



# Crossing the borders

March this year saw the fourth Section conference on cross-border and international private client issues. Section committee member **Alberto Perez Cedillo** reports back on the talking points of the day

On 4 March, the Private Client Section held its fourth Cross Border Conference at Chancery Lane. This one-day event is becoming a favourite among practitioners across the country, with more than 100 delegates in attendance this year.

The conference was opened by Catherine Dixon, the new chief executive of the Law Society. This year's keynote speech was given by Jo Summers, partner at PWT Advice, who discussed the issues that can arise with the limited spouse exemption, in circumstances where the donor spouse is UK-domiciled, but the recipient spouse is not. Jo also mentioned the introduction of European certificates of succession (made under EU Regulation 650/2012, or 'Brussels IV'), which are due to come into effect in August. While these rules won't apply in the UK, they could help UK clients who have properties in other EU countries, or who live elsewhere in Europe.

The first plenary session of the conference was led by James Stewart, partner at Pennington Manches. James explained the importance of jurisdiction in divorce proceedings, and the fact that London is currently the 'capital' of divorce, due to the broad definition of what constitutes 'marital property', the equality of division as a starting point in determining fairness, and the fact that trusts are often regarded as family resources. James discussed the treatment of trusts in divorce proceedings, and the importance of establishing family protocols, reviewing the trust deed, and ensuring that the letter of wishes does not undermine the purpose of any dynastic trust.

The next session was entitled 'Domicile vs Nationality vs Residence'. This was the first of two interactive sessions in which the speakers presented a case study to an audience seated in pre-arranged roundtables, with lawyers from other jurisdictions on each table. The session was delivered by Lucy Johnson, counsel at Withers, and Alessia Paoletto, a dually qualified Italian lawyer and English solicitor at Withers. They discussed the significance of domicile, residence and nationality in the context of EU, English, Swiss and Italian succession law.

The last session of the morning considered the impact of Brussels IV on succession. Richard Frimston, partner at Russell-Cooke, displayed his first-rate technical knowledge of the regulation, and even touched upon its tax implications, despite the fact that there are no provisions in Brussels IV that apply to national laws regarding taxation. Richard put forward a case study for the audience, which led to an interesting debate between Richard and the German and French lawyers.

The first session of the afternoon was devoted to foreign jurisdiction roundtables. These workshops were fully interactive, with all attendees offering their thoughts, ideas and concerns. This year we had among us David Anderson, partner at Sykes Anderson Perry (for France); Veit Klinger from WF Frank & Partner (Germany); Andrew Paton, partner at De Berti Jacchia Franchini Forlani (Italy); Brad Westerfield, from the London office of Butler Snow (USA); and myself (Spain).

In the Spanish workshop, I explained the difference between notaries in Spain and England, the particulars of the winding-up procedures of estates for non-residents; the role of the land registries and the Central Wills Registry in Spain; the fact that there is no legal equivalent of the

figure of trust in Spain; and the future implications of Brussels IV. In the French workshop, David led with a practical case study, highlighting the differences between existing rules and the situation post-Brussels IV this August, as to how the estate would pass. David also underlined the complexities that have arisen as a result of the UK opting out of Brussels IV. Veit discussed the practice and procedure of winding up an estate in Germany, and the implications of Brussels IV for German law.

The third afternoon session focused on the common pitfalls involved in will-drafting. Presented by Roberta Harvey and Anna Steward from Charles Russell Speechlys, it offered insightful perspective on the most frequent issues that solicitors acting on behalf of international clients may have to address when preparing wills, such as advising clients on whether or not to make worldwide wills or separate wills for each jurisdiction, formalities of execution, and conflict of interests.

The last session of the day looked at cross-border elderly client issues. David Rees, a barrister from 5 Stone Buildings, discussed asset protection in older age, and estate planning and tax issues for the elderly. David presented a case study based on a fictional jurisdiction, and explained the complexities involved when operating with a lasting power of attorney and in estate planning for elderly clients.

There can be no denying that, as private client practitioners, we are facing challenging times. I firmly believe, however, that with the combined creativity of our profession, and the opportunities with which we are being presented, we can work together to raise further awareness of better, more effective ways of dealing with inheritance and estate planning issues.



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