

Jurisdiction, recognition and enforcement of judgments in civil and commercial matters: rules to be applied with respect to the Unified Patent Court and the Benelux Court of Justice

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The Council agreed on a general approach on a proposal for a regulation amending Regulation 1215/2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Recast).

On 19 February 2013, 25 Member States signed an Agreement on a Unified Patent Court (UPC). The creation of such a court was made necessary by the adoption of two regulations with a view to implementing enhanced cooperation in the area of the creation of unitary patent protection and its translation arrangements.

The main objective of the proposal is to regulate the relationship between Regulation 1215/2012 and the UPC Agreement, it also takes into account the existence of the Benelux Court of Justice and the international jurisdiction to be exercised by that Court in specific matters which are covered by Regulation 1215/2012.

The main amendments introduced by the general approach were as follows:

- The Unified Patent Court and the Benelux Court of Justice should be considered common courts within the meaning of Regulation (EU) No 1215/2012 in order to ensure legal certainty and predictability for defendants who may be sued before those two courts at a location situated in a Member State other than the one designated by the rules of Regulation (EU) No 1215/2012.
- The common court shall have jurisdiction where, under this Regulation, the courts of a Member State party to the agreement establishing the common court would have jurisdiction in a matter governed by that agreement.
- Where the defendant is not domiciled in a Member State, and this Regulation does not otherwise confer jurisdiction over him, provisions of the Regulation 1215/2012 shall apply as appropriate regardless of the defendant's domicile.
- Where a common court has jurisdiction over a defendant in a dispute relating to an infringement of a European patent giving rise to damage within the Union, that court may also have jurisdiction in relation to damage arising outside the Union from such an infringement.

Such jurisdiction may only be established if property belonging to the defendant is located in a Member State party to the agreement establishing the common court.

- The rules of this Regulation shall apply to the recognition and enforcement of:
 1. judgments given by a common court which are to be recognised and enforced in a Member State not party to the agreement establishing the common court; and
 2. judgments given by the courts of a Member State not party to the agreement establishing the common court which are to be recognised and enforced in a Member State party to that agreement.
- The rules of this Regulation shall not apply to the recognition and enforcement of judgments given by a common court where such recognition and enforcement is sought in a Member State party to the agreement establishing the common court.

It should be noted that the United Kingdom and Ireland have notified their wish to take part in the adoption and application of this Regulation. Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

This general approach will constitute the basis for negotiations with the European Parliament in order to agree the final text of the regulation.