

Cross-border maintenance: The interplay of different instruments

Introduction to the European Maintenance Regulation

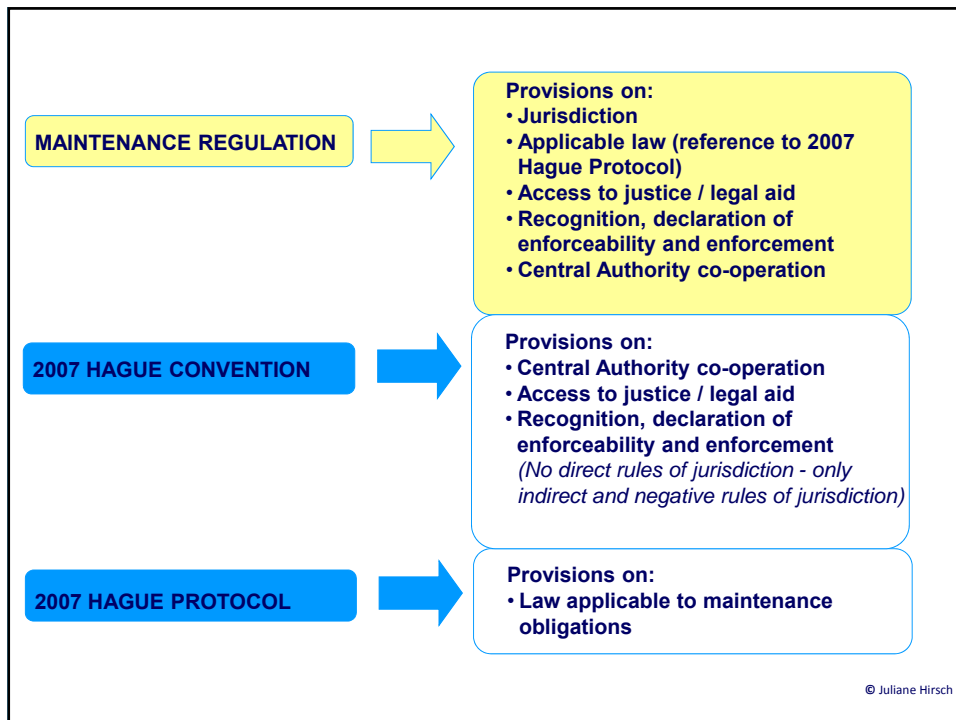
ERA – Prague, 2 February 2017

Juliane Hirsch, LL.M.
Consultant on Private International Law and
International Family Law



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I. SETTING THE SCENE



	ADOPTED ON	STATUS <i>(December 2016)</i>	ENTRY INTO FORCE/ APPLICABILITY
MAINTENANCE REGULATION	18 December 2008		Applicable as of 18 June 2011 <i>for all EU Member States (for Denmark only partial application)</i>

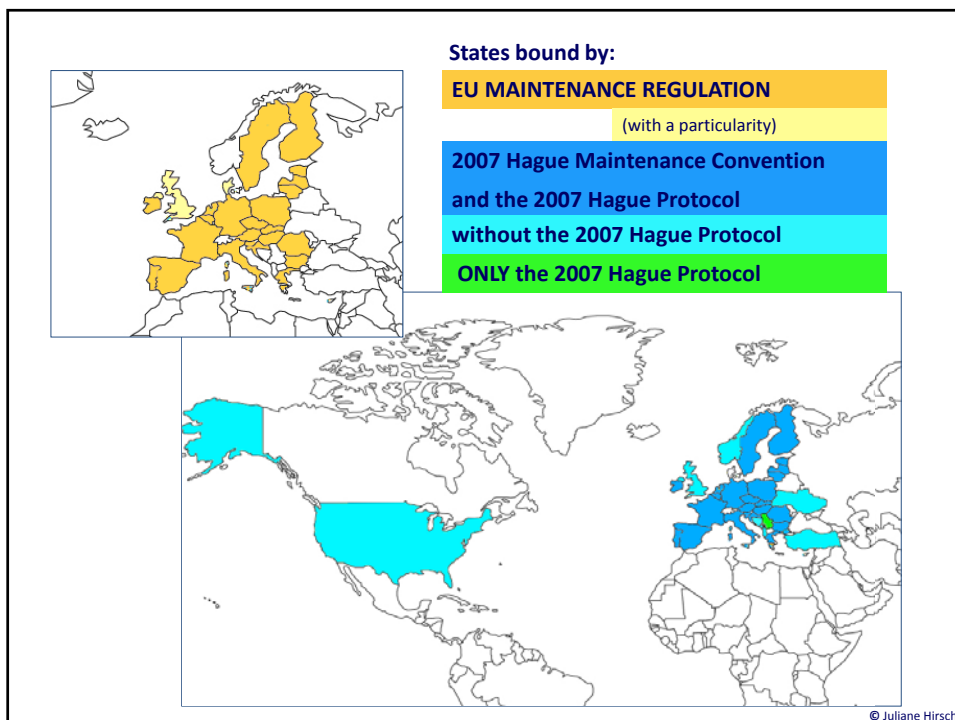
See for corrections of Regulation text and Annexes: <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32009R0004>

