

WORKSHOP – 2017 - Prague

Case

Tereza (Danish/Czech national) and Martin (German/Czech national) meet during their student days in Prague. In 1997 they move to Martin's native town Berlin in Germany, where they get married in 1998.

In 2005, following the birth of their two children, Alex (2003) and Anna (2004), they relocate to Prague, where Martin enters into a well-paid employment.

In 2008, Martin gets promoted to take a more senior position in the Brussels branch of his company and the family relocates to Belgium.

Recurring relationship problems lead to a temporary separation of the couple in 2015. Hoping to find a way to save their marriage, Tereza and Martin decide to take some distance. While Tereza stays in the family home with the children, Martin rents a small apartment nearby.

When in the end of 2015 Martin's working contract is surprisingly not prolonged, Martin accepts a lucrative job offer in Berlin and returns to Germany. In order to be there for his children, he, however, spends most of his weekends in Brussels.

In the following months, bigger arguments between Tereza and Martin make reconciliation difficult. In the end of 2016, Tereza considers filing for divorce. In any case, she urgently wishes to claim maintenance for herself and the children. Martin has stopped paying the rent for the family apartment in Brussels two months ago, which has led to serious financial difficulties on Tereza's side. Tereza only has a part time occupation. Martin earns very well and owns immovable property in Norway and in Denmark.

Questions

1. In accordance with which rules will the jurisdiction for maintenance matters be determined?
2. Which court(s) will have jurisdiction on maintenance between spouses or ex-spouses in our case?
3. Could the filing of divorce in Germany have an influence on the international jurisdiction concerning spousal maintenance (or respectively maintenance between ex-spouses)?
4. Would your answers to the questions 2 and 3 be different if we were talking about child support?
5. Which rules determine the law applicable to maintenance?
6. Assuming the Belgian court has international jurisdiction on maintenance in our case, which law would the court apply to:
 - a) child support
 - b) maintenance between spouses or ex-spouses?
7. Would the result be different if a German court (assuming this court had jurisdiction) would deal with the maintenance matters?
8. Assuming before Martin's relocation to Germany in 2015, Tereza and Martin had discussed drafting an agreement on jurisdiction and applicable law. For which matters could they have concluded a valid agreement? The courts of which States or respectively the laws of which States could they have chosen?
 - a) Choice of court – maintenance between (ex-)spouses
 - b) Choice of applicable law – maintenance between (ex-)spouses
 - c) Choice of court – child maintenance
 - d) Choice of applicable law - child maintenance

9. The Belgian court has decided on 30 January 2017 that Martin has to pay monthly child support of 450 EUR per child and a monthly spousal support of 250 EUR. In case Martin refuses to pay, which instrument(s) would be used to enforce this decision in:

- a) Germany
- b) Denmark
- c) Norway?

10. Which form(s) would have to be filled in for an extract / abstract of the decision for the enforcement in these three States?

11. What would be the steps necessary to bring about the actual enforcement of the decision in:

- a) Germany
- b) Denmark
- c) Norway?

Please cite the relevant Articles.

12. Would Tereza be able to get assistance from the Central Authority when trying to enforce the Belgian decision in:

- a) Germany
- b) Denmark
- c) Norway?