

Right to an effective defense in the European Union

Abstract of PhD Thesis

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I. TOPIC AND AIMS OF THE RESEARCH

Actuality of the research

The European Union is much more than a supra-national body or contact point for foreign states that wishes to cooperate. It has its own identity, its purposes goes far beyond the sum of the aims of all its members. The EU has its own interest and genuine values. The EU's central objective is to form a community, to transform itself from member-state centred and bureaucratic system into a real community of EU citizen. That is the reason why the EU acts proactively in field of laws which are in close connection with everyday life of EU citizen. Thus the EU is eager to identify the problems and to provide solutions in its competence.

In the view of the EU policy-makers „*the aspirations of citizens for full freedom of movement and action and their legitimate calls for strict respect of fundamental rights combine with substantial demands to live in an environment that ensures their security.*”

The EU is constantly trying to take care of EU citizen, to be perceived as a good state and the EU has its own reasons for it. In shaping its policies the EU is occupying new competences which can be identified as classical functions of a state. The organisation of justice system is already influenced by the EU to a great extent: the cross border aspect of the justice is already defined by the EU. The EU is using its policies – and in this respects the justice policy – to shape the identity of EU citizen in order to transform the EU into a community that resembles more to a state as to a cooperation of states.

The EU is approaching the new areas by identifying the main problems of cross-border civil disputes (see the new project to regulate the cross-border preservation of accounts). The simplification of cross-border procedures and the effective administration of procedure could result in directly affecting the everyday life of EU citizen.

The EU reached the field of civil justice through regulation private international law. Jurisdiction, applicable law, recognition and enforcement were the first areas covered by cross-border justice. As the unification of civil law is only a far-reaching plan (Common European Sales Law), the legislator concentrates to deepen the cooperation in already existing fields.

The reform of the cross-border enforcement was carried out gradually. The EU based its system on the results of international enforcement (*apostille*). The cooperation was enhanced firstly by means of classical international law instrument (Brussels Convention) that created a simple method of enforcement of foreign judgments (*exequatur*). As next step the EU continued to reduce the interim steps in case of sectorial instruments. The proposed regulation of the Brussels I. recast a tested and improved system of enforcement would be put in place generally in civil and commercial matters. The reform was planned in a way that did guarantee the rights of the defence, but despite, the opponents of the reform were arguing that by abolition of the public policy exception and of the *exequatur*, the recast would violating the rights of the defence.

The main objective of the research

The main objective of this thesis is to respond to the questions that lay behind the renewal of the cross-border enforcement: is the simplification of cross-border enforcement jeopardizing – is the abolition of the public policy and of *exequatur* is detrimental to the effective exercise of the rights of the defence.

The main chapters of this thesis are to discover this nexus and to find out if the rights of the defence are endangered – or in general in cross-border enforcement, or by the renewal of the Brussels I. system.

The partial goals of the research

The thesis firstly aims to reveal why the EU is entitled to simplify cross-border procedures. After a short introduction (first chapter) the second chapter identifies the essential problem behind the free movement of judgments. I analysed thus how the principles of free movement of judgments and of the simplification of procedures (legitim aims of the EU) are related to the right to prompt procedure and the right of the defence) fundamental rights). This chapter will explain the role of these aims and rights in the simplification of cross-border procedures and their interconnectedness in the genuine Area of Justice.

The next chapters of the thesis are focussing on the identification of the procedure that is to be abolished and if this procedure is rally the (only) guarantee of the rights of the defence. As the simplification of procedures in the context of Brussels I. means the abolition of public policy and of *exequatur*, the thesis will concentrate to these two legal instruments.

The third chapter will describe the mechanism and to demonstrate the importance of public policy in cross-border enforcement. It will define the procedural content of the public policy, the rights of the defence. It is to be answered if public policy is really the only guarantee of procedural rights in cross-border enforcement. The chapter will also touch upon the problem of the European Convention of Human rights in this system of cross-border enforcement. Does the ECHR oblige the control of foreign judgments? If the abolition of such control violates the fundamental rights, and the ECHR itself, it would be in conflict with the ECHR. The core problem is to answer the question if the protection of the rights of the defence prescribes compulsory the preservation of public policy exception.

