by the various authors. Thus, the final chapter is an excellent contribution, connecting these individual strands together. Without it, the book would undoubtedly lack a certain focus.

There is no space to discuss the full conclusions drawn by the authors regarding EU private international law, but the reviewer will highlight a few that may be considered particularly notable. One of these is the observation that while forum-shopping, parallel proceedings and tendency towards applying the court's own law are popular subjects of private international law scholarship (a statement the reviewer agrees with), the authors' findings were that these particular issues are significantly less common in practice, especially with regards to forum-shopping and parallel proceedings. This is perhaps a surprising result, but the book's findings on the matter seem rather convincing. Another interesting conclusion drawn by the authors was that the application of EU private international law instruments seemingly poses no major conceptual issues to judges of the examined states. According to the authors, this is due to the fact that these states are civil-law jurisdictions, finding it easy to follow EU instruments that likewise follow a civil law conceptual framework. However, the authors did highlight that there seems to be one recurring issue: learning the content of foreign law. The authors posit that based on the examined case law, as well as the interviews they conducted, the current systems are rather inadequate. Particularly the 1968 European Convention on Information on Foreign Law and the European Judicial Network were considered to be unsuitable. Furthermore, the authors contended that even if access was feasible (if time-consuming), there are still difficulties surrounding the presentation of sources and the lack of follow-up clarifications. The reviewer believes that this aspect of the research has now provided clear, case law-based evidence of an issue that was already suspected by private international law scholars. This finding thus has a degree of scientific merit in itself. Perhaps most importantly, the book also confirmed the hypothesis that EU private international law rules face special expectations and must meet additional requirements in terms of predictability, clarity and uniformity. In this regard, overall, the authors' research found the instruments to be adequate and sufficient.

In conclusion, *Cross-Border Litigation in Central Europe* is an excellent book. While it presupposes a certain degree of fundamental knowledge on EU private international law from the reader, the reviewer considers this volume highly suitable for both junior and senior scholars, seeking a better understanding on how EU private international law functions in court practice within the examined Member States. Even for those whose own research is unrelated to these countries, there are very likely valuable lessons to learn, with examples for comparison and a solid basis for further developing the existing scholarship.