

# Argentina's regulation in maintenance obligations

Possibilities and advantages of the legal figure of  
“Foro del Patrimonio”

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- Framework: Fundamental Human Right
- Substantive law:
  - a. Civil Code
    - Duration: 21 years of age
    - Coverage: maintenance, education and recreation, clothing, housing, assistance and expenditure by disease
    - Calculation: no chart or guideline
    - Proof: not needed
  - b. Bill: unification of the Civil and Commercial Code

# Procedural aspects

- Competence: judicial authorities
- Free legal assistance
- Access to information: on judicial requirement

# International Private Law regulation

Recovery of Maintenance in the  
European Union and Worldwide  
Heidelberg Conference 5 – 8 March 2013

## Sources

### a) International

1. Montevideo Civil International Law Treaties 1889 and 1940
2. New York Convention of 1956
3. Inter-American Convention on Support Obligations of 1989
4. Only for security measures:
  - i) Inter-American Convention on Execution of Preventive Measures of 1979;
  - ii) Ouro Preto Protocol of Preventive Measures

### b) Civil Code – Bill

# New York Convention of 1956

- Pros: - most solutions to individual cases  
- high efficiency in legal assistance
- Cons: - difficulties especially in expenses impossible to avoid. Transfers of funds are done:
  - a) Through bank transfers: compulsory cost - not too expeditious
  - b) Through money transfer companies: higher costs - faster
  - c) Through debit cards issued by Argentine banks: withdrawal of the payment in other States

# Inter-American Convention

- Pros: - criteria unification in international jurisdiction and applicable law
- Cons: - expenses and transfers of funds  
- lack of effectiveness on cooperation

# “Foro del Patrimonio”

- New possibility:  
Support claims may be heard by the judicial or administrative authorities of the State to which **“the debtor is connected by personal links such as possessing property, receiving income or obtaining financial benefits”** (*Foro del Patrimonio, article 8c*).
- Pros: - reasonable and justified by fundamental right  
- simplified enforcement  
- could be the only possibility of fulfilling this right
- Cons: - distance from parties’ habitual residence

# Civil Code

- Rules for matrimony: international jurisdiction and applicable law - more possibilities to determine the *quantum*
- Lack of International Private Law rules for parental or family obligation.

Analogical application of: a) the international sources, or b) rules relating to spousal maintenance



# Bill

- Two rules for all the cases:
  1. International jurisdiction
    - Several options including “foro del patrimonio” **“as long as this option is reasonable in the circumstances”**
  2. Applicable law
    - Several options
    - Expressed tendency in favor of the creditor’s interests

# Conclusions

- “Foro del patrimonio”: important possibility of fulfilling this right
- The need to have a scope like the Hague’s one to guarantee the cooperation in this subject matter
- Fundamental international community contribution to improve on effective solutions