LEGAL FICTIONS IN CJEU CASE LAW: SPACE

Alina Mihaela CONEA[*]

Abstract

This paper examines the pervasive yet often overlooked role of legal fictions in shaping the European Union's legal framework. It focuses on the concept of space, exploring three key fictions: lex rei sitae, habitual residence, and non-entry. Lex rei sitae, a fiction that simplifies property disputes by anchoring contracts to the location of the property, gains new layers of meaning through the CJEU case-law. Habitual residence, while intentionally flexible, defines jurisdiction for various legal matters. The controversial „non-entry" fiction allows member states to deny legal entry to migrants despite their physical presence. By analysing these fictions, the paper sheds light on how the EU constructs and defines space within its legal system. This analysis paves the way for further research on legal fictions within EU law.

Keywords: *legal fiction, lex rei sitae, habitual residence, non-entry, CJEU case-law.*

1. Introduction

Space is relative ….not only in physics.

It is important to acknowledge the constant presence of legal fictions within legal systems. Legal fictions are as necessary to law as are other technical procedures, fulfilling at least a corrective function in relation to existing legal norms and taking into account the dynamics of legal relations. For example, the fiction of the legal person has become a concrete reality through the deepening and resizing of the legal category of legal subject[1]. Legal fictions can serve a pragmatic purpose by providing solutions to life's complexities and enhancing efficiency or functionality within the legal system[2]. They are also constantly found in EU law. In this paper, we will highlight some legal fictions that are related to the concept of space (the physical one).

In this paper, we will highlight some legal fictions related to the concept of space.

We focus on three areas of EU Law and examine the fictionalisation of space.

First, we focus on the concept of space in contractual obligations. *Lex rei sitae* dictates that the governing law for a contract concerning immovable property is typically the law of the country where the property is situated. The *lex rei sitae* fiction simplifies matters by ensuring a clear and predictable legal framework for disputes involving immovable property.

Then, another legal fiction central to EU private international law is the concept of „habitual residence". It plays a crucial role in determining jurisdiction for various legal matters, including divorce, child custody, and social security benefits. However, the concept is deliberately fluid, allowing for interpretation based on the specific legal instrument.

Third, we examine space and borders in immigration law[3]. The concept of „non-entry" employed in EU immigration law is a particularly controversial legal fiction. It allows member states to deny legal entry to third-country nationals (individuals not citizens of the EU) despite their physical presence on EU territory.

By examining these three legal fictions, we gain a deeper understanding of how the EU constructs and defines space within its legal framework. These fictions serve pragmatic and even creative purposes but also raise questions about fairness and consistency.

---

[*] Lecturer, PhD, Faculty of Law „Nicolae Titulescu" University of Bucharest (e-mail: alina.conea@univnt.ro).

[1] I. Deleanu, *Fictiunile juridice*, All Beck Publishing House, Bucharest, 2005.

[2] D. Lind, *The Pragmatic Value of Legal Fictions*, in: M. Del Mar, W. Twining (eds), *Legal Fictions in Theory and Practice*, Law and Philosophy Library, vol. 110, Springer, Cham., 2015.

[3] See on free movement of persons, A. Fuerea, *Dreptul Uniunii Europene. Principii, actiuni, libertati*, Universul Juridic Publishing House, Bucharest, 2016, p. 188.

2. The trees and *lex rei sitae*

In the case C-595/20, *UE v ShareWood Switzerland*[4], an Austrian consumer (UE) filed a lawsuit against ShareWood, a company located in Switzerland, in an Austrian court. The lawsuit stemmed from a main agreement between UE and ShareWood for the purchase of teak and balsa trees growing in Brazil. This agreement included four separate purchase contracts and additional terms. The purchase price encompassed ground rent for the land where the trees were planted. ShareWood managed the trees, including harvesting and selling them, and retained a portion of the profits as a service fee. Notably, one purchase contract involving 2600 teak trees was mutually cancelled by both parties. The Austrian court (Oberster Gerichtshof) is deciding on the applicable law of this contract. Despite choosing Swiss law, the court considers Austrian consumer protection laws may still apply.

The Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17.06.2008 on the law applicable to contractual obligations (Rome I) unequivocally establishes the principle of party autonomy in contractual obligations. This principle allows parties to freely choose the governing law of their contract without constraints. In the absence of choice, the regulation[5] establishes some rules, such as: a contract relating to a right in rem in immovable property or to a tenancy of immovable property shall be governed by the law of the country where the property is situated (*lex rei sitae*[6]).

