

Jurisdiction, recognition and enforcement of judgments in civil and commercial matters.

Recast

2010/0383(COD) - 12/12/2012 - Final act

PURPOSE: to facilitate and accelerate the circulation in the EU of decisions in civil and commercial matters, in accordance with the principle of mutual recognition and the Stockholm Programme guidelines.

LEGISLATIVE ACT: Regulation (EU) No 1215/2012 of the European Parliament and of the Council on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

CONTENT: this Regulation recasts Council Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (known as the “Brussels I” Regulation).

Scope: the new regulation includes within its scope all the main civil and commercial matters apart from certain well-defined matters, in particular revenue, customs or administrative matters as well as matters relating to maintenance obligations. This Regulation does not apply to arbitration.

Abolition of the exequatur: judgments given in a Member State should be recognised in all Member States **without the need for any special procedure**. A judgment given in a Member State should be recognised and enforced in another Member State **without the need for a declaration of enforceability**.

In order to inform the person against whom enforcement is sought of the enforcement of a judgment given in another Member State, the “**certificate concerning a judgment in civil and commercial matters**” established (in Annex I of the Regulation), if necessary accompanied by the judgment, should be served on that person in reasonable time before the first enforcement measure.

The person against whom enforcement is sought should be able to apply for **refusal of the recognition or enforcement of a judgment** if he considers one of the grounds for refusal of recognition to be present. Nevertheless, the recognition of a decision shall only be refused on the grounds of one or several provided for in the Regulation.

Where **provisional, including protective, measures** are ordered by a court having jurisdiction as to the substance of the matter, their free circulation should be ensured under this Regulation. However, these measures which were ordered by such a court without the defendant being summoned to appear should not be recognised and enforced under this Regulation unless the judgment containing the measure is served on the defendant prior to enforcement.

Common rules of jurisdiction: there must be a connection between proceedings to which this Regulation applies and the territory of the Member States. Accordingly, common rules of jurisdiction should, in principle, apply **when the defendant is domiciled in a Member State**. In general, a defendant not domiciled in a Member State should in general be subject to the national rules of jurisdiction applicable in the territory of the Member State of the court seised. However, in order to ensure the protection of consumers and employees, to safeguard the jurisdiction of the courts of the Member States in situations where they have exclusive jurisdiction and to respect the autonomy of the parties, certain rules of jurisdiction in this Regulation should apply regardless of the defendant’s domicile.

Return of cultural objects: the owner of a cultural object as defined in Council Directive 93/7/EEC should be able to initiate proceedings as regards a civil claim for the recovery, based on ownership, of such a cultural object in the courts for the place where the cultural object is situated at the time the court is seised.

Introduction of a provision on *lis pendens*: the Regulation introduces a clear and effective mechanism to minimise the possibility of concurrent proceedings and to ensure that irreconcilable judgments will not be given in different Member States.

Where proceedings involving the same cause of action and between the same parties are brought in the courts of different Member States, **any court other than the court first seised shall of its own motion stay its proceedings** until such time as the jurisdiction of the court first seised is established. Where the jurisdiction of the court first seised is established, any court other than the court first seised shall decline jurisdiction in favour of that court. Where the jurisdiction of the court first seised is established, any court other than the court first seised shall decline jurisdiction in favour of that court.

Report: by 11 January 2022 the Commission shall present a report to the European Parliament, to the Council and to the European Economic and Social Committee on the application of this Regulation. It shall include an evaluation of the possible need for a further extension of the rules on jurisdiction to defendants not domiciled in a Member State and, where appropriate, shall be accompanied by a proposal for amendment of this Regulation.

ENTRY INTO FORCE: 09/01/2013.

APPLICATION: from 10/01/2015. The United Kingdom and Ireland have notified their wish to take part in the adoption and application of this Regulation. Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application without prejudice to the possibility for Denmark of applying the amendments to Regulation (EC) No 44/2001 pursuant to the Agreement of 19 October 2005 between the European Community and Denmark on the subject.

DELEGATED ACTS: the Commission may adopt delegated acts to ensure that the certificates to be used in connection with the recognition or enforcement of judgments, authentic instruments and court settlements under this Regulation are kept up-to-date. The power to adopt delegated acts shall be conferred on the Commission for an **indeterminate period of time from 9 January 2013**. A delegated act shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of **two months of notification** of that act (that period can be extended by two months). If the European Parliament or the Council expresses objections, the delegated act does not enter into force.