

Brussels I Recast Set in Stone

At its 3207th meeting held in Brussels, the Council of the European Union has approved the recast of the Brussels I Regulation in the form settled with the European Parliament in a first reading agreement. The accompanying press release announces as follows:

The purpose of this regulation is to make the circulation of judgments in civil and commercial matters easier and faster within the Union, in line with the principle of mutual recognition and the Stockholm Programme guidelines.

The recast regulation will substantially simplify the system put in place by “Brussels I” as it will abolish exequatur, i.e. the procedure for the declaration of enforceability of a judgment in another member state. According to the new provisions, a judgment given in a member state will be recognised in the other member states without any specific procedure and, if enforceable in the member state of origin, will be enforceable in the other member states without any declaration of enforceability.

The recast regulation will provide that no national rules of jurisdiction may be applied any longer by member states in relation to consumers and employees domiciled outside the EU. Such uniform rules of jurisdiction will also apply in relation to parties domiciled outside the EU in situations where the courts of a member state have exclusive jurisdiction under the recast regulation or where such courts have had jurisdiction conferred on them by an agreement between the parties.

Another important change will be a rule on international lis pendens which will allow the courts of a member state, on a discretionary basis, to stay the proceedings and eventually dismiss the proceedings in situations where a court of a third state has already been seized either of proceedings between the same parties or of a related action at the time the EU court is seized (sic).”

Under Art. 81, the recast Regulation (“Brussels 1a”?) will apply from a date 24 months after its entry into force, being 20 days after its publication in the Official Journal. The new rules will not, therefore, apply until early 2015, by which time their potential impact will likely have been closely scrutinised on this site and

elsewhere. The UK and Ireland are taking part in the adoption of the recast Regulation, which will also be applicable to Denmark under the terms of the 2005 Agreement between that country and the EC extending the Brussels I regime.