Basic information

2013/0268(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
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 Amending Regulation (EU) No 1215/2012 2010/0383(COD) See also 2011/0093(COD) See also 2011/0094(CNS) **Subject** 7.40.02 Judicial cooperation in civil and commercial matters	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
JURI Legal Affairs	ZWIEFKA Tadeusz (PPE)	17/09/2013
	Shadow rapporteur RAPKAY Bernhard (S&D) THEIN Alexandra (ALDE)	

Committee for opinion	Rapporteur for opinion	Appointed
EMPL Employment and Social Affairs	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
Economic and Financial Affairs ECOFIN	3310	2014-05-06
Justice and Home Affairs (JHA)	3279	2013-12-06
Justice and Home Affairs (JHA)	3298	2014-03-03

European Commission

Commission DG	Commissioner
Justice and Consumers	REDING Viviane

Key events

Date	Event	Reference	Summary
26/07/2013	Legislative proposal published	COM(2013)0554	Summary
08/10/2013	Committee referral announced in Parliament, 1st reading		
06/12/2013	Debate in Council		Summary
21/01/2014	Vote in committee, 1st reading		
27/01/2014	Committee report tabled for plenary, 1st reading	A7-0052/2014	Summary
15/04/2014	Decision by Parliament, 1st reading	T7-0391/2014	Summary
15/04/2014	Results of vote in Parliament		
06/05/2014	Act adopted by Council after Parliament's 1st reading		
15/05/2014	Final act signed		
15/05/2014	End of procedure in Parliament		
29/05/2014	Final act published in Official Journal		

Technical information

Procedure reference	2013/0268(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Amending Regulation (EU) No 1215/2012 2010/0383(COD) See also 2011/0093(COD) See also 2011/0094(CNS)
Legal basis	Treaty on the Functioning of the European Union TFEU 67-p4 Treaty on the Functioning of the European Union TFEU 081-p2
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	JURI/7/13507

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE526.091	13/12/2013	
Committee report tabled for plenary, 1st reading/single reading		A7-0052/2014	27/01/2014	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0391/2014	15/04/2014	Summary

Council of the EU

Document type	Reference	Date	Summary

Draft final act	00030/2014/LEX	15/05/2014	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2013)0554	26/07/2013	Summary
Commission response to text adopted in plenary	SP(2014)471	09/07/2014	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PT_PARLIAMENT	COM(2013)0554	06/11/2013	
Contribution	ES_PARLIAMENT	COM(2013)0554	15/11/2013	
Contribution	RO_CHAMBER	COM(2013)0554	22/11/2013	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES7000/2013	26/02/2014	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Regulation 2014/0542
OJ L 163 29.05.2014, p. 0001 Summary

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.

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) - 26/07/2013 - Legislative proposal

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

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: 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 (Brussels I Regulation (recast)), recasting Regulation (EC) No 44/2001, was adopted. Regulation (EU) No 1215/2012 will enter into application on 10 January 2015.

In December 2012, an agreement was reached on the so-called “patent package”:

- **two Regulations on the unified patent** (Regulation (EU) No 1257/2012 and Regulation (EU) No 1260/2012). These were adopted in enhanced cooperation involving 25 Member States (all Member States except Italy and Spain); and
- **an international Agreement (the "Unified Patent Court Agreement" or "UPC Agreement")**, laying the ground for the creation of unitary patent protection in the European Union. This was signed on 19 Februrary 2013 by the majority of Member States.

Article 89(1) of the UPC Agreement provides that the Agreement cannot enter into force prior to the entry into force of the amendments to the Brussels I Regulation (recast) regulating the relationship between both instruments.

On 15 October 2012, the three Member States (Belgium, Luxembourg and the Netherlands) who are Contracting Parties to the Treaty of 31 March 1965 concerning the establishment and statute of a **Benelux Court of Justice** signed a Protocol modifying the said Treaty creating the possibility to extend the competences of the Benelux Court of Justice to include jurisdictional competences in specific matters which come within the scope of the Brussels I Regulation.

As a result, similar to the UPC Agreement, the Protocol to the Benelux Treaty requires an amendment to the Brussels I Regulation (recast) with the aim (i) to ensure compliance between the revised Treaty and the Brussels I Regulation (recast), and (ii) to address the lack of common jurisdiction rules *vis-à-vis* defendants in non-European Union States.

IMPACT ASSESSMENT: the matter of jurisdictional rules *vis-à-vis* State defendants was extensively assessed in the Commission's impact assessment accompanying the legislative proposal amending Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters ("Brussels I"). The conclusions of that assessment are *a fortiori* relevant for the limited harmonisation foreseen in this proposal.

LEGAL BASIS: Article 67(4) and points (a), (c) and (e) of Article 81(2) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: this proposal aims, firstly, at **allowing the entry into force of the UPC Agreement**. Article 89(1) of the UPC Agreement makes the entry into force of the Agreement dependent on the amendment of Regulation (EC) No 1215/2012. In addition, the proposal aims at **ensuring compliance with the Brussels I Regulation of this Agreement as well as the Protocol to the Benelux Treaty of 1965**.

