

# 1GC | Family Law

## Professor Peter McEleavy

Year of Call: 1999



## Practice Overview

A leading expert on family aspects of private international law, Peter is Professor of International Family Law at the University of Dundee and a visiting professor at the University of Kobe in Japan. His research has been relied upon by leading courts globally, and in recent years has regularly been cited in proceedings of the Court of Justice of the European Union.

Peter McEleavy advises and gives expert evidence, domestically and internationally, on all aspects of international family law, especially in cases of international child abduction, jurisdiction disputes and public law children cases, which have a cross border element.

Peter also has a particular interest in connecting factors, and provides expert opinions on the interpretation of both habitual residence and domicile.

Peter has frequently been called upon to advise on contentious aspects of law reform: the Europeanisation of child abduction rules (Lord Chancellor's Department, 2002); the implementation of the 1996 Hague Convention on the Protection of Children (Ministry of Justice, 2009/10, 2012); and the introduction of same-sex marriage ([Dicey, Morris & Collins on the Conflict of Laws](#))

## International Family Law

## Publications

### Books

*The Hague Convention on International Child Abduction*, OUP, 1999, (with P. Beaumont).

*Dicey, Morris & Collins on the Conflict of Laws*, 15th ed., General Editor Lord Collins of Mapesbury, Sweet & Maxwell, 2012.

Peter is responsible for chapters:

6 (Domicile & Residence);  
19 (Children);  
20 (Legitimacy, Legitimation and Adoption) &  
21 (Mental Incapacity).

*Anton's Private International Law*, 3rd ed. SULI, W. Green, 2011, (with P. Beaumont); Chapters 3, 4, 5, 7, 11, 14 (non-Rome II rules only), 15-20.

Chapter 17 was cited by Advocate General Szpunar in (Case C-376/14 PPU) *C v M* [2015] I.L.Pr. 455, at [50].

## Selected Publications

2015 'The European Court of Human Rights and the Hague Child Abduction Convention: Prioritising Return or Reflection?' *Netherlands International Law Review*, pp. 365-405

2012 'Articles 47 - 52 in *European Commentaries on Private International Law. Brussels II bis Regulation* in P Mankowski & U Magnus (eds.), Sellier, Munchen, pp. 387 - 413

Cited by Advocate General Szpunar in (Case C-4/14) *Bohez v Wiertz* [2015] I.L.Pr. 757, at [77], [78]

2012 'Judicial Communication and Co-operation and the Hague Convention on International Child Abduction' *International Journal of Procedural Law* pp. 36 - 53

2011 'La Residence Habituelle, un Critere de Rattachement en quete de son Identite - Perspectives du Common Law' *Travaux du Comité Français de Droit International Privé*, Pedone, Paris, pp. 127 - 146

2010 "Luxembourg, Brussels and Now The Hague: Congestion in the Promotion of Free Movement in Parental Responsibility Matters" in *International & Comparative Law Quarterly*, pp. 505 – 519

2010 "A Protocol for the 1980 Hague Convention?" in *International Family Law*, pp. 59 – 65

2008 "Evaluating the Views of Abducted Children: Trends in Appellate Case Law" in *Child and Family Law Quarterly*, pp. 230-254

2007 "Integrating the Brussels II bis Regulation in the United Kingdom", K. Boele-Woelki & C. González Beilfuss(eds) in *Brussels IIbis: Its Impact and Application in the Member States, European Family Law series no. 14*, Intersentia, Antwerp

2007 "Regression & Reform in the Law of Domicile" in *International & Comparative Law Quarterly*, pp. 453 – 462

2005 "The New Child Abduction Regime in the European Community: Symbiotic Relationship or Forced Partnership?" in *Journal of Private International Law*, pp. 5 – 34

This article has been cited regularly by Advocates General in cases before the Court of Justice of the European Union:

(Case C-498/14 PPU) *Bradbrooke v Aleksandrowicz*, Jääskinen A.G., at [51];

(Case C-376/14 PPU) *C v M* [2015] I.L.Pr. 455, Szpunar A.G. at [46];

Opinion 1/13 *Re International Child Abduction Convention* [2015] 1 C.M.L.R. 880, Jääskinen A.G. at [85], [89];

(Case C-400/10 PPU) *J. McB. v. L. E.*, [2011] I.L.Pr. 24, Jääskinen A.G., [41].

2004 "The Communitarisation of Divorce Rules: What Impact for English and Scottish Law" in *International and Comparative Law Quarterly*, pp. 605 – 642

2003 "The Communitarisation of Family Law : Too Much Haste Too Little Reflection?", K. Boele-Woelki(eds) in *Perspectives for the Unification and Harmonisation of Family Law in Europe*, Intersentia, Antwerp, pp. 509 - 526

2002 "The Brussels II Regulation: How the European Community has Moved into Family Law" in *International and Comparative Law Quarterly*, pp. 883-908

## Seminars and Lectures

**2015** December: 'Connecting Factors in Private International Law- The Challenging Rise of Habitual Residence' University of Shandong, Jinan, China

October: 'Building the bridge between "habitual residence" and "substantial connection": Facts; Policy Objectives; and the Appropriate Forum' International Social Service/Hague Conference, Geneva

January: 'De-Mystifying the 1996 Hague Convention...' Four Jurisdictions Family Law Conference, Edinburgh.

