

***CURRENT CHALLENGES AND PERSPECTIVES IN
DEVELOPMENT OF THE EUROPEAN UNION LAW IN CIVIL
MATTERS***

JOSE ANTONIO VARELA AGRELO
PRESIDENTE AUDIENCIA PROVINCIAL LUGO/SPAIN
BUCHAREST.DECEMBER 2014



PRELIMINARY: The Way To Santiago as a germ of the european consciounes

- Law as a tool to serve the happiness of the persom
 - EEUU Constitution
 - Failed European Constitution
 - Art 3 Of The Treaty.
“ The Union's aim to promote peace,its value and the well-being of its peoples”
 - Achiving peace by itself justify all this building
 - Two world wars in First half of the 20th century.
 - 1957 Treaty of Rome: no more wars
 - 2012 Nobel Prize in peace
 - Stimulus for scope of freedom and security:-Spain and Portugal
 - -East of Europe.End of the divison of the continent
-
-

Brief historical reference

First steps:

Judicial Cooperation was outside the treaties. It was a matter of international agreements.

- **2001 Nizza**
- One step further
- Co-decision appears as a tool

1992.Maastricht:

International cooperation appears but only in the scope of the intergovernmental cooperation.

- **2007 Lisbon**
- No longer pillars
- No Constitution but a new writing of Treaties
- Deepening in the targets in this field

• **1997 Amsterdam**

- Communitarization.
- It's moves from 3th to 1th pillar
- Space of security, freedom and justice
- Regulation as a legal tool

CURRENT SITUATION: The Amsterdam Treaty was the start point in the creation of an European Union in civil matters

- **PROCEDURAL SCOPE**
 - SERVICE DOCUMENTS (R 1393/2007)
 - TAKING EVIDENCE(R.1206/2001)
 - EEO (R. 1896/2006)
 - SMALL CLAIMS(R. 861/2007)
 - LEGAL AID(Directive 2003/8/CE)
 - **RECOGNITION AND ENFORCEMENT**
 - Brussels I
 - Brussels II-bis
 - EEO
 - **FAMILY LAW**
 - Brussels II-bis
 - Maintenance Obligations(R. 4/2009)
 - **APPLICABLE LAW**
 - Rome I
 - Rome II
 - Rome III
 - **BANKRUPTCY LAW**
 - Insolvency proceedings(R. 1346/2000)
 - **QUICK RECOVERY DEBTS**
 - European Account Preservation Order procedure to facilitate cross-border debts recovery in civil and commercial matters(R. 655/2014)
-
-

SOME COMPLEX ISSUES

- **KNOWLEDGE DEFICIT**
 - **Good motorways along which only a few cars drive**
 - **Efforts on fields information citizens and training practioners**
 - **PECULIAR POSITION OF SOME COUNTRIES**
 - **LIGUISTIC AND LEGAL COMPONENT**
 - **Differences in the legal concepts and in the competences of institutions**
 - **With consequential difficulties in the accurate translation**
 - **CONCURRENT COMPETENCE BETWEEN UE AND MS**
-
-

CONCURRING COMPETENCE BETWEEN UE AND MS

- **BACKGROUND**

- 03/04/2007 UE got joined as a member to HC
- The 28 MS are also part or member of this Agency
- Art 3 Treaty

- MS with a peculiar statute within The UE

- International Agreements which may interfere on the appropriate behavior of UE legal instruments

- Tendency to use legal tools already negotiated in HC

R.44/2001 incorporate HC 1980 related civil aspects of child abduction

R 4/2009 with Protocol of Applicable law of 2007

THE FUTURE: Despite the difficulties European Union in civil matters is moving forward a progressive unification

• MUTUAL RECOGNITION

- FINAL ABOLITION EXEQUATOR
- Helps unification rules Private International Law
- Code of PIL?

• FORCED CHANGE OF MENTALITY IN JUDGES

- Doctrine of The Court of Justice
- General conditions of contracts
- Causes that may be abusive

• ENLARGEMENT OF MATTERS

- Family and successions were not matter included
- Purchase; Consumers; Insurance
- Common Frame Of Reference

• PROCEDURAL SCOPE

- Green Paper on Minimum Rules in The Civil Proceedings
- Code?
- E.Justice:legal aid

• INTEGRATION IN THE EUROPEAN STRATEGY 2020

- Stockholm Programme Action Plans
- Digital Agenda