In order to ensure the combined and coherent application of the Agreement and Protocol and the Brussels I Regulation (recast), it is necessary to address the following issues in the Brussels I Regulation (recast):

- clarify in the text of the Regulation that the **Unified Patent Court and the Benelux Court of Justice** are 'courts' within the meaning of the Brussels I Regulation;
- clarify the **operation of the rules on jurisdiction** with respect to the Unified Patent Court and the Benelux Court of Justice insofar as defendants domiciled in Member States are concerned;
- create uniform rules for the international jurisdiction *vis-à-vis* **third State defendants** in proceedings against such defendants brought in the Unified Patent Court and Benelux Court of Justice in situations where the Brussels I Regulation does not itself provide for such rules but refers to national law;
- define the **application of the rules on *lis pendens* and related actions** in relation to the Unified Patent Court and the Benelux Court of Justice, on the one hand, and the national courts of Member States which are not Contracting Party to the respective international agreements on the other;
- clarify the **operation of the rules on recognition and enforcement** in the relations between Member States which are and Member States which are not Contracting Parties to the respective international agreements.

BUDGETARY IMPLICATION: the proposal has no implications for the European Union's budget.

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) - 27/01/2014 - Committee report tabled for plenary, 1st reading/single reading

The Legal Affairs Committee adopted the report by Tadeusz ZWIEFKA (EPP, PL) 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.

To recap, the Brussels I Recast Regulation 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 parliamentary committee recommended that the position adopted by the European Parliament at first reading under the ordinary legislative procedure amend the Commission's proposal as follows:

Unified Patent Court: in view of the importance of the future Unified Patent Court, it is proposed that it be mentioned in the recitals of the Brussels I Regulation.

Purpose of the amendments: a recital stated that the internal distribution of tasks in the court is not covered by the changes to the Brussels I Recast.

The report clarified some points on determining the competence of a common jurisdiction:

1) Members proposed that the common court should be able **to hear disputes involving defendants from third States** in the specific case of a Union claimant bringing proceedings against a third-State defendant before a common court relating to an infringement of a European patent giving rise to damage both inside and outside the Union.

Where a common court has jurisdiction over a defendant in a dispute relating to an infringement of a European patent giving rise to damage within the Union, that court may also have 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 one or more Member States which are parties to the agreement establishing the common court and the dispute has a sufficient connection with one or more of those Member States.
By this amendment, Members seek to clarify that all Member States party to the agreement are to be considered to constitute a single legal area for the assessment of the existence of connecting factors.
2) Members also stipulated that **where an agreement establishing a common court contains special provisions on recognition and enforcement of a decision**, these provisions will apply instead of the general rules of the Brussels I Regulation as between the Member States parties.

Finally, it is proposed that this Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union* and shall apply from 10 January 2015.

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) - 06/12/2013

The Council agreed on a **general approach** on a proposal for a regulation amending Regulation 1215/2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Recast).

On 19 February 2013, 25 Member States signed an Agreement on a **Unified Patent Court (UPC)**. The creation of such a court was made necessary by the adoption of two regulations with a view to implementing enhanced cooperation in the area of the creation of unitary patent protection and its translation arrangements.

The main objective of the proposal is to regulate the relationship between Regulation 1215/2012 and the UPC Agreement, it also takes into account the existence of the Benelux Court of Justice and the international jurisdiction to be exercised by that Court in specific matters which are covered by Regulation 1215/2012.

The main amendments introduced by the general approach were as follows:

- The Unified Patent Court and the Benelux Court of Justice should be considered **common courts** within the meaning of Regulation (EU) No 1215/2012 in order to ensure legal certainty and predictability for defendants who may be sued before those two courts at a location situated in a Member State other than the one designated by the rules of Regulation (EU) No 1215/2012.
- The common court shall have jurisdiction where, under this Regulation, the courts of a Member State party to the agreement establishing the common court would have jurisdiction in a matter governed by that agreement.
- Where the defendant is not domiciled in a Member State, and this Regulation does not otherwise confer jurisdiction over him, provisions of the Regulation 1215/2012 shall apply as appropriate **regardless of the defendant's domicile**.
- Where a common court has jurisdiction over a defendant in a dispute relating to an **infringement of a European patent giving rise to damage within the Union**, that court may also have 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 a Member State party to the agreement establishing the common court.

- The rules of this Regulation shall apply to the **recognition and enforcement of**:
    1. judgments given by a common court which are to be recognised and enforced in a Member State **not party** to the agreement establishing the common court; and
    2. judgments given by the courts of a Member State not party to the agreement establishing the common court which are to be recognised and enforced in a Member State party to that agreement.
- The rules of this Regulation shall not apply to the recognition and enforcement of judgments given by a common court where such recognition and enforcement is sought in a Member State party to the agreement establishing the common court.

It should be noted that 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.

This general approach will constitute the basis for negotiations with the European Parliament in order to agree the final text of the regulation.

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.