Jurisdiction, recognition and enforcement of judgments in civil and commercial matters: rules to be applied with respect to the Unified Patent Court and the Benelux Court of Justice

2013/0268(COD) - 15/04/2014 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 583 votes to 98, with 17 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 1215/2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

Parliament adopted its position at first reading under the ordinary legislative procedure. The amendments adopted in plenary were the result of a compromise between Parliament and Council. They amend the Commission's proposal as follows:

To recap, the Brussels I Recast Regulation (Regulation (EU) No 1215/2012) on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters was adopted on 12 December 2012. It will enter into application on 10 January 2015. That reform brought about a number of important changes, including the abolition of the exequatur procedure, ensuring an easier enforcement procedure in other Member States.

The amendments adopted in plenary amended the Commission proposal as follows:

Purpose of the amendments: the amendments would seek to regulate the relationship between the Brussels I Regulation and the Agreement on a **Unified Patent Court** (UPC) and the Treaty on the Benelux Court of Justice. They are intended to establish the international jurisdiction of that Court and do not affect the internal allocation of proceedings among the divisions of that Court nor the arrangements laid down in the UPC Agreement concerning the exercise of jurisdiction, including exclusive jurisdiction, during the transitional period provided for in that Agreement.

International jurisdiction: Parliament and the Council clarified certain points as regards the determination of the jurisdiction of a common court.

For the purposes of this Regulation, each of the following courts shall be a common court:

- the Unified Patent Court established by the Agreement on a Unified Patent Court signed on 19 February 2013 (the "UPC Agreement"); and
- the Benelux Court of Justice established by the Treaty of 31 March 1965 concerning the establishment and statute of a Benelux Court of Justice (the "Benelux Court of Justice Treaty").

To allow those two Courts to exercise jurisdiction with respect to defendants not domiciled in a Member State, the rules of the Brussels I Regulation should therefore, with regard to matters falling within the jurisdiction of, respectively, the Unified Patent Court and the Benelux Court of Justice, also **apply to defendants domiciled in third States**. The existing rules of jurisdiction of the Brussels I Regulation should be extended to proceedings against all defendants regardless of their domicile.

Application may be made to a common court for provisional, including protective, measures even if the courts of a third State have jurisdiction as to the substance of the matter.

According to the amended text, a common court should have jurisdiction over a defendant from a third country in a dispute relating to an infringement of a European patent giving rise to damage within the Union, that court may also exercise jurisdiction in relation to **damage arising outside the Union from such an infringement**.

Such jurisdiction may only be established if property belonging to the defendant is located in any Member State party to the instrument establishing the common court and the dispute has a sufficient connection with any such Member State.

Recognition and enforcement: this Regulation should apply to the recognition and enforcement of:

- judgments given by a common court which are to be recognised and enforced in a Member State not party to the instrument establishing the common court; and
- judgments given by the courts of a Member State not party to the instrument establishing the common court which are to be recognised and enforced in a Member State party to that instrument.

However, where recognition and enforcement of a judgment given by a common court is sought in a Member State party to the instrument establishing the common court, any rules of that instrument on recognition and enforcement should apply **instead** of the rules of the Brussels I Regulation.