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Brussels Ibis Regulation - Commentary

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Preface

Brussels I is dead, long live Brussels Ibis! The European legislator deemed it both appropriate and necessary to promulgate a recast of the Brussels I Regulation only twelve years after the original Regulation had become effective. The eventual outcome of the recast process is even less revolutionary and more evolutionary than the Proposal which the Commission had tabled initially. Some of the major weaknesses and shortcomings of the original Brussels I regime have not been extinguished but retained. Others have been remedied. The future will have to show whether the cure in some instances might be worse than the illness. The relatively most revolutionary feature of the recast is abandoning the time-honoured institution of *exequatur* – if only to revive its substance at another stage, namely within the framework of enforcement proceedings.

Of course, the Commentary had to follow suit to the advance in European legislation. Its first two editions, then on the Brussels I Regulation, have been exceptionally well received and have established it as one of the leading works on the Brussels I Regulation. Hence, it is an obligation, a pleasure and a honour to continue it on the Brussels Ibis Regulation. We hope that it will provide guidance on the new Regulation in the same quality and depth as previously on the old Regulation.

The proven team of commentators has undergone only few changes: Gilles Cuniberti and Isabel Rueda have replaced Konstantinos Kerameus and Lennart Pålsson who deplorably were not able to participate anymore, and Xandra Kramer has substituted for Lajos Vékás. Thomas Garber teamed with Marta Pertegás, and Peter Mankowski joined Peter Arnt Nielsen. The publishers underwent minor changes, too: sellier european law publishers now have become a division of Verlag Dr. Otto Schmidt.

The indefatigable backing team in Hamburg to which all too well deserved thanks are due, this time consisted of Marie-Thérèse Hölscher, Anca David, Helen Loose and Antonia Sommerfeld with secretarial support rendered by Helga Jakobi. Sellier publishers, now part of Otto Schmidt publishers, were amiably and most aptly represented by Andreas Pittrich, Anna Rosch and Karina Hack; the editors are once more most grateful to them for their almost incredible patience.

*Ulrich Magnus*  
*Peter Mankowski*

The Brussels I Regulation is by far the most prominent cornerstone of the European law of international civil procedure. Its imminence could be easily ascertained by every practitioner even remotely concerned with cross-border work in Europe. However arcane private international law in general might appear to practitioners—the Brussels I Regulation is a well-known and renowned instrument. It is heir to the Brussels Convention which has proven its immeasurable and incomparable value for over thirty years. The European Court of Justice and the national courts of the Member States have produced an abundance and a treasure of judgments interpreting the Convention and now the Regulation. Legal writing on the Brussels system is thorough and virtually uncountable throughout Europe. Yet no-one has so far taken the effort of completing a truly pan-European commentary mirroring the pan-European nature of its fascinating object. The existing commentaries clearly each stem from certain national perspectives and more or less deliberately reflect certain national traditions. The co-operation across and bridging borders had not truly reached European jurisprudence in this regard. This is why the idea of this commentary was conceived. This commentary for the first time assembles a team of very prominent and renowned authors from total Europe. The authors’ geographical provenience stretches from Sweden in the North to Italy in the South and from Portugal and the United Kingdom in the West to Hungary and Greece in the East. Perhaps fittingly, both of the general editors are located in Hamburg now somewhere near the geographical centre of the extended European Union. The idea of a pan-European commentary met an overwhelmingly warm welcome by almost everyone who was invited to participate and to contribute a commentary on some articles. Apparently now the time is ripe to give such a project a try. It was, and still should be, beyond the slightest doubt that the proper language of such a project should be English, the current lingua franca of transnational legal communication in Europe. Sellier European Law Publishers were as daring and courageous (if not adventurous) as to embrace the idea. Patrick Sellier in particular provided the support sometimes necessary to keep daunting projects afloat in difficult waters. May the future show that is was right to endeavour and to go for the stars!

Everyone who has ever undertaken the venture to edit a multi-author work only too well knows about the absolute necessity of competent assistance. The editors thus are absolutely grateful and cannot remotely express the thanks and accolades due to our backing team at Hamburg in a proper fashion. Without them it would have been virtually impossible to complete this commentary. Stefanie Bock and Dr. Oliver Knöfel with sheer and utter indefatigability undertook the burdensome task of unifying the style of citations in the contributions. Dr. Klaus Bitterich participated in this task. He and Dr. Knöfel share the responsibility for the index whereas Ms. Bock and Jan Lüsing compiled the Table of Cases of decisions by national courts and Ms. Bock alone accomplished the Table of Cases by the
ECJ. The list of Abbreviations was prepared by Professor Mankowski, once again with Dr. Knöfel's invaluable assistance. Secretarial support was rendered by Inga Burmeister. Last but not least, a very special thank is due to John Blakeley. He took the pain of revising the linguistical niceties of contributions written in English by authors who in their majority are not native speakers – and he kept his good (Australian) humour till the very end!

Ulrich Magnus
Peter Mankowski