

Abstract

Procedural position of a person whose domicile is unknown in light of “Brussels I Regulation”

One of the results of the removal of obstacles that previously used to prevent EU citizens from moving into another member state is, among others, an increase in the number of contracts entered into with nationals from other member states. Connected therewith there has been an increase in the number of cases involving a foreign element taken before courts of the member states. Many of those cases are in fact brought against persons whose domiciles are unknown. To be precise, in practice it is defendants on whom it is not possible to serve the process and at the same time the court has no information regarding their domiciles. Not only is it impossible to find out whether they are in the Czech Republic, but the question is whether they are in the EU at all. In such a case it is necessary to consider whether it is possible to apply the rules of Brussels I Regulation, whose operation is based on the principle of domicile of the sued party, for the determination of jurisdiction in proceedings against such defendants. Besides this basic issue the paper also deals with the assessment of whether it is possible to apply, in the proceedings against a person whose domicile is unknown, domestic institutes which are not recognised by European Union law. In the Czech legal order it is the institute of a curator appointed to a person whose domiciles are unknown.

Keywords:

Jurisdiction, place of domicile unknown, guardian ad litem, law of international civil procedure