



UNIVERSITÀ DEGLI STUDI DI MILANO

DIPARTIMENTO DI STUDI INTERNAZIONALI,
GIURIDICI E STORICO-POLITICI

Different regimes and conditions for enforcement amongst EU PIL instruments

Francesca C. Villata

francesca.villata@unimi.it

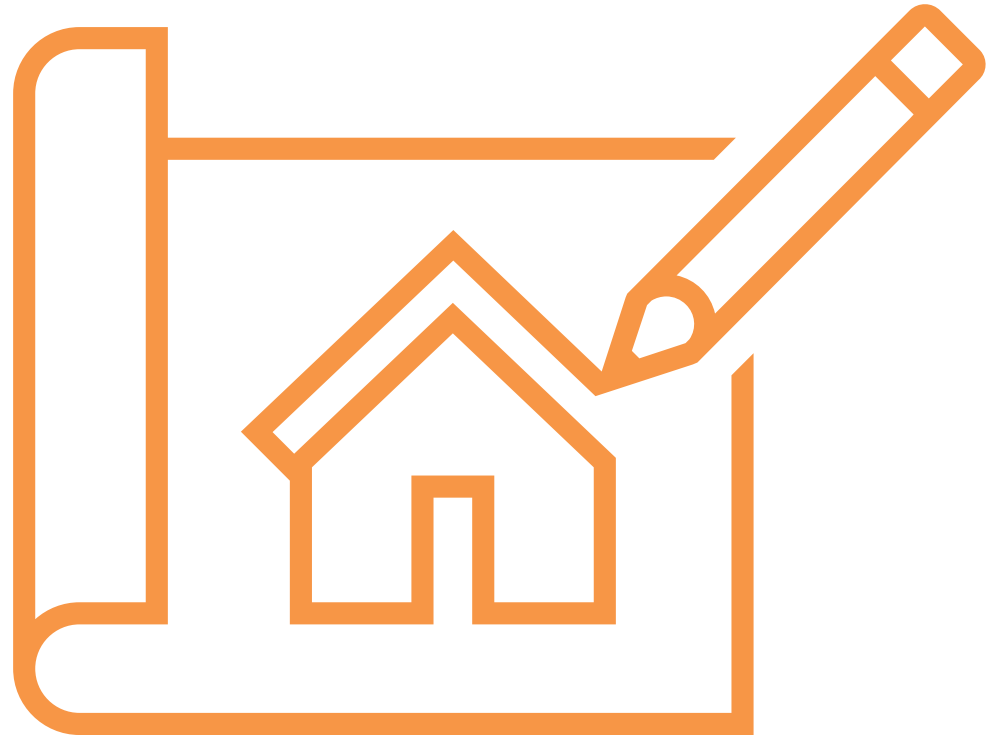
Regulation Bla: a standard for free circulation of judgment
and mutual trust in the EU - JUDGTRUST



