

Jurisdictional rules in the Brussels Ibis Regulation

Abstract

The master thesis is devoted to the field of private international law, specifically its part of international procedural law. The subject is the rules of special jurisdiction laid down in the Brussels I bis Regulation. These are jurisdictional rules which provide for the jurisdiction of courts other than those designated by the defendant's State of residence. The thesis focuses on only two special jurisdictional rules, namely the jurisdictional rule establishing the jurisdiction of the court dealing with a dispute arising out of a contract and the jurisdictional rule establishing the jurisdiction of the court dealing with a dispute arising out of a tort. The thesis is divided into an abstract part, the main aim of which is to explain the basic concepts to the reader, to describe the theoretical division of jurisdictional rules and to define the scope of the Brussels I bis Regulation, in particular the substantive scope in relation to arbitration proceedings. In the following parts of the thesis, it describes in detail the jurisdictional norms enshrined in Articles 7(1) and 7(2) of the Brussels I bis Regulation and the predecessors of these legal provisions enshrined in the Brussels Convention and the Brussels I Regulation, and looks for the boundaries between these jurisdictional norms and their common features. In relation to the jurisdictional rule establishing the jurisdiction of the court seized of contractual disputes, the thesis examines in detail the original jurisdictional rule enshrined in Article 7(1)(a), which applies in the case of disputes arising out of all contracts other than contracts for the sale of goods and contracts for the provision of services. This part of the thesis deals with the question of the law of the obligation and its place of performance which is decisive for determining the jurisdiction of the court; the thesis also deals with the question whether an obligation which is not the subject of the proceedings may be decisive for determining the jurisdiction of the court or under what conditions. In the case of the jurisdictional rule laid down in Article 7(1)(b), which provides for jurisdiction for a contract for the sale of goods and a contract for the provision of services on the basis of the place of delivery of the goods and the place of provision of the services, the thesis discusses the reason for making these specifications in relation to subparagraph (a). In addition, the work addresses, in relation to paragraph (b), inter alia, the definitions of the terms 'sale of goods' and 'supply of services'; situations where goods or services under one contract are supplied, or rendered, in several places, either within a single State or in several different States; situations where the agreed place of performance differs from the actual place of performance or where the performance has not been rendered at all. In relation to the jurisdictional rule in Article 94

7(2) of the Brussels I bis Regulation, the concept of 'harmful event' is discussed in particular, which in the case of distance torts includes at least two places which are decisive for determining the jurisdiction of the court.

The principal issues addressed in relation to both jurisdictional norms are the applicability of these norms in the event of a change of either party to a contract, debtor or creditor in the case of obligations arising out of a tort and the determination of the competent court in the case of negative declaratory actions.

The work draws mainly on judgments of the Court of Justice and opinions of the Advocates General.

Klíčová slova: Case law of the European Court of Justice, Brussels Ibis Regulation, Special jurisdiction