

Civil and commercial judicial cooperation, enforcement of judgments: Brussels I, Lugano Conventions

1999/0154(CNS) - 14/07/1999 - Legislative proposal

PURPOSE : to harmonise the rules of private international law in the Member States relating to jurisdiction and to improve and speed up the recognition and enforcement of judgments in civil and commercial matters. **CONTENT** : this proposal for a Regulation is based on the the new measures of the Treaty of Amsterdam relating to judicial cooperation in civil matters (Article 67 of the EC Treaty). The Regulation will replace and bring up to date the contents of the 1968 Brussels Convention on jurisdiction, recognition and enforcement of these judgments in civil and commercial matters by ensuring the continuity of results obtained in the framework of its negotiation. This Convention has not yet come into force in all the Member States as only a minority of them have ratified it. Like the Convention that it aims to replace, the Regulation has the same essential structure and basic principles, and seeks to : - introduce uniform modern standards for jurisdiction in civil and commercial matters and - simplify the formalities governing the rapid and automatic recognition and enforcement of the relevant judgements by a simple and uniform procedure. The proposed Regulation closely corresponds to the Brussels Convention and the results and negotiations in the ad hoc working party for the revision of the Brussels and Lugano Conventions, which it takes over to a substantial extent. The chief innovations following the work done by the working party are in the following areas : - the concept of the domicile of the natural persons is maintained, but there is now an autonomous definition of the seat of a legal person in place of a reference to the rules of private international law of the State in which jurisdiction is exercised; - the alternative jurisdiction has been reframed. The place of performance of the obligation underlying the claim will now be given an autonomous definition in two categories of situation: the sale of goods and the provision of services; - the material scope of the provisions governing consumer contracts has been extended so as to offer consumers better protection, notably in the field of electronic commerce; - to make the lis pendens rules more effective, the Regulation provides an autonomous definition of the date on which a case is "pending"; - the procedure for recognition and enforcement has been modified in order to improve the time taken for the declaration of enforceability and therefore the enforcement of judgments for the creditor.