The thesis will consecrate the fourth chapter to the procedure itself. This chapter will closely examine the *exequatur* in order to circumscribe the connection among the procedure and the public policy, and to clearly separate them. The chapter also aims to assess if this *exequatur* procedure is time-consuming, expensive and also useless as a mere formal step.

The fifth chapter of the thesis will present the regulations that already abolished the public policy and the *exequatur*. The trend of the simplification will be revealed and this will enable a proper evaluation of the result of the reform of Brussels I. regulation, the 1215/2012/EU regulation. This part will equally contribute to the reply regarding the question; to what extent this reform affects the rights of the defence. It seems that the 1215/2012/EU regulation was formed in a very conservative way in order to avoid any breach of fundamental rights, as it preserved part of the *exequatur* and the public policy for the protection of the rights of the defence.

In the conclusions I will try to answer the question if the abolition is detrimental to the rights of the defence I will also encounter the problems that were faced during the reform and point out the most important but also quiet result of the recast: it nevertheless created a system that break through the principle of sovereignty.

II. RESEARCH METHODS AND RESEARCH MATERIAL

The thesis will analyse the right to an effective defence from a special point of view. In the EU, the national as well as the EU legislator meet unique – practical and theoretical – challenges in regulating cross-border exercise of rights. Thus an interdisciplinary method is needed. The rights of an effective defence have to be examined from horizontal perspective, as this institution can be found in different branches of law.

The most useful method for my research was a descriptive-analytical method that was combined with a strong critical approach. I abstracted the relevant information from the analysed texts and then assessed the result of this deductive work. The findings were compared and I tried to stress out the similarities to find the trends. As the subject of the research is embedded in a procedure I used process-analysis throughout the study. The thesis also contains tables, diagrams and statistical analysis.

I gathered information mostly by classical way of research in liberal arts, in libraries. I also used modern techniques (databases and internet). I conducted out empirical research (practice of Hungarian courts) and also spend time in the Commission relevant unit as “field work”.

I systematically sorted out the sources and analysed the following their hierarchy and importance. I always tried to go back to the original source (EU document, legislation) and then after turned into other official and widely acknowledged sources (e.g. commentaries). The theoretical explanation and the opinion of legal scholars brings added value to this analysis. In examining the practice of the different courts I tried to find parallelisms, trends and differences and to approach the evaluation of the practice by the means provided by theoretical analysis.

The EU justice policy determines the shape of the genuine European area of justice, frame of simplification of cross-border procedures. The EU justice policy has to be assessed with careful regard to the EU specialities of the EU: its institutions, its mechanisms and its goals. The EU documents provided the solid basis of the first chapter. When analysing these public documents I put strong emphasis on finding the right context and not to under or overestimate their importance. In order to have a deeper understanding of EU justice policy I conducted afield research using the traineeship program of the Commission (1 March 2011- 31 July 2011) I could thus have an insight into EU policy-making, and this experience was really useful to the better understanding of EU civil justice policy. Through comparison of these documents the idea behind this policy was unfold and I also systematically examine the principles forming this policy. To complete the research, opinion of legal scholars were also consulted.

It is the public policy that incorporates the rights of the defence in cross-border enforcement cases. This institution is of interdisciplinary nature (international private law, civil law, constitutional law and EU law). The public policy is originally a conflict of law instrument that is constructed by values origination from the law, but also outside the law. The principle that is used in cross border enforcement is a special “form” of the classical conflict of laws public policy, as it is influenced by the latter and its application is defined by the understanding of conflict of law instruments. The public policy in cross-border enforcement – as it is present on an inter-Member state level – is widely influenced by the EU-s institutional and legal system. Thus the specificities of EU law, its special structure and rules of application, as well as EU policy making has to be observed with careful regard to interconnections with national law. The analysis covered the application of law in Member States and besides the legal theory, the throughout analysis of the case law is of outmost importance. An empirical study was carried out to find public policy in the Hungarian practice

in cross-border enforcement cases. As the ECHR is the final level of exercise of fundamental rights and influences the EU and the Member State's law-making, some aspects of the ECHR system need to be touched upon.

