

European network of family law practitioner organisations

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This article argues that there is now an urgent need for a network of family law practitioner organisations across Europe. Lawyers in towns and cities would then have access to their equivalents in other European countries. In this way, lawyers can better serve their clients in cross-border family law disputes.

International family law work depends on having a successful, efficient and reliable network of similar specialists in other jurisdictions. Advice is needed on which is the best country in which proceedings should be issued, recognition and enforcement, disclosure obligations and likely outcomes, tax and immigration, child arrangements and the many other aspects affecting the international family. International family law client work can rarely be undertaken without close reference to practitioners in other jurisdictions. A network of practitioners is an absolutely essential requirement for the work and the best representation of the client.

In the 1980s and into the 1990s, international family law work invariably involved wealthy clients, whether super wealthy or moderately wealthy. There was a relatively small group of practitioners, across the world, dealing with these cases. With few practitioners in each jurisdiction experienced in the work, it was easy to be part of a network. It was invariably based on personal acquaintance and national reputation. It was a very specialised and complex area of law and practice into which, it was said, other lawyers should only enter with great care and caution.

In the 1980s and onwards, as the amount of international family law work started to grow, the IBA Family Law Section played a most important role. It laid the foundation for other international networks.

From its foundation in 1986, the International Academy of Matrimonial Lawyers (IAML) became probably the primary network for the leading practitioners dealing with international cases. Its members, Fellows, were peer elected. It tended to be orientated towards “big money” finance work rather than children work. Through its annual conferences, the network was strengthened by personal connections. After internal debate on the topic in the 1990s, the decision was rightly taken a few years ago to make the membership list publicly available. This meant the network was available to all practitioners. However the organisation has largely remained practitioners undertaking cases involving relatively substantial assets and mostly with relatively high charging rates.

So it is that international family law work grew from a foundation of wealthy clients and a “big money” practitioner network serving those clients.

But international family law work has now all changed.

There are millions of people in Europe who with some sacrifice have purchased modest holiday homes in other countries in Europe. There are many more millions who through choice, or the requirements of their employer, work in another European country, often at modest levels of income. There are even more millions for whom Cupid’s arrow has crossed a European border, are now married to another European national but whose family situation is financially modest or average.

These very many millions of international families across Europe are not super wealthy or even wealthy, cannot afford expensive lawyers charging rates and are often outside the main metropolitan centres. They are not normally accustomed to instructing lawyers. They are, well, just ordinary average clients who happen to have an international aspect within their family.

So international family law work is no longer just a “big money” lawyers game. It now affects the entire social and wealth spectrum. It impacts on all family lawyers, not just “international specialists” in each

country. International family law work is now being undertaken by publicly funded lawyers, by lawyers in towns and cities well outside the larger metropolitan centres, by lawyers with modest charging rates, by lawyers with clients with modest income and capital and, crucially, by lawyers without any reliable direct access to equivalent specialist lawyers in other European jurisdictions.

In order to provide good representation for their clients, including deciding quickly on the best forum with the race to court imposed by Brussels II, these lawyers need access to lawyers in other countries. But this will not be the “big money” network. It will be other lawyers used to dealing with modest cases. It will be other lawyers located in towns and small cities where the proceedings might take place. It will be other lawyers who would not have regarded themselves as international practitioners a few years ago. These lawyers will rarely attend international conferences. They are unlikely to join international networks of specialist lawyers.

With many more lawyers, in all European countries, now dealing with international matters, we urgently need a European Practitioners Network, for lawyers to be able to access practitioners in other countries on international cases.

SFLA/Resolution, the English family law solicitors organisation, receives masses of enquiries from its 5000 members seeking names of reliable family lawyers abroad. Those of us on its International Committee share our contacts but we have been trying unsuccessfully for many years to bring about a network of family law practitioner organisations across Europe.

My vision is that a lawyer in one European country may be able to make direct contact with a practitioner organisation in another European country which then supplies a list of its specialist members in the particular required locality. Each practitioner organisation would accredit its own members, as happens with many practitioner organisations already. Many practitioner organisations receive inquiries from members of the public seeking a good, specialist lawyer, a member of their organisation, and so they are already geared up to provide this service. My proposal is merely a variation in which the inquiry comes from a lawyer abroad.

The IAML model of a network works very well for what its highly specialised members require of it. Because its members are relatively few and mostly know each other well, the network operates by each member making direct contact with the member in the other country. The IAML will continue, and hopefully expand, its members dealing with the especially complex, substantial international cases. But family lawyers across Europe needing only occasional access to lawyers in other jurisdictions and in relatively modest cases need another model by way of a network.

Another model is the newly developing European Judicial Network. If a local family court judge in England has a case in which contact is needed with a local judge in e.g. Germany, the former makes contact with the English representative of the family law European Judicial Network (LJ Thorpe) who makes contact with his opposite number in the EJM in Germany who in turn makes contact with the local German judge. Direct contact is then quickly and reliably established between the two local judges for the benefit of the particular case. This is already working successfully.

A very successful model is Eurojuris, a network of about 700, quality accredited, medium-sized law firms across Europe which undertake a wide variety of legal work. They have an active family law section. Through conferences and more frequent exchange of information via e-mail, the family lawyers of the Eurojuris member firms feel part of an active network for referring clients and obtaining specialist advice.

Many European countries already have a specialist family law practitioners organisation with members across their countries. Some are much more organised and developed than others. The substantial amount of international work across Europe in the next couple of years will mean that practitioner

organisations will inevitably become more outward looking. The creation of this European family law practitioners organisations network will indirectly assist some national organisations.

Reference is made in this article to Europe simply because of the substantial cross-border work. However this proposed network could certainly be extended beyond Europe. A number of countries with close links, such as Australia and New Zealand, are already well advanced in the provision of network for practitioners.

No national practitioners organisation has the time, facilities or funds adequately to create and run this network. It must be hoped that Brussels can help. At great speed, Brussels is introducing new laws and procedures which impact on international families and on all family lawyers. However these new laws and procedures have little prospect of working successfully unless family lawyers have a network of other lawyers across Europe with whom to work on cross-border cases. The volume of work and the importance of these issues to the families involved means that Brussels cannot simply leave it to ad hoc and arbitrary networks.

How can this be taken forward? The following are some suggestions.

- Family law practitioner organisations across Europe are urged quickly to establish a contact person or committee for the creation of this network
- The contact person or committee is invited to contact SFLA/Resolution International Committee at the e-mail address below as simply a starting point for communication and dialogue for the creation of this network
- Non European family practitioner organisations are equally invited to make contact and join
- Brussels is strongly invited to host and fund a small conference in the early autumn for the contact representatives of the separate European family practitioner organisations to discuss the operation of the network
- Some countries have more than one practitioner organisation. This confuses foreign lawyers and frustrates clients. Each country needs to resolve which will be the contact point, at least for the initial network creation exercise
- The IAML and Eurojuris, at their annual conferences in May at Thessaloniki and Copenhagen respectively, are urged to encourage their members to support the formation of this network, which should not detract from their own organisations and networks
- Whilst the network is intended primarily for organisations of lawyers who act directly with clients, organisations of advocates and barristers who are able to receive instructions direct from lawyers in other jurisdictions should be in the network
- A close link should be formed with the European Judicial Network, family law section, including for help in those countries without an identifiable specialist family practitioner organisation
- Details of the network including the contact point in each jurisdiction should be available on the Web from an early stage to encourage usage

The time has now come urgently to create a formal, properly funded and efficient network of family law practitioner organisations across Europe. International families and their lawyers urgently need it. International family law cannot function properly without it. Fairness and justice demands it.

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