

Conference Report: EAPIL YRN Conference on National Rules on Jurisdiction and the Possible Extension of the Brussels Ia Regulation



The following conference report has been provided by Benjamin Saunier, Research Assistant at the Université Paris 2 Panthéon-Assas and Doctoral Candidate at the Université Paris 1 Panthéon-Sorbonne.

The EAPIL Young Research Network held a conference on the topic **Jurisdiction over non-EU defendants - Should the Brussels Ia Regulation be extended?** on Saturday 14 and Sunday morning 15 May. The conference took place in Dubrovnik, Croatia, at the International University Centre operated by the University of Zagreb, which had co-funded the event together with the EU Commission. It gathered specialists from all over the world, including the non-EU Member States.

The conference was part of an ongoing research project directed by Drs Tobias Lutzi (Cologne/Augsburg), Ennio Piovesani (Torino) and Dora Zgrabljic Rotar (Zagreb). As explained by the organisers at the outset of the conference, the project, launched in June 2021, was inspired by Article 79 of the Brussels Ia Regulation, which provides for the EU Commission to come up with a report on the application of the Regulation, addressing in particular the need to extend its rules to defendants not domiciled in a member state. While the report has yet to be released, the organisers rightly felt it was of great interest to compare the practice of Member States for those cases where the defendant is not subject to rules of direct jurisdiction in the Regulation.

A [questionnaire on autonomous, national law on international jurisdiction](#) was

sent last year to the 23 participants in the project, who cover 17 Member States of the EU. The questionnaire contained the following questions (here summarised):

- What are the sources of rules on international jurisdiction in your country?
- How is the domicile defined for jurisdictional purposes? Is there a general rule of jurisdiction based on a ground other than domicile of the defendant?
- Is there a *forum necessitatis*? What are the equivalents of the Regulation Article 7(1) for contractual claims, 7(2) for torts, 8(1) for close connection between defendants, and the equivalents of protective heads of jurisdiction such as the one for consumer law disputes?
- Is your country party to any (bilateral or multilateral) treaty that provides direct rules of jurisdiction in civil and commercial matters?

The national reports were submitted last February and the organisers were able to share some of their (preliminary) conclusions, which will eventually make their way into a book along with the national reports and some of the interventions heard in Dubrovnik. Not all of the findings could be introduced in this report, which only serves as a short teaser for the book.

Tobias Lutzi pointed out that most of the states surveyed, which already make up for the majority of the EU Member States, have adopted specific rules for international jurisdiction. Some of these countries have already extended the rules of the Regulation, or taken substantial inspiration from them. Even courts of the member states that have not adopted specific rules on international jurisdiction did on some occasion take some inspiration from the EU rules when applying the principle of ‘double functionality’, which sees international jurisdiction as entailed by local jurisdiction. This was addressed in details by the members of the first panel of Saturday, which focused on the topic of the influence of EU law on national rules and was composed of **Tess Bens**, Dr **Stefano Dominelli**, Dr **Dafina Sarbinova** and **Benjamin Saunier**.

Dora Zgrabljic Rotar remarked that in most countries, the same definition of the domicile was applied in international and domestic cases for jurisdictional purposes (which is not to say that the definition itself is the same in all those countries). The majority of the jurisdictions surveyed use the statutory seat as well as the actual seat in order to determine the domicile of a legal person. As for

bases of general jurisdiction apart from the defendant's domicile, most of the countries surveyed seem to have one, be it habitual residence, mere presence, or property of the defendants. Only two of these countries still give relevance to nationality of either party to a litigation in that regard. The existence of a *forum necessitatis* is also a distinctive feature of the countries implementing it. Speakers of the second panel of Saturday (**Vassiliki Marazopoulou**, **Giedirius Ožiunas**, Dr **Ioannis Revolidis**, Dr **Anna Wysocka-Bar**), dealing with the peculiarities of autonomous law of the Member States, all had the opportunity of explaining, among other things, whether or not, and why, their home jurisdiction had a *forum necessitatis* rule.

The third panel of Saturday, composed of Professors **Ronald Brand**, **Burkard Hess** and **Margerita Salvadori** addressed the issue of "extending the Brussels Ia Regulation", which echoes the project title "should the Regulation be extended?". The panellists put things in a broad perspective, addressing the discrimination (Ronald Brand) and recognition and enforcement of judgements issues (Burkard Hess) that would be associated with an extension (or non-extension) of the Regulation, as well as the possibility of following a method based on reciprocity in an extended Regulation (Margerita Salvadori).

Participants were also provided with a look at the "bigger picture" thanks to the presentations on Sunday. Dr **Johannes Ungerer** for the UK and Dr **Marko Jovanovic** for Serbia both presented third state perspectives. Finally, Dr **Ning Zhao** gave a thorough presentation of the negotiations held in the Hague Conference since the early 1990s on the issues discussed at the conference, their achievements so far (2005 Choice-of-Court Agreements and 2019 Judgements conventions) and orientations.

The interventions and exchange among participants made for two very pleasant days. The gorgeous setting of Dubrovnik also played its part in making the conference a great success. As Ronald Brand put it, the question asked in the project title raises multiple further questions, so that it can be hoped that no matter what the future holds for the Brussels Ia Regulation, projects such as this one will be happening more and more.