

Preliminary question raised by czech courts regarding jurisdiction pursuant to the Brussel I and Brussel I bis Regulation

Abstract

This thesis deals with jurisdiction in the Brussels I and Brussels I bis regulations. It primarily places the emphasis on an interpretation of the individual provisions of the regulation as governing the jurisdiction of the Court of Justice, in particular in the form of judgments in preliminary ruling procedure, focusing mainly on the preliminary rulings of Czech courts.

The paper is divided into four chapters, preceded by a general introduction and completed with a conclusion. The first chapter deals with the development of preliminary rulings in European law, the harmonisation of its dualistic regulation from Articles 68 and 234 of the Treaty on Establishing the European Community in Article 267 of the Treaty on the Functioning of the European Union and a description of preliminary ruling procedure both before national courts and before the Court of Justice. The second chapter briefly analyses a selection of four of the most important pieces of case law which the Court of Justice has dealt with within the bounds of preliminary ruling procedure. The case law involved is *Van Gend en Loos*, *Costa v. E.N.E.L.*, *Cassis de Dijon* and *Francovich*.

The third chapter considers jurisdiction according to the Brussels I bis regulation. This is the largest chapter in the thesis, and is therefore divided into two sections. The first section considers the Brussels I regulation in general, in particular its establishment, legal foundation and scope of effect. The second section looks at actual jurisdiction according to the Brussels I bis regulation. The size of this section means that it is further divided into seven subsections, whereby the first of these analyses the term jurisdiction itself in the sense of Brussels I and Brussels I bis. Each of the six subsequent subsections deals with one of the types of jurisdiction according to the regulation, ordered in the same way as in the regulation. The first analyses general jurisdiction, the second special jurisdiction, the third jurisdiction for special groups of persons, i.e. jurisdiction in matters relating to insurance, jurisdiction over consumer contracts and jurisdiction over individual contracts of employment, the fourth exclusive jurisdiction, the fifth prorogation of jurisdiction and the sixth subsection to instituted proceedings.

The fourth chapter analyses in great depth four judgments which the Court of Justice decided at the reference of the courts of the Czech Republic for a preliminary

ruling in cases of jurisdiction according to the Brussels I regulation, including an actual assessment and the influence of these on existing interpretation of law. These judgments are as follows: Česká podnikatelská pojišťovna, a.s., Vienna Insurance Group v. Michal Bilas; Hypoteční banka a.s. v. Udo Mike Lindner; Česká spořitelna, a.s. v. Gerald Feichter; E.ON Czech Holding AG v. Michael Dédouch, Petr Streitberg, Pavel Sud.

Key words:

Brussels I (bis) Regulation

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European private international law