The public policy was analysed on the basis of the theory and with special attention to the practice of the courts. I consulted the most important theoretical works in libraries, part of the case law is widely accessible through the internet (ECJ, ECHR). As to the empirical study, I spent about 3 months at the Budai Központi Kerületi Bíróság (BKKB), the competent court to decide cross border cases of enforceability for Pest district and for Budapest. The database of the BKKB provided me the cases which were linked to cross-border enforcement. I concentrated my research to such that reached the contradictory phase and was decided after the entry into force of the Brussels I. regulation in Hungary (1 May 2004). I carefully analysed the documentation of each case and sorted out those that were linked to public policy or rights of the defence. After the gathering of information I systematize the cases in parallel with the EU case law and following the civil procedure. During my research at the courts I had regular consultation with the judge responsible for cross border declaration of enforceability.

The public policy and its content, the rights of the defence, are embedded into the *exequatur*. The *exequatur* is a specific instrument of cross border enforcement that is also a special part of the procedural law. As the public policy, this instrument is also very much influenced by EU law-making, it nevertheless is defined by national procedural law. So, when analysing *exequatur*, the specificities of the EU law, its aims, institutions, and also the interconnection with national law have to be observed carefully. To assess if this institution is uniform, in practice, I used classical comparative law methods: on the basis of a broader perspective I meticulously followed the procedure itself. This method makes possible to decide if this procedure is really uniform, or has it differences. The basis of this chapter was documents and papers that can be found in libraries. I went to Germany (Dresden), also to Austria (Wien), than I completed my research in Switzerland (Lausanne). For Hungarian law I used the paper of Hungarian legal scholars as well as my experiences at the BKKB. For the description of the national law I followed the hierarchy, started with primary sources (laws, acts, etc.), added the commentaries and then completed the work with views of legal scholars.

The analysis of the EU legal instruments that already erased *exequatur* and public policy was carried out by comparison, but not a classical comparative analysis. I compared only the procedures and only from one special point of view: in order to be able to systematize and to find a trend. The classical comparative methods were not used here, but analysis and assessment of the instruments with a special aim.

The conclusions of this thesis were reached after a meticulous gathering of information by using heterogenic methods of research and with the help of systematic comparison and deep analysis.

III. RESULTS OF THE RESEARCH AND POSSIBLE USE

Results of the research

The civil justice policy and simplification of cross border enforcement procedures

The overall goal of creating a genuine Area of Justice is to serve the EU citizen. The reason of judicial cooperation is to help EU citizen to exercise the basic freedom, the freedom of movement. The objectives of EU justice policy are designed for this aim; the EU imagined the abolition of all barriers, administrative burdens and „*the cumbersome and costly exequatur process*”, as well as of obstacles before the automatic recognition of legal act of all types.

- 1) The Stockholm Program adopts a strong citizen-centered approach, which appears as a wider, transversal objective of EU policies.
- 2) The institution of EU citizenship is able to create an EU identity for citizen, but only to an extent that is possible depending on the rights related to it. The right to move freely is a core freedom of EU citizen, and thus apt to serve the shaping of EU citizens' identity
- 3) The justice policy is an effective tool for forging this identity, justice is an area of law where the advantages of being part of the EU are tangible and could be perceived very directly by EU citizen. As EU citizen widen their knowledge about justice and the awareness of their right is raised, the effective exercise of their rights based on EU law could become core element in creating a real community. Simplification of cross border procedures directly alleviates the exercise of the freedom of movement and thus contributes to the content of EU identity.
- 4) The objective of the EU is to create a citizen-centered Europe where administrative barriers cannot stop the free movement. For this purpose the EU aims to abolish the *exequatur* and – by taking good care of the citizen – creating a bond.
- 5) The action plan implementing the Stockholm Program is testifying that the EU has a vocation to protect its citizen. It points out that “*[i]t is in the areas of freedom, security and justice that citizens expect most from policy-makers as this is affecting their daily life.*”
- 6) Regulating civil justice contribute to the creation of a unified EU, as it deepens the integration. Promoting of civil justice policy could advance political integration. Justice policy is closely connected to this integration and serves aims that go far beyond economic cooperation. The principle of automatic recognition and enforcement are logic results of this integration process.
- 7) The EU nevertheless has its own advantages in the creation of a genuine European Area of Justice. The objectives set out started the coordination of justice policies within the EU and have considerable long-term political gain for the EU. In the creation of the European Area of Justice, Member States – maybe only partially so far, but –accepted the priorities of the EU and implemented them so they became part of their national policies. This change in the approach of Member States is enough for the EU to gradually obtain more competence and to further promote its priorities.
- 8) The organization of a genuine European Area of justice requires an EU-level coordination of justice and a creation of a system that is moving towards the centralization. The EU approaching very wisely this policy area and always refers to cooperation. But the objectives defined go beyond a mere cooperation of Member States.