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	ADOPTED ON	STATUS <i>(December 2016)</i>	ENTRY INTO FORCE/ APPLICABILITY
2007 HAGUE CONVENTION	23 November 2007	7 Ratifications/Accessions & 1 Approval (EU without DK) = 34 States bound	In force for the EU Member States (except Denmark) since 1 August 2014 <i>(Entry into force of the instrument on 1 Jan. 2013)</i>
2007 HAGUE PROTOCOL	23 November 2007	2 Signatures 1 Ratification 1 Approval (EU without DK & the UK)	Entered into force on 1 August 2013 <i>but provisionally applied in the European Union - except Denmark and the UK - as of 18 June 2011</i>

For the status table of all Hague Conventions see www.hcch.net under "Instruments" and then „Conventions“

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Other regional instruments	APPLICATION AS OF:	TODAY IN FORCE FOR:
Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (the „Brussels I Regulation“) <i>The Brussels I Regulation continues to apply to judgements given in proceedings instituted before 10 Jan 2015 despite “Brussels I recast”</i>	1 March 2002	all EU Member States (including Denmark since 2007)
Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims (the „European Enforcement Order Regulation“)	21 October 2005	all EU Member States except Denmark
Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, Lugano, 30 October 2007 (the „new Lugano Convention“) Replacing the Lugano Convention of 1988	1 January 2010	Iceland, Norway, Switzerland & all EU Member States

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Other international instruments	IN FORCE SINCE	STATE PARTIES (December 2016)
United Nations Convention on the Recovery Abroad of Maintenance, New York, 20 June 1956 (the 1956 UN Convention)	25 May 1957	64
Hague Convention of 24 October 1956 on the law applicable to maintenance obligations towards children (the 1956 Hague Convention)	1 January 1962	14
Hague Convention of 15 April 1958 concerning the recognition and enforcement of decisions relating to maintenance obligations towards children (the 1958 Hague Convention)	1 January 1962	20
Hague Convention of Convention of 2 October 1973 on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations (the 1973 Hague Convention)	1 August 1976	24
Hague Convention of 2 October 1973 on the Law Applicable to Maintenance Obligations (the 1973 Hague Applicable Law Convention)	1 October 1977	15

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EU Maintenance Regulation & 2007 Hague Convention Differences and commonalities