However, the Regulation imposes certain limitations on party autonomy, particularly when its exercise would disadvantage the weaker party in contracts involving consumers[7].

Normally, contracts with consumers would be governed by the law of the party providing the primary performance if no choice of law is made [art. 4(2)]. This typically refers to the law of the professional engaged by the consumer. However, art. 6 of the Regulation alters this approach by subjecting such contracts, in the absence of a choice of law, to the law of the country where the consumer has their habitual residence. This is presumed to be, if not more favourable, at least more familiar to the consumer. Additionally, the Regulation extends consumer protection to all contracts, except those explicitly excluded by art. 6(4). So, a contract relating to a right *in rem* in immovable property or a tenancy of immovable property will be governed by the law of the professional.

According to the CJEU in its judgment of 10.02.2022, C-595/20, *UE v. ShareWood Switzerland* [8], «the trees must be regarded as being the proceeds of the use of the land on which they are planted. Although such proceeds will, as a general rule, share the same legal status as the land on which the trees concerned are planted, the proceeds may nevertheless, by agreement, be the subject of personal rights of which the owner or occupier of that land may *dispose separately* without affecting the right of ownership or other rights *in rem* appertaining to that land. A contract which relates to the disposal of the proceeds of the use of land cannot be treated in the same way as a contract which relates to a „right *in rem* in immovable property", within the meaning of art. 6(4)(c) of the Rome I Regulation.»

In conclusion, contracts related to trees planted on land leased *for the sole purpose of harvesting* those trees *for profit* are not „contracts having as their object rights *in rem* in immovable property or tenancies of immovable property".

CJEU seems to have a flexible approach, taking the *lex rei sitae* rule as a starting point but holding its application against the light of the interests involved[9].

[4] Judgment of the Court (Eighth Chamber), 10.02.2022, *UE v. ShareWood Switzerland AG and VF*, Case C-595/20, ECLI:EU:C:2022:86.

[5] Art. 4(1)(c), Regulation (EC) no. 593/2008 of the European Parliament and of the Council of 17.06.2008 on the law applicable to contractual obligations (Rome I), OJ L 177/04.07.2008, p. 6-16.

[6] E. Anghel, *Drept privat roman: izvoare, procedură civilă, persoane, bunuri*, Universul Juridic Publishing House, Bucharest, 2021, p. 191.

[7] Art. 6, Regulation (EC) no. 593/2008 of the European Parliament and of the Council of 17.06.2008 on the law applicable to contractual obligations (Rome I), OJ L 177/04.07.2008, p. 6-16.

[8] Judgment of the Court (Eighth Chamber), 10.02.2022, *UE v. ShareWood Switzerland AG and VF*, Case C-595/20, ECLI:EU:C:2022:86, para. 28.

[9] S. van Erp, *Lex rei sitae: The Territorial Side of Classical Property Law*, in Regulatory Property Rights, Leiden, The Netherlands: Brill | Nijhoff, 2017, p. 80.

3. The habitual residence

The concept of habitual residence[10], central to EU private international law, presents a paradox. Interestingly, its meaning remains fluid, receiving different interpretations depending on the legal instruments to which it is linked.

„Habitual residence" is a connecting factor across various areas of EU legislation.

One area is the EU legislation concerning conflict rules, such as: (1) Contractual obligations (Rome I Regulation[11]); (2) non-contractual obligations (Rome II Regulation[12]); (3) divorce and legal separation (Regulation no. 1259/2010[13]); (4) matrimonial matters and parental responsibility (Regulation Brussels II bis[14]); (5) maintenance obligations (Regulation no. 4/2009[15]); (6) succession matters (Regulation no. 650/2012[16]).

„Habitual residence" extends its influence beyond private law, serving as a connecting factor in various EU public law instruments. These include, for example: (1) social security coordination (Regulation no. 883/2004[17]); (2) European Arrest Warrant (Council Framework Decision 2002/584/JHA [18]); (3) staff regulations of EU officials. A special area is that of the insolvency proceedings[19].

3.1. Habitual residence may be different for child and adults

In the field of family law, CJEU recognise that „the particular circumstances characterising the place of habitual residence of a child *are clearly not identical* in every respect to those which make it possible to determine the place of habitual residence of a spouse".

The CJEU case law establishes that a young child's *habitual residence* is determined in part by the parents' social and family environment.

