

Conclusion:

The question of understanding the content and meaning of a particular legal act, embodying certain legal institutes, is essential for the realization of law. The issue of prorogation of jurisdiction represents only a partial institute resulting from the Brussels I. Regulation. Notwithstanding such partiality, Article 23 is being often labeled as one of the most important ones. Its significance is stemming from the governance of crucial aspect: freedom of the parties to, by means of an agreement, designate a competent court and partially create a secure and predicable area of their contractual relationship.

However, no legal act is able to predict and be adapted to presume entire situations which may occur during its legal force. Lawyers, in understandable protection of the interests of their clients, are often digging for escape routes which are not always decorous. For instance balancing multiple forums that are available for the dispute resolution that is rather wise than wrongful, or many times initiating proceedings in the courts of a Member State in order to simply gain more time.

It is not only the practice that may cause concerns. As pointed out in preceding sections, certain parts of the Article 23 are indeed doubtful. The subsequent examples shall illustrate certain ambiguities that stand out from the Article 23. First of all, it is the differences between the language versions of the Brussels I. Regulation, which may cause some degree of interpretational confusion. Furthermore, the form of international trade usage has been criticized due to its ambiguity which increases the uncertainty of predictability, as to whether or not a court seized will be able find the existence of the international trade usage. As to the changes of domicile, after the conclusion of jurisdiction agreement, the doctrine points out that it is doubtful whether the requirement of Article 23(1) must be met when the jurisdiction agreement was concluded or when court proceedings were initiated.²⁵¹

The foregoing analysis of the prorogation of jurisdiction, within the meaning of Article 23 of the Brussels I. Regulation, was aimed to discuss the pros and cones of this legal institute while taking into consideration the opinions of respected scholars and decision making procedure of European Court of Justice. On one hand, there has been several, and often rightful, critiques raised. On the other hand, only by critique followed

²⁵¹ *Magnus/Mankowski*, Brussels I Regulation (2007), European Law Publishers, 2007, Art. 23, note 52.

by a discussion and legal writing balancing multiple viewpoints, it is possible to afford the subjects of the legal act desirable level of protection.

Furthermore, the issue was not only assessed from the perspective of EC law. Quite contrary. The issue of prorogation of jurisdiction was also considered from the point of national and international law, which may not be obeyed in this respect. It has been shown that the current usage of the relevant provisions of national legislation is fairly limited, due to the existence of prevailing supranational sources of law. Besides that, the regime afforded by the Hague Convention on Choice of Court Agreements is dependent on the ratification and accession of other Member States of the Hague conference of private international law. Upon the entry into force of these legal documents it is assumable to predict more efficient protection and legal regulation of this institute. However, the revisions and amendments that are taking or are going to take place are rather complex and their effect will be seen upon their entry into force. Even though several impacts may be theoretically presumed and assessed even today, it will be their mutual interplay that will provide sufficient answers.

Notwithstanding the objections raised and hopefully promising future for the legal regulation of the institute of prorogation of jurisdiction, I consider it as a very effective tool within the field of European Private International Law.