PREAMBLE

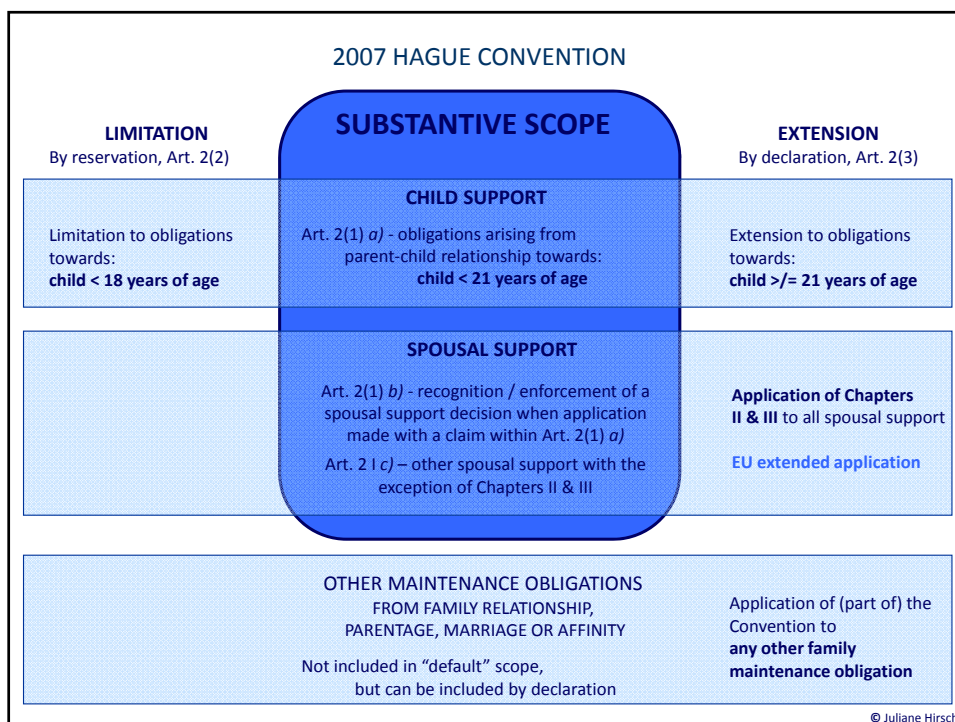
EU MAINTENANCE REGULATION - STRUCTURE

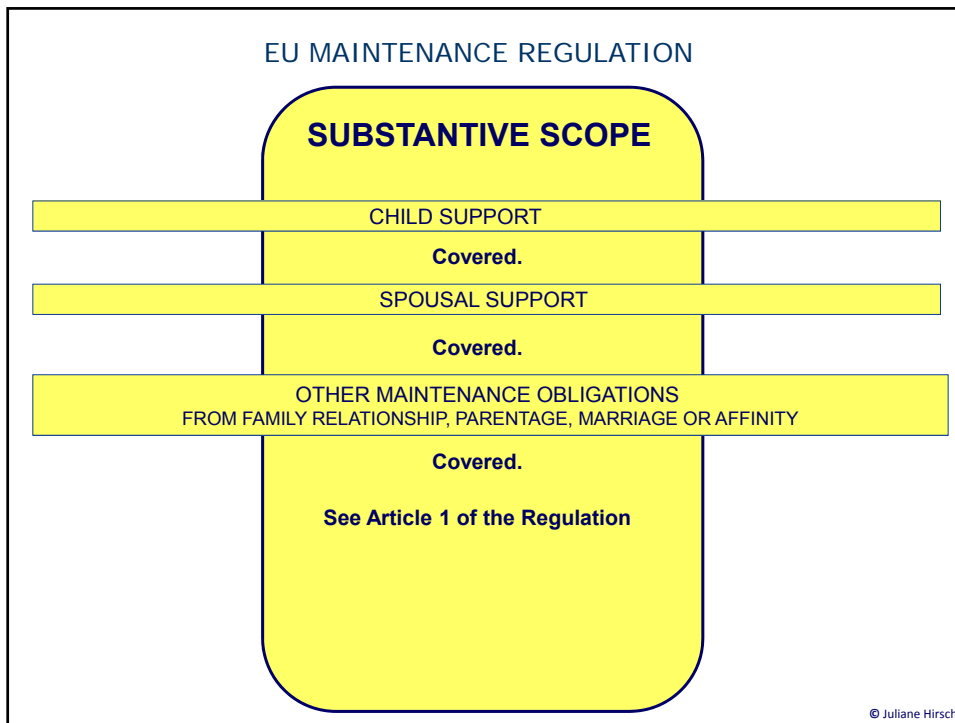
CHAPTER I - Scope and Definitions	Arts 1-2
CHAPTER II - Jurisdiction	Arts 3-14
CHAPTER III - Applicable Law	Art. 15
CHAPTER IV - Recognition, Enforceability and Enforcement of Decisions	Art. 16-43
CHAPTER V - Access to Justice	Arts 44-47
CHAPTER VI - Court Settlements and Authentic Instruments	Art. 48
CHAPTER VII - Cooperation between Central Authorities	Arts 49-63
CHAPTER VIII - Public Bodies	Art. 64
CHAPTER IX - General and Final Provisions	Arts 65-76