- 9) Simplification of cross border procedures cannot offend the national law, and abolition of *exequatur* cannot be detrimental to the principles of subsidiarity, proportionality and solidarity. Moreover, a genuine European Area of Justice without borders has to promote and guarantee all these principles.
- 10) Automatic enforcement has to take into consideration also the fundamental rights and legal traditions of Member States. The EU justice culture is composed by three equal parts: EU law, fundamental law and legal traditions of Member States.

The EU constantly emphasized that the purpose of the Brussels Convention and of the Regulation, the simplification of procedure, cannot be done if it is causing harm to the rights of the defense.

- 11) Simplification of cross border procedures has a great interest not only for creditors, as it can affect the balance between the creditor's interest to prompt procedure and the debtor's right to an effective defense, but also reveals a conflict between the fundamental freedom of free movement and the fundamental right of an effective defense.
- 12) Beyond this simplification lays not only this controversy of fundamental rights and fundamental freedom, but the very objectives of the EU itself could be in conflict with the interest of EU citizen. The general aim of free movement of judgments and the specific purpose of simplification of cross border enforcement could be contrary to the right of the debtor to an effective defense.

The exercise of the rights of the defense in the system of cross border enforcement under Brussels I. regulation

- 13) The rights of the defense are guaranteed by the Brussels I. regulation in multiple, but indirect ways. On the one hand, the regulation do not lay down rules applicable to rules applicable to procedures that are designed to protect the rights of the defense, but it despoil of its effects a foreign judgment that results from a procedure in which fundamental rights were not observed. On the other hand, identifying the procedure for declaration of enforceability, courts assess evidence in a very distant way; the court only establishes the facts based on the presentation of the parties and did not have in hand the documentation of the original procedure. With this evaluation, the court is holding a mirror that shows for the court of origin which aspects of the original procedure did not pleased the court of Member State of enforcement.
- 13) The rights of the defense does not necessary dominate the procedure of Brussels I. The ground for refusal of declaration of enforceability does not constitute conditions of enforcement. The court on its own is not entitled to review the breach of the rights of the defense, not even in the contradictory phase.

Public Policy

Public policy is an effective tool for the exercise of the rights of the defense in cross border procedures.

- 14) Exemption from the principle of mutual recognition and enforcement testifies in itself a divergence of values and distrust between Member States. The different concept and understanding of principles and core values justifies the existence of public policy in a uniform European Area of Justice.

