

## The Principle of Recognition in EU Private International Law (summary)

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The term of “recognition” is not the same as that used in International Civil Procedure Law. “Recognition” has already used not only for judicial decisions and judgments but also in different contexts; for example, based on the *Cassis de Dijon* judgment, which is famous for the country of origin principle, it is said that the control or standards for sale of goods in the state of origin (home state) must be recognized in other Member States. Moreover, ECJ ruled in the *Überseering* case that where a company formed in accordance with the law of a Member State (A) in which it has its registered office exercises its freedom of establishment in another Member State (B), Member State B is required to recognize the legal capacity.

The case law of ECJ concerning the name entered upon a new phase on the relationship between Community law and Private International Law. The case law made it clear that the cases which seem not to relate directly to facilitating the internal market of EU fall within the scope of Community law. ECJ acknowledged in the *Grunkin and Paul* case that the rules governing a person's surname are matters coming within the competence of the Member States, but pointed out that the Member States must, when exercising that competence, comply with Community law where, as in this case, there is a link with Community law. It then held that Article 21 TFEU (ex Article 18 EC) which affirm the right of all citizens of the European Union to move and reside freely within the territory of the Member States precludes the authorities of a Member State, in their application of national law, from refusing to recognize the surname of one of its nationals as determined and registered in a different Member State in which he was born and resides.

By generalizing from the case law concerning the name, it is often asserted that a juridical situation which is once effectively established according to a law of a Member State (including its rules of conflict of laws) shall be recognized in other Member States. Marriage, Partnership, and Parenthood are given as an example. These opinions, however, connote some difficulties to be manifested. There are differences is even the definition among the proponents for the principle of recognition. It must be also made clear the differences with some existing theories such as the vested rights-theory. There are also different opin-

ions on whether the close relationship between the Member State which authorized (or registered) a juridical situation and the juridical situation concerned is required, whether some exception rules is needed and so on.

The issue on the principle of recognition based on Community Law has been still more controversial. It is also a matter of a general methodological question: the classical approach by the rules of conflict of laws or the approach by recognition. In my article, focusing on the domain of International Family Law and Succession, the possibility of the spread of the principle of recognition is analyzed.