Within the context of parental responsibility under Regulation no. 2201/2003, the CJEU has established a framework for determining a child's habitual residence, particularly for young children. This framework prioritises the parents' situation, focusing on their: (1) Stable presence and integration into a social and family environment; (2) Intention to settle in that location, where that intention is manifested by tangible steps.

This approach acknowledges the dependence of young children on their parents and the significance of their family environment[20].

The *IB v FA*, C-289/20[21], involves a French-Irish couple (IB and FA) married in Ireland (1994) with a family home there. IB initiated divorce proceedings in France (2018) where he had worked since 2010. While FA argued their habitual residence remained in Ireland, IB highlighted his stable employment, apartment ownership, and social life in France. The French appeal court acknowledged IB's ties to both countries: his professional center in France since 2017 and ongoing family connections in Ireland. This situation led them to question whether EU regulations allow spouses with divided lives to have a habitual residence in two member states, granting jurisdiction to courts in both locations.

---

[10] A.M. Conea, *Politicile Uniunii Europene. Curs universitar*, Universul Juridic Publishing House, Bucharest, 2019.

[11] Regulation (EC) no. 593/2008 of the European Parliament and of the Council of 17.06.2008 on the law applicable to contractual obligations (Rome I), OJ L 177/04.07.2008, p. 6-16.

[12] Regulation (EC) no. 864/2007 of the European Parliament and of the Council of 11.07.2007 on the law applicable to non-contractual obligations (Rome II), OJ L 199/31.07.2007, p. 40-49.

[13] Council Regulation (EU) no. 1259/2010 of 20.12.2010 implementing enhanced cooperation in the area of the law applicable to divorce and legal separation, OJ L 343/29.12.2010, p. 10-16.

[14] Council Regulation (EU) no. 2019/1111 of 25.06.2019 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (recast), OJ L 178/02.07.2019.

[15] Council Regulation (EC) no. 4/2009 of 18.12.2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations, OJ L 7/10.01.2009, p. 1-79.

[16] Regulation (EU) no. 650/2012 of the European Parliament and of the Council of 04.07.2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession, OJ L 201/27.07.2012, p. 107-134.

[17] Regulation (EC) no. 883/2004 of the European Parliament and of the Council of 29.04.2004 on the coordination of social security systems (Text with relevance for the EEA and for Switzerland), OJ L 166/30.04.2004, p. 1-123.

[18] 2002/584/JHA: Council Framework Decision of 13.06.2002 on the European arrest warrant and the surrender procedures between Member States - Statements made by certain Member States on the adoption of the Framework Decision, OJ L 190/18.07.2002, p. 1-20.

[19] Regulation (EU) no. 2015/848 of the European Parliament and of the Council of 20.05.2015 on insolvency proceedings, OJ L 141/05.06.2015, p. 19-72.

[20] Judgment of the Court (Fifth Chamber), 28.06.2018, Proceedings brought by HR, Case C-512/17, ECLI:EU:C:2018:513.

[21] Judgment of the Court (Third Chamber), 25.11.2021, IB v. FA, Case C-289/20, ECLI:EU:C:2021:955.

The court acknowledges that unlike children, whose environment is primarily familial (*Mercredi*, C-497/10 PPU[22]), adults have a more diverse range of activities and interests spanning professional, social, cultural, and financial aspects. This complexity makes it impractical to expect these interests to be concentrated within a single EU member state. This aligns with the objectives of Regulation no. 2201/2003: facilitating divorce applications through flexible conflict of laws and protecting spouses who leave the common habitual residence due to marital breakdown (Mikołajczyk, C-294/15[23]).

For adults, the Court identifies the key factors in determining habitual residence: a stable stay within the Member State and, at minimum, evidence of integration into the social and cultural environment. The Court establishes that a spouse residing in two Member States can only have *one* habitual residence[24].

3.2. Habitual residence for social security

In the case *I. v. Health Service Executive*, C-255/13[25], Mr. I, an Irish national, fell severely ill while on holiday in Germany. Since then, for 11 years he has required constant medical care and resides there with his partner, Ms. B. Despite maintaining financial ties and contact with his family and children in Ireland, Mr. I's limited mobility prevents him from easily returning. This case centres on his eligibility for social security benefits. Ireland initially covered his treatment in Germany under EU regulations, but later denied further support due to his perceived residency shift. The Irish High Court questions if EU law allows continued healthcare coverage under these circumstances, considering Mr. I's compelled stay in Germany due to his medical condition.