**2014** October: 'The Best Interests of the Child – from the Perspective of the 1980 Hague Convention' University of Antwerp, Antwerp.

September: 'International Protection of Children – Public Law Cases,' 1 Garden Court – Dawson Cornwell Seminar, London.

July: 'International Child Abduction and the European Union' University of Kobe, Japan.

May: 'Habitual Residence: Fact or Fiction; Friend or Foe?' International Academy of Matrimonial Lawyers Annual Conference, North America Chapter, New York.

**2013** October: International Protection of Children – Public Law Cases, 1 Garden Court – Dawson Cornwell Seminar, London

**2012** October: 'The European Union and the Abduction of Children Between Member States: Past, Present and Future', *Fresco Lecture* University of Genoa, Italy

June: 'Mutual Trust, Distrust and Human Rights – The Movement of Children in Europe' Judicial Studies Committee / ERA, Edinburgh.

**2011** September: 'Recent CJEU Case Law on the Brussels Ila Regulation', European Law Academy (ERA), Trier, Germany

**2010** February: 'A New Hague Convention is Coming...' One Garden Court Seminar, Middle Temple, London.

**2009** August: 'A Protocol for the 1980 Hague Child Abduction Convention' Commonwealth Judicial Conference, Cumberland Lodge, Windsor.

June: 'La Résidence Habituelle, un Critère de Rattachement en quête de son Identité – Perspectives du Common Law' 2009 Overseas lecture to the Comité Français de Droit International Privé, Cour de Cassation, Paris.

**2008** December: 'Parental Responsibility and Child Abduction within Council Regulation 2201/2003' Council of Bars and Law Societies of Europe Conference, Brussels.

April: 'Habitual Residence: An Evolving Concept' Trinity College, Dublin.

**2007** March: 'Applicable Law and Relations with Third States: The Use and Application of Habitual Residence' University of Castellanza, Italy.

**2006** September 'The Free Movement of Children in Europe' Middle Temple, London

**2005** December 'The Implementation of the Brussels II Bis Regulation in the United Kingdom' University of Barcelona.

November 'The Movement of Children' Scottish Executive Seminar, Glasgow.

April 'Impact of the Brussels II bis Regulation in the United Kingdom' Université Jean Moulin, Lyons, France.

March: 'The New Child Abduction Regime in the European Community: Symbiotic Relationship or Forced Partnership?' Journal of Private International Law Conference, Aberdeen University.

**2004** December: 'Habitual Residence : Simplicity or Uncertainty?' Irish Centre for European Law, Trinity College, Dublin.

September: 'The Operation of the Brussels II *bis* Regulation: Analysis of Problems.' Delivered at a judicial seminar organised by the European Law Academy, Trier, Germany.

**2003** November: '20 Years of the Hague Child Abduction Convention – An Evaluation' International Conference on Child Abduction, Université Jean Moulin, Lyons, France.

May: 'The Impact of the European Community's Move into Family Law' University of Cape Town.

**2002** December: 'The Communitarisation of Family Law: A Case of Too Much Haste, Too Little Reflection?' Paper delivered at the Commission on European Family Law Conference, Utrecht, Netherlands.

December: 'The Operation of the Brussels II Regulation: Analysis of Problems.' European Law Academy, Trier, Germany.

September: 'The Operation of the Brussels II Regulation, A Scottish Perspective' British German Judicial Family Law Conference, Deutsche Richterakademie, Trier, Germany.

## Education

BSc University of Surrey  
PhD University of Aberdeen

Peter has acted as an adviser to the UK government on matters of international family law:

In 2002 he advised the Lord Chancellor's Department during the negotiation of Council Regulation 2201/2003 (Brussels IIa), participating in meetings of the Civil Law Committee of the Council of the European Union;

In 2009/10 he was instructed to advise the Ministry of Justice on the implementation of the 1996 Hague Convention on the Protection of Children;

In 2012 he was instructed to draft a [Practice Guide on the 1996 Hague Convention](#).

Until 2014 he advised the Hague Conference on Private International Law on its database of child abduction case law: Incadat.

## Memberships & Associations

Member [FLBA](#)  
[European Group for Private International Law](#)

### Training

Aside from his academic roles, Peter is a regular participant in training seminars for judges and lawyers, domestically and internationally.

Since 2000 he has participated in training seminars for judges across Europe on behalf of the TAIEX Office of the European Commission. Most recently, he has given seminars on European Family Law in Albania, Bosnia Herzegovina, Croatia, Kosovo and Turkey.

He has also given lectures for the European Law Academy (ERA), the Judicial Studies Committee in Scotland, as well as at judicial conferences in England, Germany and Russia.

### Languages

French