The impact of Brexit on European Civil Procedure

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Jurisdiction and Recognition/Enforcement of Judgments (Civil and commercial matters)

Present situation

- **Brussels Ia Regulation** [UK did opt in]
  - Jurisdiction if defendant EU-domiciliary
  - Recognition of EU-MS judgments
  - Enforcement without exequatur, recognition can be denied

- **Lugano 2007 Convention**
  - Jurisdiction against CH/N/IS-domiciliaries
  - Recognition of judgments from CH/N/IS
  - Enforcement with exequatur

- **Hague 2005 Convention**
  - Jurisdiction if choice of court agreement
  - Recognition of judgments from CS under choice of court agreement
  - NOT applicable between EU-MS

Consequence of Brexit

- **UK no longer MS of Regulation** as Regulations only apply to EU-MS

- [Unclear if **Brussels 1968 Convention** „revives“ as only EC-MS qualify under Art 220 TEEC

- **Jurisdiction&Judgements Act**

- **UK no longer bound** as Lugano 2007 was signed by the EC, not by the EC-MS
  - [UK can join as non-EU/EFTA MS, with EU-MS consent (Art 70)]

- **UK no longer bound** as convention was signed by EU
  - [UK may ratify as CS, EU cannot veto]
Jurisdiction and Recognition of Decisions (Divorce)

Present situation

- **Brussels IIa-Regulation**
  [UK did opt in]
  - Jurisdiction (citizenship or domicile of the parties not relevant)
  - Recognition of EU-MS decisions
  - MS=all EU-MS **without** Denmark

- **Hague 1970 convention (divorce)**
  in force for UK and 13 other EU-MS
  - Recognition of decisions from Contracting States
  - Not applicable between Member States of Brussels IIa-Regulation [Art 60 (1)(c)]

Consequence of Brexit

- **UK no longer MS**
  as Regulations only apply to EU-MS
  [no „Brussels II-convention“ available]

- **Becomes applicable**
  between UK and EU-MS who are CS to this convention
Jurisdiction and Recognition/Enforcement of Decisions
(Parental Responsibility)

Present situation

- **Brussels IIa-Regulation** [UK did opt in]
  - Jurisdiction if child habitually resident in EU-MS (without Denmark)
  - Recognition and enforcement of decisions from MS
  - Special rules concerning proceedings under Hague 1980 Convention (child abduction)

- **Hague 1996 Convention (Protection of Children)**
  - Jurisdiction if child habitually resident in CS and Brussels IIa not applicable
  - Recognition/enforcement (dec from CS)

- **Hague 1980 Convention (Child abduction)**
  - Return of children wrongfully removed from a CS

Consequence of Brexit

- **UK no longer MS of Regulation** as Regulations only apply to EU-MS
  - ... special rules in proceedings concerning child abduction do no longer apply

- **Remains in force between UK and all EU-MS** as all of them are CS of the Convention

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Jurisdiction and Recognition/Enforcement of Decisions (other materials)

Present situation
- EU-Maintenance-Regulation [UK did opt in]
- Hague 1973 Convention - Not applicable between MS of Regulation
- EU-Succession-Regulation [UK did NOT opt in]
- EU-Matrimonial Property-Regulation [„enhanced co-operation“ (Art 328(1) TFEU) – UK did NOT participate, may join any time]
- EC-Regulation on European Enforcement Order [UK did opt in] - Enforcement of titles concerning uncontested claims including default judgments between MS of Regulation

Consequence of Brexit
- UK no longer MS as Regulations only apply to EU-MS
- Brussels 1968 convention revival?
- Hague 1973 convention becomes applicable between UK and MS if CS
- No change opt-in no longer available if non-MS
- No change participation not available if non-MS
- UK no longer MS as Regulations only apply to EU-MS [No convention available]
Service and taking proof

Present situation

- **EC-Regulation on Service**
  - [UK did opt in]
  - Service of judicial and extrajudicial documents in civil and commercial matters
  - between Regulation-MS
  - plus bilateral conventions

- **Hague 1965 Convention (Service)**
  - Service ... in civil and commercial matters
  - to/from CS, which are not Regulation-MS

- **EC-Regulation on Taking of Evidence**
  - [UK did opt in]
  - Taking evidence by requested court of MS
  - Taking evid. by requesting court in other MS
  - No central authority necessary

- **Hague 1970 Convention (Evidence)**
  - Taking evidence by requested courts in CS
  - Taking evid. by requesting court’s commissioner
  - Request only via Central Authorities

Consequence of Brexit

- **UK no longer MS**
  - as Regulations only apply to EU-MS
    - Bilateral conventions remain in force and work together with Hague 1965 Convention

- **Becomes applicable between UK and most EU-MS**
  - as UK and 26 EU-MS are CS

- **UK no longer MS**
  - as Regulations only apply to EU-MS

- **Becomes applicable between UK and most EU-MS**
  - as UK and 24 EU-MS are CS

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Thank you for your kind attendance

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