The court establishes that „since the determination of the place of residence of a person who is covered by insurance for social security purposes must be based on a whole range of factors, the simple fact that such a person has remained in a Member State, even continuously over a long period, does not necessarily mean that he resides in that State"[26]. The court adds that „the length of residence in the Member State in which payment of a benefit is sought cannot be regarded as an intrinsic element of the concept of residence".

The Court of Justice clarifies that such a person can be considered „staying" in the second member state, but only if their *habitual centre of interests* remains in the first. Notably, a prolonged stay in the second state due to illness is not enough to establish *residency* for social security purposes.

3.3. Habitual residence as centre of main interest in insolvency proceedings

Jurisdiction to open insolvency proceedings belongs to the courts of the Member State in which the debtor's center of main interests is located[27]. In the case of individual, the centre of main interests shall be presumed to be the place of the individual's *habitual residence* in the absence of proof to the contrary.

The Regulation provides a definition of the concept of „*center of main interests*" (COMI) in art. 3(1) of Regulation no. 2015/848 as the place where the debtor habitually manages its interests and which is verifiable by third parties[28]. According to the CJEU, the concept[29] has an autonomous character. The interpretation of the

[22] Judgment of the Court (First Chamber), 22.11.2010, *Barbara Mercredi v. Richard Chaffe*, Case C-497/10 PPU, ECLI:EU:C:2010:829, para. 54.

[23] Judgment of the Court (Second Chamber), 13.10.2016, *Edyta Mikołajczyk v. Marie Louise Czarnecka and Stefan Czarnecki*, Case C-294/15, ECLI:EU:C:2016:772, para. 50.

[24] Judgment of the Court (Third Chamber), 25.11.2021, *IB v. FA*, Case C-289/20, ECLI:EU:C:2021:955.

[25] Judgment of the Court (Fourth Chamber), 05.06.2014, *I. v. Health Service Executive*, Case C-255/13, ECLI:EU:C:2014:1291

[26] *Idem*, para.48.

[27] Art. 3(1) Regulation no. 2015/848.

[28] For a critical review of the definition and presumptions: R. Mangano, *The Puzzle of the New European COMI Rules: Rethinking COMI in the Age of Multinational, Digital and Glocal Enterprises*, European Business Organization Law Review, Springer, 2019.

[29] In the previous Regulation, Regulation no. 1346/2000, the current definition was found in Recital 13.

concept provided by the CJEU in the *Eurofood*[30] and *Interedil*[31] cases has been codified in the amended version of the Regulation.

Thus, Recital 30 of the Regulation emphasises that what is relevant in identifying the „COMI" is the real center of management and supervision of the company and the center of management of its interests.

The following presumptions are established (subject to a time condition[32]):

(1) In the case of a company or legal person, the center of main interests is presumed, until proven otherwise, to be the place where the registered office is located;

(2) In the case of a natural person who exercises an independent activity or a professional activity, the center of main interests is presumed to be the main place of business, in the absence of evidence to the contrary;

(3) In the case of any other individual, the centre of main interests shall be presumed to be the place of the individual's *habitual residence* in the absence of proof to the contrary.

In the case *MH and NI*[33] A UK-resident couple seeks insolvency in Portugal, where their sole asset is located and financial troubles arose. The Portuguese lower court declined jurisdiction due to the presumption of COMI being habitual residence (UK). The couple argues Portugal is their COMI due to asset location and insolvency origin, questioning the presumption's strength. The referring court seeks clarification on rebutting the presumption for non-business individuals. The CJEU stated that „the presumption established in that provision for determining international jurisdiction for the purposes of opening insolvency proceedings, according to which the centre of the main interests of an individual not exercising an independent business or professional activity is his or her habitual residence, is not rebutted solely because the only immovable property of that person is located outside the Member State of habitual residence"[34].

3.4. Reside or stay in European arrest warrant

The interpretation of the terms „resident" and „staying" in the executing Member State emerged as a central issue in the European arrest warrant[35] case of *Szymon Kozłowski*[36]. The CJEU concluded that a requested person is „resident" in the executing Member State when he has established his actual place of residence there and he is „staying" there when, following a stable period of presence in that State, he has acquired connections with that State which are of a similar degree to those resulting from residence. In order to ascertain whether there are connections between the requested person and the executing Member State which lead to the conclusion that that person is covered by the term „staying", it is for the executing judicial authority to make an overall assessment of various objective factors characterising the situation of that person, including, in particular, the length, nature and conditions of his presence and the family and economic connections which that person has with the executing Member State[37].