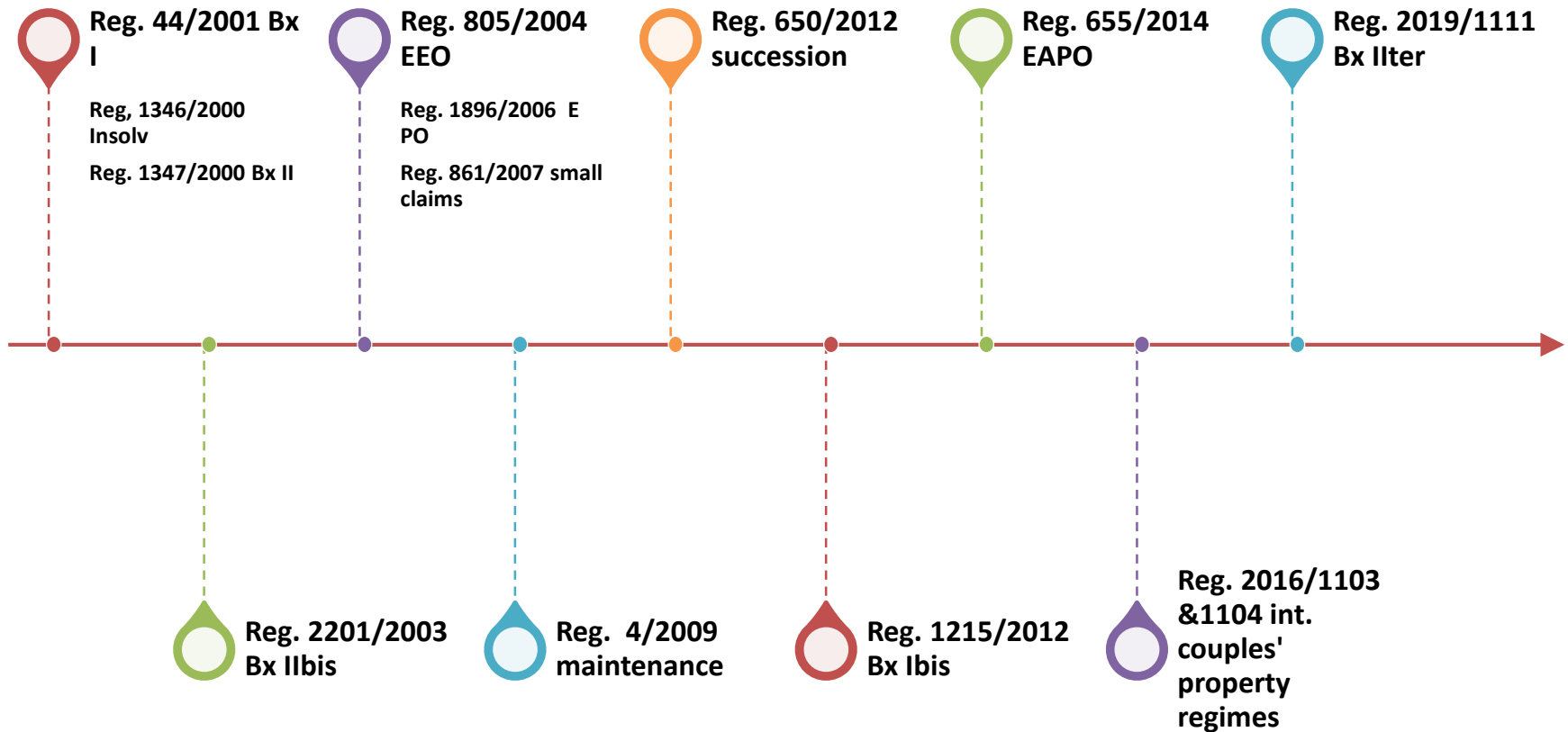
21-22 April 2022

Agenda

- I. Building the system
- II. 2 objectives – 1 key – 1 safety valve(?)
- III. 3 patterns (with some differences)
- IV. Deeper "infiltration" of EU Rules in enforcement procedures
- V. The key: certificate(s): nature and procedures (according to the ECJ)
- VI. 2 (or 3?) safety valves: Irreconcilability of decisions and a (maybe provocative) proposition



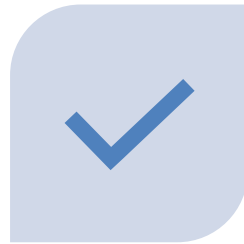
I. Building the system



II. 2 objectives – 1 key – 1 (?) safety valve



MUTUAL
TRUST



LEGAL
CERTAINTY



1 KEY (certificate)



1 (?) SAFETY VALVE
(Public policy)



III. 3 patterns

	Automatic recognition	Opposition to recognition
Bx I 01	✓	✓
Maintenance 09-D	✓	✓
Succession 12	✓	✓
Property reg. 16	✓	✓
Bx lbs 12	✓	✓
Bx lter 19	✓	✓
EEO 04	✓	✗
Maintenance 09	✓	✗
Bx lter - Privileged	✓	✗



III. 3 patterns

	Automatic recognition	Opposition to recognition	Exequatur
Bx I 01	✓	✓	✓
Maintenance 09-D	✓	✓	✓
Succession 12	✓	✓	✓
Property reg. 16	✓	✓	✓
Bx Ibs 12	✓	✓	✗
Bx Iiter 19	✓	✓	✗
EEO 04	✓	✗	✗
Maintenance 09	✓	✗	✗
Bx Iiter - Privileged	✓	✗	✗



III. 3 patterns

	Automatic recognition	Opposition to recognition	Exequatur	Certificate
Bx I 01	✓	✓	✓	(✓)
Maintenance 09-D	✓	✓	✓	(✓)
Succession 12	✓	✓	✓	(✓)
Property reg. 16	✓	✓	✓	(✓)
Bx lbs 12	✓	✓	✗	✓
Bx lter 19	✓	✓	✗	✓
EEO 04	✓	✗	✗	✓
Maintenance 09	✓	✗	✗	✓
Bx lter - Privileged	✓	✗	✗	✓



III. 3 patterns

	Automatic recognition	Opposition to recognition	Exequatur	Certificate	Minimum procedural standard (certificate d/not)
Bx I 01	✓	✓	✓	(✓)	(✓)
Maintenance 09-D	✓	✓	✓	(✓)	(✓)
Succession 12	✓	✓	✓	(✓)	(✓)
Property reg. 16	✓	✓	✓	(✓)	(✓)
Bx lbs 12	✓	✓	✗	✓	✓ ✗
Bx lter 19	✓	✓	✗	✓	✓ ✗
EEO 04	✓	✗	✗	✓	✓ ✓
Maintenance 09	✓	✗	✗	✓	✓ ✗
Bx lter - Privileged	✓	✗	✗	✓	✓ ✓



