

International jurisdiction in contract disputes

Abstract

Contracts are a key instrument of international trade and a central theme of private international law. Disputes arising in the context of contractual relations, and thus the success of the parties in such disputes, depend to a large extent on which court has international jurisdiction to decide the dispute. The rules for determining international jurisdiction thus form the legal framework for the very powerful instrument that the plaintiff has when choosing the forum. In the context of Czech private international law, the most important piece of legislation for contractual relations with an international element is the Brussels I bis Regulation, which governs the rules for determining jurisdiction in civil and commercial matters and certain other related issues such as *lis pendens* or the recognition and enforcement of judgments. In addition to the general rule of jurisdiction, it also contains the regulation special rules, as well as the regulation of agreements on jurisdiction, *lis pendens* and related proceedings. It is questionable whether the regulation itself can establish clear and comprehensive rules of international jurisdiction in order to avoid conflicts of jurisdiction in disputes arising from contracts and claims arising from contracts. The case-law of the Court of Justice plays an important role in the development of the regulation, as it provides rules of interpretation and application for individual provisions of the Regulation. In addition to the interpretation of terms such as „matters relating to a contract“, „contract for the sale of goods“ or „contract for the provision of services“, the Court of Justice also specifies the boundaries between individual provisions, such as in the case of matters relating to a contract on the one hand and matters relating to a tort or quasi-delict on the other. The Regulation aims to clarify and unify the rules of jurisdiction in civil and commercial matters, but leaves sufficient scope for contractual freedom in the case of agreements of jurisdiction, while at the same time prevents certain unfair practices of international litigation, such as the „Italian torpedoes“. It also plays an important role in the case of the harmonious administration of justice, where it seeks to prevent parallel proceedings which may lead to irreconcilable judgments, making their recognition and enforcement significantly more difficult. In addition to seeking to approximate the various institutes governed by the Brussels I bis Regulation, this work addresses the question whether the system of provisions under the Brussels I bis Regulation, together with the case-law of the Court of Justice, is set up in a clear, comprehensible and conflict-free manner so as to provide comprehensive guidance for determining international jurisdiction and to effectively prevent conflicts of jurisdiction.

Klíčová slova: international jurisdiction, contract disputes, jurisdiction clauses, lis pendens