4. The borders and „non-entry"

State borders mark physical lines separating countries (sovereignty) and legal reach (jurisdiction). The national legal systems rely on a defined territory for their rules and enforcement[38].

The concept of „non-entry" is a legal mechanism employed by states to manage their borders. It allows them to deny third-country nationals (individuals not citizens of the member state) legal entry despite their physical presence on the territory. This fiction applies until the individual obtains official clearance from border or immigration officers. In the field of immigration control, the European Commission's proposal for a pre-

[30] Judgment of the Court (Grand Chamber), 02.05.2006, *Eurofood IFSC Ltd*, Case C-341/04, ECLI:EU:C:2006:281.

[31] Judgment of the Court (First Chamber), 20.10.2011, *Interedil Srl, in liquidation v. Fallimento Interedil Srl and Intesa Gestione Crediti SpA*, Case C-396/09, ECLI:EU:C:2011:671.

[32] This presumption applies only if the main place of business has not been moved to another Member State in the three months preceding the application for the opening of insolvency proceedings.

[33] Judgment of the Court (Ninth Chamber), 16.07.2020, *MH and NI v. OJ and Novo Banco SA*, Case C-253/19, ECLI:EU:C:2020:585.

[34] *Idem*, dispositive.

[35] Council Framework Decision 2002/584/JHA of 13.06.2002 on the European arrest warrant and the surrender procedures between Member States.

[36] Judgment of the Court (Grand Chamber), 17.07.2008, *Szymon Kozłowski*, Case C-66/08, ECLI:EU:C:2008:437.

[37] *Idem*, para. 54.

[38] R.-M. Popescu, *Drept Internațional Public. Noțiuni Introductive*, Universul Juridic Publishing House, Bucharest, 2023, p. 139.

screening regulation[39] alongside the amended procedures directive strengthens their preventative approach built on the „non-entry" fiction[40].

Pre-entry screening in the EU subjects third-country nationals to a state of non-recognition. They are deemed unlawfully present despite their physical location within EU territory. This exclusion from lawful[41] presence denies them crucial human rights protections, particularly those prohibiting pushbacks and refoulement. International law obligates countries to uphold these protections, but only for those who have lawfully entered before seeking asylum. Furthermore, pre-entry screening integrates these individuals into the EU's extensive migration surveillance system, including mandatory biometric registration.

Scholars[42] debate the existence of a potentially contrary[43] or inconsistent[44] approach by the ECtHR compared to the CJEU on this issue.

Through a series of rulings[45], the CJEU has deemed such state practices incompatible with the Charter[46]. The CJEU upholds his constant approach in the case *M.A. v. Valstybės sienos apsaugos tarnyba*, C-72/22 PPU[47], assessed national emergency measures enacted in Lithuania to address a migrant influx. The case involved M.A., a third-country national detained for irregular entry. Lithuania's emergency measures allowed detention based solely on irregular entry during a mass influx and restricted asylum applications. The CJEU ruled these measures incompatible with EU law. It emphasised that asylum procedures must guarantee effective access to protection, and irregular entry cannot prevent applications. Additionally, detention of asylum seekers solely based on irregular stay is not permitted. The CJEU concluded that EU law prohibits national provisions denying asylum applications and detaining solely on irregular residence during a declared mass influx.

5. Conclusions

Legal fictions are often unseen in the legal structure. They are present throughout legal systems, subtly shaping how the law operates. This paper explored three such fictions within the European Union: *lex rei sitae*, habitual residence, and non-entry. These concepts demonstrate the often-unnoticed role legal fictions play in streamlining legal processes (*lex rei sitae*), defining jurisdiction (habitual residence), and managing complex situations (non-entry). Recognizing these nuances allows for a more informed discussion about the role of legal fictions within the EU legal framework.