- 15) The principle of recognition and enforcement is similar to the public policy in conflict of law rules, not only as to the content, but also as to the mechanism. This principle known in conflict of laws as characteristics of public policy are – in the case of Brussels I. regulation – the principles of interpretation of public policy of enforcement. In private international law, the public policy creates an obstacle before the applicable law; similarly, in international procedural law the public policy of enforcement impede the introduction of the foreign judgment into the legal order of the state of enforcement. The public policy in conflict of laws is an exception; the public policy of enforcement also constitutes an exception from the principle of mutual recognition. The principle on conflict of laws has to be considered *in concreto*, similarly for public policy of enforcement, it is the result of the application of the foreign decision that has to be evaluated, not the decision itself, or the foreign legislation that it applies. In cross border enforcement cases the decision itself cannot be reviewed as to substance or be set aside based on procedural laws that are in force in the state of origin. The concrete enforcement of the decision, and its results, as well as the specific procedure in the state of origin has to be examined carefully.
- 16) The principle of enforcement is a special legal institution, whose interpretation is designed by private international law, its specific content is defined by procedural law, its importance derives from the very fundamental nature of the rights protected, the rights of the defense.
- 17) The European Court of Justice (ECJ) – when examining a possible breach of the rights of the defense – applies a teleological approach. The breach is assessed from a practical point of view and can only be stated if it results in neglecting of the rights of the defense. The possible breach of procedural rights is only relevant when it violates the effective assertion of the rights of the defense. Following that argumentation, if procedural guarantees as a whole assure the rights of the defense in the concrete situation, it will constitute an exemption from the breach, even if certain aspects of procedural rights are violated. The ECJ points out that for the protection of defendant in default of appearance the principle of double review should apply. Thus the court of the state of enforcement has the right to examine the proper notification in the contradictory phase. In this respect, the court could review the relevant facts, such as the question whether the document institution the proceedings were or not notified. This principle of double review does not contradict the prohibition of the review as to substance. This approached could be observed in the practice of Hungarian courts.
- 18) In the constant case law of the ECJ the rights of the defense are not absolute rights. Nevertheless, the limit has to serve public interest and it cannot constitute a manifest or disproportionate infringement. The EU uses different methods when considering the public policy breach and when evaluating restriction of rights of the defense as fundamental rights. When the rights of the defense are assessed as fundamental rights a legality and proportionality test applies.
- 19) The practice of Hungarian courts differs from the case law of the ECJ, and does not always follow the principles the legal theory of public policy. In some cases Hungarian courts examine the breach of the rights of the defense *in abstracto*, by drawing conclusion from the mere differences of procedural law. It is also common that objections of the debtor are set aside without carrying out a careful analysis of the original procedure. In the view of Hungarian courts the defendant has to go before the courts of the Member State of origin in order to solve the problems of the procedure before the court of origin. Not a few cases were dismissing the debtor's arguments with a motivation completely contravening the purpose of the contradictory phase of *exequatour*: the court of appeal founded its decision on the fact that the court of first

instance followed correctly the procedural rules and applied correctly the principle of unilateral procedure.

- 20) The rights of the defense in the case law of the ECJ constitute a fundamental principle that has to be observed, even without written rules of procedure, or even without the existence of genuine EU civil procedural rules.

Abolition of public policy and the rights of the defense

- 21) Doubts were raised that the deletion of public policy would preclude the compliance with the standards of the European Convention of Human Rights and the European Court of Human Rights (ECHR). It is worth to note that this so called “obligation” was also endangered by the transformation of Brussels I. Convention into regulation, as the latter excluded the possibility for courts to examine on its own motion the presence of a ground for refusal. This obligation of control is also violated in all regulations of new generations that already abolished the *exequatur*.
- 22) The procedural public policy protects all procedural rights that can be exercised throughout the whole procedure. In consequence, transforming the public policy into minimum standards will inevitably diminish the terrain of procedural rights.
- 23) If the EU would create minimum standards of the right to a fair trial, then this right would be the main victim of the free movement of judgments and if a minimum standard would apply, national law that grants a higher level of protection should have been disregarded.

The exequatur

- 24) The *exequatur* is a mixed procedure that starts as a non-litigious procedure and transform itself into litigious one only in case of objection.
- 25) It is the contradictory phase of the *exequatur* that incorporates the rights of the defense.
- 26) The *exequatur* procedure is carried out in a very similar way in the Member States.
- 27) The decision on the declaration of enforceability has a function: on the one hand it import the foreign decision, on the other hand it created a title valid for that Member State: it thus has a constitutive effect.
- 28) The decision of enforceability has a genuine purpose: to “qualify” the foreign decision and to decide on its enforceability. It has constitutive effect. The lack of such decisions in case of national judgments signifies the strong presence of the state and its sovereignty in the enforcement and in the use of enforcement authorities. Moreover the decision on enforceability never crosses the state borders. Additionally, without this step a decision originating from another country cannot use the forces of the state in enforcing a decision. The foreign judgment is a foreign title, which – in itself – cannot operate the enforcement authorities of other state: an interim step is needed in the procedure, a “qualification” that inserts the foreign decision into the legal order of the state of enforcement.

Abolition of exequatur and the rights of the defense

- 29) Abolition of *exequatur* could be detrimental to the rights of the defense only if it makes impossible to have an effective remedy against the breaches of procedural rights.

- 30) Simplification of enforcement as such does not constitute an offense against the rights of the defense. The *exequatur* procedure itself is a simplified procedure of cross border enforcement.
- 31) The reform of Brussels I. regulation did not aimed at abolishing the whole procedure of *exequatur*, but to extract the first unilateral phase and to transform the second.
- 32) The free movement of judgments that are followed by a certification in Member State of origin that testifies the enforceability in all Member States constitutes a limitation to Member States' sovereignty and a step towards the automatic cross border enforcement.