III. 3 patterns

	Automatic recognition	Opposition to recognition	Exequatur	Certificate	Minimum procedural standard (certificate d/not)	EU grounds for non recognition/enforcement
Bx I 01	✓	✓	✓	(✓)	(✓)	✓
Maintenance 09-D	✓	✓	✓	(✓)	(✓)	✓
Succession 12	✓	✓	✓	(✓)	(✓)	✓
Property reg. 16	✓	✓	✓	(✓)	(✓)	✓
Bx lbs 12	✓	✓	✗	✓	✓ ✗	✓
Bx lter 19	✓	✓	✗	✓	✓ ✗	✓
EEO 04	✓	✗	✗	✓	✓ ✓	((✓))
Maintenance 09	✓	✗	✗	✓	✓ ✗	(✓)
Bx lter - Privileged	✓	✗	✗	✓	✓ ✓	((✓))



III. 3 patterns

	Automatic recognition	Opposition to recognition	Exequatur	Certificate	Minimum procedural standard (certificate d/not)	EU grounds for non recognition/enforcement	EU rules on <i>enforcement</i> procedure					
							Provisional enforceability	Notice to the person against whom..-	Conditions and procedures	Domestic grounds for suspension/refusal	Suspension	Adaptation
Bx I 01	✓	✓	✓	(✓)	(✓)	✓	✗	(✓)	✗	//	//	//
Maintenance 09-D	✓	✓	✓	(✓)	(✓)	✓	✓	(✓)	✓	//	//	//
Succession 12	✓	✓	✓	(✓)	(✓)	✓	✗	(✓)	✗	//	//	//
Property reg. 16	✓	✓	✓	(✓)	(✓)	✓	✗	(✓)	✗	//	//	//
Bx Ibs 12	✓	✓	✗	✓	✓✗	✓	✗	✓	✓	✓	✓	✓
Bx Iiter 19	✓	✓	✗	✓	✓✗	✓	✓	✓	✓	✓	✓	✓
EEO 04	✓	✗	✗	✓	✓✓	((✓))	✗	✗	✓	//	✓	//
Maintenance 09	✓	✗	✗	✓	✓✗	(✓)	✓	✗	✓	//	✓	//
Bx Iiter - Privileged	✓	✗	✗	✓	✓✓	((✓))	✓	✓	✓	✓	✓	✓



V. Certificates

	Name	Competent authority	Appeal	Rectification	Withdrawal	Subsequent limitation of enforceability	Mandatory for recognition	Mandatory for enforcement	Contents/Types of checks						
									Jurisdiction	Min. proc. standard	Claim	Scope	Service of initial doc.	Enforceability	Text of the judgment
Bx I	Certificate	Court/authority	//	//	//	//	✗	✗	✗	✗	✗	✓	✓	✓	✓
Maintenance D.	Extract	Court of origin	//	//	//	//	✗	✗	✗	✗	✓	✓	✗	✓prereq	✗
Succession	Attestation	Court/authority	//	//	//	//	✗	✗	✗	✗	✓	✓	✓	✓	✗
Property	Attestation	Court/authority	//	//	//	//	✗	✗	✗	✗	✓	✓	✓	✓	✗
Bx Ibs	Certificate	Court of origin	//	//	//	//	✓	✓	✓provis.	✗	✓	✓	✓	✓	✗
Bx Iiter	Certificate	Court of origin	✗ and against refusal?	✓	//	//	✗	✓	✓provis.	✗	✓	✓	✓	✓	✗
EEO	Certificate	Court of origin	✗ and against refusal?	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✗
Maintenance	Extract	Court of origin	//	//	//	//	✗	✓	✗	✗	✓	✓	✗	✓prereq	✗
Bx Iiter Privileged	Certificate	Court that gave the decision	✗ and against refusal?	✓	✓	✓	✓	✓	✗	✓	✗	✓	✓	✓	✗



V. Certificate(s)

- Reg. 44/2001
 - to facilitate the declaration of enforceability
 - information only have prima facie value
 - court requested to issue the certificate obliged to ascertain whether the dispute falls within the scope of Reg.
 - the court addressed has jurisdiction to double-check
- Reg. 1215/2012
 - basis for implementation of the principle of direct enforcement while ensuring legal certainty
 - court requested to issue it obliged to ascertain whether the dispute falls into the scope of Reg., collect information not included in the judgment, interpret it (when needed): judicial function
 - no control by the competent court of the requested Member State
- EEO
 - judicial examination of the requirements for certification as EEO
 - no control by the competent court of the requested Member State



VI. 2 (or 3?) safety valves



MUTUAL TRUST



LEGAL
CERTAINTY



1 KEY (certificate)



2 or 3 (?) SAFETY VALVES (Public
policy, irreconcilability, and ...a
supranational remedy)





UNIVERSITÀ DEGLI STUDI DI MILANO

DIPARTIMENTO DI STUDI INTERNAZIONALI,
GIURIDICI E STORICO-POLITICI

Thank you!

francesca.villata@unimi.it