References

Literature

- Anghel, E., *Drept privat roman: izvoare, procedură civilă, persoane, bunuri*, Universul Juridic Publishing House, Bucharest, 2021;
- Anita, O., Nefeli, B., *Legal fiction of non-entry in EU asylum policy*, EPRS | European Parliamentary Research Service, 2024, *https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/760347/EPRS_BRI(2024)760347_EN.pdf*;
- Carrera, S., *The Strasbourg court judgement 'N.D. and N.T. v Spain': a 'carte blanche' to push backs at EU external borders?*, EUI RSCAS, 2020/21, Migration Policy Centre;
- Deleanu, I., *Ficțiunile juridice*, All Beck Publishing House, Bucharest, 2005;

[39] Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL introducing a screening of third country nationals at the external borders and amending Regulations (EC) no. 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817, COM/2020/612 final.

[40] V. Mitsilegas, *The EU external border as a site of preventive (in)justice*, Eur Law J. 2022; 28(4-6): 263-280, *doi:10.1111/eulj.12444*.

[41] E.E. Ștefan, *Drept administrativ, Partea a II-a, Curs universitar*, Universul Juridic Publishing House, Bucharest, 2023, p. 35.

[42] V. Mitsilegas, *op. cit., loc. cit.*

[43] S. Carrera, *The Strasbourg court judgement 'N.D. and N.T. v. Spain': a 'carte blanche' to push backs at EU external borders?*, EUI RSCAS, 2020/21, Migration Policy Centre, *https://hdl.handle.net/1814/66629*.

[44] O. Anita, B. Nefeli, *Legal fiction of non-entry in EU asylum policy*, EPRS | European Parliamentary Research Service, 2024.

[45] Judgment of the Court (Grand Chamber), 14.05.2020, *FMS and Others v. Országos Idegenrendészeti Főigazgatóság Dél-alföldi Regionális Igazgatóság and Országos Idegenrendészeti Főigazgatóság*, Joined Cases C-924/19 PPU and C-925/19 PPU; judgment of the Court (Grand Chamber), 17.12.2020, *European Commission v. Hungary*, Case C-808/18, ECLI:EU:C:2020:1029.

[46] M.-A. Nită (Dumitrașcu), O.-M. Salomia, *Dreptul Uniunii Europene II. Curs universitar*, 2nd ed., Universul Juridic Publishing House, Bucharest, 2023, p. 253.

[47] Judgment of the Court (First Chamber), 30.06.2022, *M.A. v. Valstybės sienos apsaugos tarnyba*, Case C-72/22 PPU, ECLI:EU:C:2022:505.

- Erp, S. van, *Lex rei sitae: The Territorial Side of Classical Property Law*, in *Regulatory Property Rights*, Leiden, The Netherlands: Brill | Nijhoff, 2017;
- Esposito, F., de Almeida, L., *European Union Litigation*, in European Review of Contract Law 18, no. 3, 2022, *https://doi.org/10.1515/ercl-2022-2049*;
- Fuerea, A., Deli-Diaconescu, A., *Directiva privind restructurarea și insolvența. Între așteptări, dezbateri și previziuni*, in Curierul Juridic no. 8/2019;
- Fuerea, A., *Dreptul Uniunii Europene. Principii, actiuni, libertăți*, Universul Juridic Publishing House, Bucharest, 2016;
- van Houtum, H., Kramsch O., Zierhofer, W., *Prologue, B/ORDERING SPACE*, Ashgate Publishing, 2005;
- Lind, D., *The Pragmatic Value of Legal Fictions*, in: Del Mar, M., Twining, W. (eds), *Legal Fictions in Theory and Practice*, Law and Philosophy Library, vol. 110, Springer, 2015;
- Mangano, R., *The Puzzle of the New European COMI Rules: Rethinking COMI in the Age of Multinational, Digital and Global Enterprises*, in European Business Organization Law Review, Springer, 2019;
- Mitsilegas, V., *The EU external border as a site of preventive (in)justice*, Eur Law J., 2022, 28(4-6), *doi:10.1111/eulj.12444*;
- Niță (Dumitrașcu), M.-A., Salomia, O.-M., *Dreptul Uniunii Europene II. Curs universitar*, 2nd ed., Universul Juridic Publishing House, Bucharest, 2023;
- Popescu, R.-M., *Drept Internațional Public. Noțiuni Introductive*, Universul Juridic Publishing House, Bucharest, 2023;
- Ștefan, E.E., *Drept administrativ, Partea a II-a, Curs universitar*, Universul Juridic Publishing House, Bucharest, 2023;
- Werlen, B., *Regions and Everyday Regionalisations, From a Space-centred Towards an Action-centred Human Geography*, in B/ORDERING SPACE, eds. Henk van Houtum, Olivier Kramsch and Wolfgang Zierhofer, Ashgate Publishing, 2005, p. 57.