The analyzed EU regulations (that already omitted the public policy exception and abolished the *exequatur* procedure)

- 33) The analyzed EU regulations testify that *exequatur* and public policy exception could be abolished without prejudice to fundamental rights of the procedure.
- 34) Within the analyzed regulations, the previous ones enabled the court of origin to proceed with a qualification that has a title-export instead of a title-import function. When alleviating the cross-border enforcement process, this qualification (the first, unilateral stage of the *exequatur*) is finally vanished from the procedure so the enforcement of a decision of another Member State became similar to the enforcement of a national title. The check of the foreign decision (the second, contradictory phase) will remain in the procedure in a reformulated way: the country of origin will proceed based on newly formulated criteria (minimum guarantees). Finally, in case of the latest regulations, it is absorbed by the original procedure.
- 35) The formal check was firstly omitted in case of decisions emanating from a Member State and followed by a certificate. Then it was fully abolished when *sui generis* procedures were introduced: the EU papers (as the European Order for Payment) are to be enforced automatically. Then judgments issued in an EU, than in a national procedure, were to be executed without interim procedure. In these cases it was the court of origin and not that of enforcement who checked the judgment, but it searched only the respect of minimum guarantees and in many cases only on express demand of the defendant.
- 36) In some of these regulations a procedural step similar to *exequatur* can be observed. This "qualification" has similar functions as *exequatur* the title – if comply with certain terms – will be transformed to enforcement order. As a result a decision form a Member State will be enforceable in all Member States. The regulations that abolish *exequatur* eliminate the title-import function of *exequatur* and by creating an instrument invested with cross border enforceability. In parallel, the control function of *exequatur* is moved from the state of enforcement into the state of origin with changed content. Certain aspects of procedural rights are upheld as EU standards so considerations based on national law will be disregarded.
- 37) It is true that by elimination public policy exception, the procedural rights and the rights of the defense could not be preserved. The case of the regulation of new generation is special: they each cover only a well-defined part of civil and commercial disputes and they all protect special interests that could counterweight the reduction of the rights of the defense. Automatic enforcement could then prevail on exercise of certain procedural rights of the defendant. Generally, in civil and commercial matters such counterbalancing interest has not yet been identified.
- 38) The new Brussels I. regulation uses the system of the 2201/2003/EC regulation and of the recast of Brussels I: it enables a decision obtained in national procedure to be automatically enforced. This per se enforceable decision is followed by a certificate

that testifies the enforceability. Nevertheless the 1215/2012/EU makes possible the examination of the original decision by the court of enforcement, in case of the defendant's objection the court will check the grounds for refusal and eventually will formally check the judgment.

1215/2012/EU regulation – the new Brussels I.

- 39) In case of Brussels I. regulation – as in the recast, as in the final text – the court of enforcement could examine of the original decision, as before. This examination includes the check of the grounds for refusal of enforcement and the formal check of the decision (qualification).
- 40) The 1215/2012/EU regulation in its final form only transported the contradictory phase into the enforcement procedure. The new regulation combines the application against the decision of enforceability and the application against enforcement
- 41) After careful examination of the “new” procedure set out in 1215/2012/EU regulation it is clear that the process of the procedure was not reformed to a great extent. Some procedural steps ceased to exist as they form now part of the enforcement procedure, but the essence will not change after 10 January 2015. The reform thus could not fulfil its aims, as it will not result in reducing costs or time of cross border enforcement. Nevertheless from a practical point of view it alleviates the procedure for the creditors, as in case of non-objection the enforcement will proceed automatically.
- 42) The free movement of judgments is based on the mutual trust and the result of the Brussels I recast shows that the EU currently lacks this mutual trust. Member States have more confidence behind the barriers of their sovereignty.
- 43) The experiences of the reform revealed that Member States of the EU are firstly a fellowship of common interests and not a community of common values. The public policy in cross border civil cases is to guarantee that Member States do not have to assist to situations that are clearly incompatible with the core values of the society. In theory, public policy defense could not be operational between the same community, sharing the same values.
- 44) The reform of cross border enforcement in civil and commercial matters seemed to be of little use. The new procedure nevertheless alleviates to some extent the procedure for the creditor, as he or she only has to lodge one application. It is also worth noting that while the debate was focusing on public policy, the procedure was transformed in silence: simplification of procedure and the title export will break through the sovereignty of states.

