

Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast)

CHAPTER VII

RELATIONSHIP WITH OTHER INSTRUMENTS

Article 67

This Regulation shall not prejudice the application of provisions governing jurisdiction and the recognition and enforcement of judgments in specific matters which are contained in instruments of the Union or in national legislation harmonised pursuant to such instruments.

Article 68

1 This Regulation shall, as between the Member States, supersede the 1968 Brussels Convention, except as regards the territories of the Member States which fall within the territorial scope of that Convention and which are excluded from this Regulation pursuant to Article 355 of the TFEU.

2 In so far as this Regulation replaces the provisions of the 1968 Brussels Convention between the Member States, any reference to that Convention shall be understood as a reference to this Regulation.

Article 69

Subject to Articles 70 and 71, this Regulation shall, as between the Member States, supersede the conventions that cover the same matters as those to which this Regulation applies. In particular, the conventions included in the list established by the Commission pursuant to point (c) of Article 76(1) and Article 76(2) shall be superseded.

Article 70

1 The conventions referred to in Article 69 shall continue to have effect in relation to matters to which this Regulation does not apply.

2 They shall continue to have effect in respect of judgments given, authentic instruments formally drawn up or registered and court settlements approved or concluded before the date of entry into force of Regulation (EC) No 44/2001.

Article 71

1 This Regulation shall not affect any conventions to which the Member States are parties and which, in relation to particular matters, govern jurisdiction or the recognition or enforcement of judgments.

2 With a view to its uniform interpretation, paragraph 1 shall be applied in the following manner:

- a this Regulation shall not prevent a court of a Member State which is party to a convention on a particular matter from assuming jurisdiction in accordance with that convention, even where the defendant is domiciled in another Member State which is

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not party to that convention. The court hearing the action shall, in any event, apply Article 28 of this Regulation;

- b judgments given in a Member State by a court in the exercise of jurisdiction provided for in a convention on a particular matter shall be recognised and enforced in the other Member States in accordance with this Regulation.

Where a convention on a particular matter to which both the Member State of origin and the Member State addressed are parties lays down conditions for the recognition or enforcement of judgments, those conditions shall apply. In any event, the provisions of this Regulation on recognition and enforcement of judgments may be applied.

^{F1}Article 71a

1 For the purposes of this Regulation, a court common to several Member States as specified in paragraph 2 (a ‘common court’) shall be deemed to be a court of a Member State when, pursuant to the instrument establishing it, such a common court exercises jurisdiction in matters falling within the scope of this Regulation.

2 For the purposes of this Regulation, each of the following courts shall be a common court:

- a the Unified Patent Court established by the Agreement on a Unified Patent Court signed on 19 February 2013 (the ‘UPC Agreement’); and
- b 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’).

Textual Amendments

- F1** Inserted by [Regulation \(EU\) No 542/2014 of the European Parliament and of the Council of 15 May 2014 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.](#)

Article 71b

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) where the defendant is not domiciled in a Member State, and this Regulation does not otherwise confer jurisdiction over him, Chapter II shall apply as appropriate regardless of the defendant’s 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) where a common court has jurisdiction over a defendant under point 2 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.

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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.

Textual Amendments

- F1** Inserted by [Regulation \(EU\) No 542/2014 of the European Parliament and of the Council of 15 May 2014 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.](#)

Article 71c

1 Articles 29 to 32 shall apply where proceedings are brought in a common court and in a court of a Member State not party to the instrument establishing the common court.

2 Articles 29 to 32 shall apply where, during the transitional period referred to in Article 83 of the UPC Agreement, proceedings are brought in the Unified Patent Court and in a court of a Member State party to the UPC Agreement.

Textual Amendments

- F1** Inserted by [Regulation \(EU\) No 542/2014 of the European Parliament and of the Council of 15 May 2014 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.](#)

Article 71d

This Regulation shall apply to the recognition and enforcement of:

- (a) 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
- (b) 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 shall apply instead of the rules of this Regulation.]

Textual Amendments

- F1** Inserted by [Regulation \(EU\) No 542/2014 of the European Parliament and of the Council of 15 May 2014 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.](#)

Article 72

This Regulation shall not affect agreements by which Member States, prior to the entry into force of Regulation (EC) No 44/2001, undertook pursuant to Article 59 of the 1968 Brussels Convention not to recognise judgments given, in particular in other Contracting States to that Convention, against defendants domiciled or habitually resident in a third

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State where, in cases provided for in Article 4 of that Convention, the judgment could only be founded on a ground of jurisdiction specified in the second paragraph of Article 3 of that Convention.

Article 73

- 1 This Regulation shall not affect the application of the 2007 Lugano Convention.
- 2 This Regulation shall not affect the application of the 1958 New York Convention.
- 3 This Regulation shall not affect the application of bilateral conventions and agreements between a third State and a Member State concluded before the date of entry into force of Regulation (EC) No 44/2001 which concern matters governed by this Regulation.

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