Legal framework

- 2002/584/JHA: Council Framework Decision of 13.06.2002 on the European arrest warrant and the surrender procedures between Member States - Statements made by certain Member States on the adoption of the Framework Decision, OJ L 190/18.07.2002;
- Council Regulation (EC) no. 4/2009 of 18.12.2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations, OJ L 7/10.01.2009;
- Council Regulation (EU) no. 2019/1111 of 25.06.2019 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (recast), OJ L 178/02.07.2019;
- Council Regulation (EU) no. 1259/2010 of 20.12.2010 implementing enhanced cooperation in the area of the law applicable to divorce and legal separation, OJ L 343/29.12.2010;
- Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL introducing a screening of third country nationals at the external borders and amending Regulations no. 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817, COM/2020/612 final;
- Regulation (EC) no. 864/2007 of the European Parliament and of the Council of 11.07.2007 on the law applicable to non-contractual obligations (Rome II), OJ L 199/31.07.2007;
- Regulation (EC) no. 883/2004 of the European Parliament and of the Council of 29.04.2004 on the coordination of social security systems (Text with relevance for the EEA and for Switzerland), OJ L 166/30.04.2004;
- Regulation (EU) no. 2015/848 of the European Parliament and of the Council of 20.05.2015 on insolvency proceedings (recast), OJ L 141/05.60.2015;
- Regulation (EU) no. 650/2012 of the European Parliament and of the Council of 04.07.2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession, OJ L 201/27.07.2012.

CJEU Jurisprudence

- Judgment of the Court (Eighth Chamber), 10.02.2022, *UE v. ShareWood Switzerland AG and VF*, Case C-595/20, ECLI:EU:C:2022:86;
- Judgment of the Court (Grand Chamber), 17.07.2008, *Szymon Kozłowski*, Case C-66/08, ECLI:EU:C:2008:437;
- Judgment of the Court (Grand Chamber), 02.05.2006, *Eurofood IFSC Ltd*, Case C-341/04, ECLI:EU:C:2006:281;
- Judgment of the Court (First Chamber), 20.10.2011, *Interedil Srl, in liquidation v. Fallimento Interedil Srl and Intesa Gestione Crediti SpA*, Case C-396/09, ECLI:EU:C:2011:671;
- Judgment of the Court (Ninth Chamber), 16.07.2020, *MH and NI v. OJ and Novo Banco SA*, Case C-253/19, ECLI:EU:C:2020:585;
- Judgment of the Court (Fifth Chamber), 28.06.2018, Proceedings brought by HR, Case C-512/17, ECLI:EU:C:2018:513;

- Judgment of the Court (First Chamber), 22.12.2010, *Barbara Mercredi v. Richard Chaffe*, Case C-497/10 PPU, ECLI:EU:C:2010:829;
- Judgment of the Court (Second Chamber), 13.10.2016, *Edyta Mikołajczyk v. Marie Louise Czarnecka and Stefan Czarnecki*, Case C-294/15, ECLI:EU:C:2016:772;
- Judgment of the Court (Third Chamber), 25.11.2021, *IB v. FA*, Case C-289/20, ECLI:EU:C:2021:955;
- Judgment of the Court (Fourth Chamber), 05.06.2014, *I v. Health Service Executive*, Case C-255/13, ECLI:EU:C:2014:1291;
- Judgment of the Court (Grand Chamber), 14.05.2020, *FMS and Others v. Országos Idegenrendészeti Főigazgatóság Dél-alföldi Regionális Igazgatóság and Országos Idegenrendészeti Főigazgatóság*, joined Cases C-924/19 PPU and C-925/19 PPU, ECLI:EU:C:2020:367;
- Judgment of the Court (First Chamber), 30.06.2022, *M.A. v. Valstybės sienos apsaugos tarnyba*, Case C-72/22 PPU, ECLI:EU:C:2022:505;
- Judgment of the Court (Grand Chamber), 14.05.2020, *FMS and Others v. Országos Idegenrendészeti Főigazgatóság Dél-alföldi Regionális Igazgatóság and Országos Idegenrendészeti Főigazgatóság*, Joined Cases C-924/19 PPU and C-925/19 PPU;
- Judgment of the Court (Grand Chamber), 17.12.2020, *European Commission v. Hungary*, Case C-808/18, ECLI:EU:C:2020:1029.