The possible use of the research

- The most visible aim of this research is that it provides tools for assessment of the reform of Brussels I. regulation. It also makes possible to conduct a well found evaluation of any change in the system of cross border enforcement.
- With clear concept of public policy and its facets the legal scholars as well as practitioners could have a profit. Procedural public policy in Hungary slightly differs from what can be expected based on EU law, theoretical studies and the case law of the ECJ. The work could thus contribute to the approximation of the Hungarian and EU practice. The conceptual delimitations and the broad perspective could ease the work of judges.
- In Hungary, public policy also used to remedy specific problems, such as the use of mother tongue before courts of other Member state, in the meanwhile they refrain from the examination of questions that could be vital for the exercise of the rights of the defense in cross border enforcement.
- The analysis of the practice could also be a tool for the defendants and enable them with an advantage when exercising his or her rights. A possible dissemination of the work could help to raise awareness about the fundamental rights that has to be guaranteed during court procedures.
- The explanation of *exequatur* testifies that the procedure is applied uniformly. The description of procedures – in particular of such countries that have strong economic relations with Hungary – could be a great use for the creditors as well as the debtors.
- The trend of simplification of cross border enforcement provides a frame for better understanding and classifying the future EU instruments in this field.
- Highlighting the aims of the justice policy and familiarizing the broad picture could also be useful for Member State experts: during negotiations in the Council the details are always in focus. But it is of outmost importance to bear in mind the motivations and the advantages that the EU could gain from simplification and harmonization.
- A broader picture is also a good tool against EU-skepticism, as the EU justice policy shows that the EU is making considerable efforts to unburden EU citizen. As a result, the EU is really making progress in cross border enforcement.

IV. PUBLICATIONS ON THE TOPIC

Articles

1. Határon átnyúló végrehajtás exequatur nélkül (*to be published*) *Európai jog*
2. Határon átnyúló végrehajtás és a végrehajthatóság kifogásolása közrendi okból. *Közjegyzőek Közlönye* 2013/3, 14-21.
3. Az exequatur a német és az osztrák jogban, *Magyar Jog* 2013/5, 312-320.
4. A közös európai adásvételi jogról szóló rendelettervezet nemzetközi magánjogi szempontú elemzése, In: Polgári Eljárásjogi és Nemzetközi Magánjogi Kutatásokat Végző Doktoranduszok és Doktorjelöltek I. országos Konferenciája - tanulmánykötet, 2013
5. A külföldi határozatok közrendi kontrolljának kiiktatása az Emberi Jogok Európai Egyezményének tükrében, *Magyar Jog*, 2012/7, 398-405
6. Az uniós polgárok szabad mozgása az egységes európai igazságügyi térben. In: Ünnepi kötet Gál Gyula tiszteletére, 2011, Budapest, 87-98
7. A közrend a francia és a magyar nemzetközi magánjogban. In: A XXIX. OTDK Állam- és Jogtudományi szekciójának díjnyertes dolgozatai, Király Miklós – Varga István (szerk.), Budapest, 2011, ELTE Eötvös Kiadó, 729-761
8. The right to fair trial in the EU. In: Az állam és a jog alapvető értékei (editor: Smuk Péter), II. kötet 61-75, 2010, Győr
9. A nemzetközi magánjogi közrend francia elmélete és gyakorlata, *Magyar Jog*, 2009/10 562-571

Review

10. Megszületett az európai kollíziós kötelmi jog (review), *Jogtudományi Közlöny*, 2010/3, p. 165-167

Translation published

11. Roberto Baratta: Problematic elements of an implicit rule providing for mutual recognition of personal and family status in the EC – translation, *Magyar Jog* 2009/3 174-179

Studies not published

12. La libre circulation des jugements dans l'Europe (Free movement of decisions within the EU) – Master thesis
13. La suppression d'exequatur face aux exigences d'une procédure équitable (Abolition of exequatur and the right to fair trial) – paper to lecture „Droit judiciaire européen”