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) - 15/05/2014 - Final act

PURPOSE: to amend Regulation (EU) No 1215/2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (the 'Brussels I Regulation').

LEGISLATIVE ACT: Regulation (EU) n° 542/2014 of the European Parliament and of the Council amending Regulation (EU) No 1215/2012 as regards the rules to be applied with respect to the Unified Patent Court and the Benelux Court of Justice

CONTENT: the aim of this amending Regulation is to allow the rules of the Brussels I Regulation to be applied by two courts common to several Member States: the Unified Patent Court established on 19 February 2013 by an Agreement on a Unified Patent Court (UPC Agreement) and the Benelux Court of Justice.

- The UPC Agreement provides for its entry into force not prior to the first day of the fourth month after the date of entry into force of the amendments to the Brussels I Regulation concerning the relationship of that Regulation with the UPC Agreement.

- On 15 October 2012, Belgium, Luxembourg and the Netherlands, parties to the Treaty of 31 March 1965 concerning the establishment and statute of a Benelux Court of Justice, signed a Protocol amending that Treaty. That Protocol made it possible to transfer jurisdiction to the Benelux Court of Justice in specific matters falling within the scope of the Brussels I Regulation.

Accordingly, the amendments made aim to **regulate the relationship of the Brussels I Regulation with the UPC Agreement and with the Benelux Court of Justice Treaty by way of amendments to that Regulation.**

The new Regulation provides that the **jurisdiction of a common court** shall be determined as follows:

1) A common court shall have jurisdiction where, under this Regulation, the courts of a Member State party to the instrument establishing the common court would have jurisdiction in a matter governed by that instrument.

2) To allow the two Courts to exercise jurisdiction with respect to defendants not domiciled in a Member State, the rules of the Brussels I Regulation will, 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 Brussels I are 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;

3) Lastly, where a common court has jurisdiction over a defendant domiciled in a third State 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.

The new Regulation also deals with the **rules on the recognition and enforcement of judgements** between Member States party to an instrument establishing a common court and Member states not party to such instruments.

The United Kingdom and Ireland have notified their wish to take part in the adoption and application of this Regulation. Denmark will not take part in it.

ENTRY INTO FORCE: 30.05.2014. The Regulation will apply from 10.01.2015.