ANNEX - FORMS

2007 HAGUE CONVENTION - STRUCTURE	
PREAMBLE	
CHAPTER I - Object, Scope, Definitions	Arts 1-3
CHAPTER II - Administrative Co-operation	Arts 4-8
CHAPTER III - Applications through Central Authorities	Arts 9-17
CHAPTER IV - Restrictions on Bringing Proceedings	Art. 18
CHAPTER V - Recognition and Enforcement	Arts 19-31
CHAPTER VI - Enforcement by the State addressed	Arts 32-35
CHAPTER VII - Public Bodies	Art. 36
CHAPTER VIII - General Provisions	Arts 37-57
CHAPTER IX - Final Provisions	Arts 58-65
ANNEX 1 & 2 - FORMS (Transmittal, Acknowledgement)	

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DIFFERENCES AND COMMONALITIES

	EU Maintenance Regulation	2007 Hague Convention
Jurisdiction	Comprehensive direct rules on jurisdiction	No direct rules on jurisdiction
	Negative rule on jurisdiction	
Applicable law	Included by reference to the Hague Protocol (not applicable to DK and UK)	Not included Applicable law rules in separate instrument (Hague Protocol)
Recognition & enforcement	CHAPTER IV, SECTION 1 – Abolition of exequatur SECTION 2 – recognition without procedure, simplified enforcement	Art. 23 Regular procedure – simplified recognition and enforcement Art. 24 Alternative procedure
Central Authority Cooperation	Detailed rules on Central Authority cooperation (to a large extent identical)	

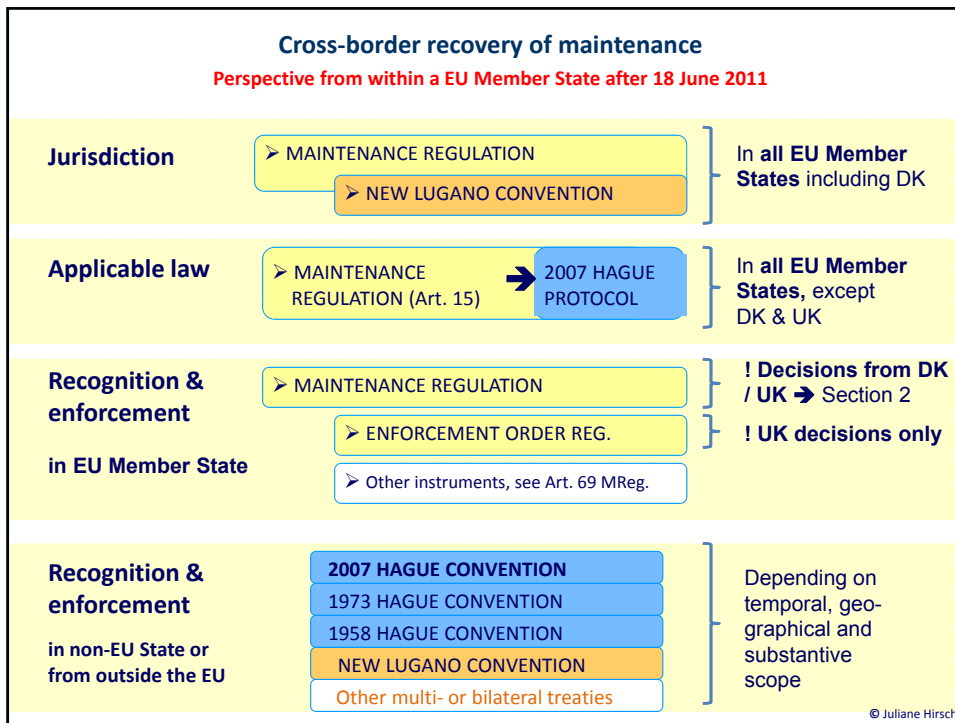
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**WHEN TO APPLY WHICH
INSTRUMENT?**

Substantive Scope

Geographic Scope

Temporal Scope



Thank you for your attention

ERA – Prague, 2 February 2017

Juliane Hirsch, LL.M.
julianehirsch.jh@gmail.com