

Brussels I bis Regulation

Abstract

This thesis deals with an analysis of Regulation 1215/2012 of the European Parliament and of the Council from 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, generally called Brussels I bis. The main aim of thesis is to define the position of Brusel I bis especially application priority Brussels I bis, the relationship to other instruments of private international law, the jurisdiction of the Regulation, the special position of some states, the lispedens and definition of the prorogation agreement and the regulation of prorogation agreements concluded in insurance, consumer and individual employment contracts in the Brussels I bis Regulation, and asymmetric prorogation agreements. I deal in my work with detail of changes compared to the original Brussels I Regulation. The thesis is divided into 4 chapters, which are further divided into subchapter.

Over the course of the last few decades, the European legislature has adopted a lot of Regulations in the area of private international law when dealing with the issues surrounding conflict of laws. European Union law contains the basic principles of the free movement of goods, capital services and persons. Within the development of the internal market there is a need to adopt measures relating to judicial cooperation in civil matters having cross-border implications and achieving the most consistent regulation of jurisdiction over a dispute in the EU and at the same time allow that disputes can be resolved as quickly as possible while maintaining legal certainty. The European Union regulates the issue in secondary law.

The first chapter analyzes Brussels I bis, clarify the reasons for the adoption of the regulation, describe structure of the regulation and focus on application Brussels I bis and also focus on systematics and relationship to other instruments private international law. The thesis deals with the basic principles contained in the Regulation Brusel I bis and also describes terms for matters that are not precisely defined in the Regulation Brusel I bis and their definition is developed by the case law of the SDEU. Thesis explains individual terms in the context of case law. The Regulation was created by recasting the Brussels I Regulation and brought about many changes that improved the regulation and regulated matters that were not dealt with by the previous regulation, but judicial practice has shown that explicit regulation is needed and the legislation has been refined. The aim of the regulation was, according to the commission, to facilitate cross-border litigation and the free movement of

judgments. The Brussels I bis Regulation has not introduced a completely new piece of legislation as a whole, but rather simplifies some parts. The Brussels I bis regulation, compared to Brussels I has a higher universal personality, which the thesis also describes.

The second chapter focuses on jurisdiction and defines its substantive, temporal, personal and territorial scope of application. and also deal with the issue of jurisdiction of a person of unknown residence. The thesis focuses on determining jurisdiction, especially in problematic cases, which are described in the thesis. In the section on international jurisdiction, the principle still applies that the personal scope of the Regulation is given only if the defendant is domiciled in one of the EU Member States. However, the defendant's domicile in a Member State of the European Union is not required in the case of consumer, insurance and employment contracts and prorogation agreement. Thesis analyze the Czech translation of the term domicile. A different concept can then lead to forum shopping. The thesis describes the rules of general, alternative, special and exclusive jurisdiction.

The third chapter deals with lis pendens, clarifies ways to deal with lis pendens and the relationship between lis pendens and related action. The thesis analyzes the new legal regulation of lis pendens in relation to 3 states.

The fourth chapter focuses on prorogation agreement, analyses conditions for the conclusion of the prorogation agreement and the special conditions for agreement in matters of insurance, consumer and individual employment contracts, solving gasser problem brought by Brussel I bis Regulation and asymmetric jurisdiction agreement. The fourth chapter also looks at actual jurisdiction Czech courts related to prorogation agreement according to the Brussels I bis regulation.

Keywords: Brussels I bis Regulation, international jurisdiction, prorogation agreement