CJEU, Case C-540/24, Cabris Investment: Jurisdiction Clause in Favour of EU Court is Subject to Art. 25 Brussels Ia even if both Parties are Domiciled in the Same Third State

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On 9 October 2025, the CJEU, in Case C-540/24 (*Cabris Investment*), had to decide whether Art. 25 Brussels Ia applies to "an agreement conferring jurisdiction in which the contracting parties, who are domiciled in the United Kingdom and therefore (now) in a third State, agree that the courts of a Member State of the European Union are to have jurisdiction over disputes arising under that contract, falls within the scope of that provision, even if the underlying contract has no further connection with that Member State chosen as the place of jurisdiction."

Unsurprisingly, the Court held that it does.

Facts

The case concerned a consultancy contract entered into by Cabris Investments and Revetas Capital Advisors in May 2020, both established in the United Kingdom, accompanied by a jurisdiction clause in favour of the *Handelsgericht Wien* in Austria. In June 2023 Cabris Investments brought proceedings against Revetas Capital Advisors before the *Handelsgericht Wien* seeking payment of EUR 360,000 in order to fulfil a contractual obligation relating to the role of Chief Financial Officer.

A similar case had already been referred to the CJEU in Case C-566/22 (*Inkreal*). The only (relevant) difference to the case at hand is the fact that the parties in *Inkreal* had both been established in the European Union when proceedings were brought against the defendant, which (due to the United Kingdom having left the European Union) was not the case here.

This seemingly significant difference to the case in *Inkreal* prompted Revetas Capital Advisors to challenge the international jurisdiction of the Vienna court, arguing that,

> ***(Para. 25)*** *"since the [Brussels Ia Regulation] has not been applicable in respect of legal relationships involving the [United Kingdom] since the end of the transition period provided for in the Withdrawal Agreement of 31 December 2020"*

the jurisdiction clause should not be subject to Art. 25 Brussels Ia as the action had been brought only after the end of said transition period in June 2023.

The Court's decision

As a preliminary point, the Court clarifies that

> ***(Para. 31****) "it must be borne in mind that since a jurisdiction clause is, by its very nature, a choice of jurisdiction which has no legal effect for so long as no judicial proceedings have been commenced and which takes effect only on the date on which the judicial action is set in motion, such a clause must be assessed as at the date on which the legal proceedings are brought."*

At first glance, this clarification seems important, given that the contract had been entered into in May 2020, but the action was only brought before the *Handelsgericht Wien* in June 2023 after the transition period between the United Kingdom and the European Union had ended on 31 December 2020.

Actually, though, these facts would only be relevant if the action were brought before the courts of the United Kingdom, which is not the case here. If Art. 25 Brussel Ia's requirements are met, the Austrian courts must subject the jurisdiction clause to Art. 25 Ia Brussel Ia, regardless of whether or not the Brussel Ia Regulation is still applicable in the United Kingdom.

With regard to the international scope of the Brussels Ia Regulation, the question of whether the United Kingdom is a Member State or a third State is irrelevant, as the CJEU has of course already famously clarified, in Case C-281/02 (*Owusu*), that the required international element need not necessarily derive from the involvement of more than one Member State.

The Court then establishes the following:

> ***(Para. 32**) "Therefore, in order to answer the question referred, it is necessary to determine whether a dispute between two parties to a contract who are domiciled in the same third State, such as the United Kingdom since 1 February 2020, and have designated a court of a Member State to hear and determine that dispute, falls within the scope of the [Brussels Ia Regulation] and Article 25(1) thereof."*

As to the provision's applicability (which the Court only considers at later point, hence the confusing paragraph numbers), the Court holds:

> ***(Para. 40)** "Third, according to the case-law of the Court, in order for the situation at issue to come within the scope of the [Brussels Ia Regulation], it must have an international element. That international element may result both from the location of the defendant's domicile in the territory of a Member State other than the Member State of the court seised and from other factors linked, in particular, to the substance of the dispute, which may be situated even in a third State."*

This is in line with the Court's decision in *Owusu*, as laid out above.

> ***(Para. 41)** "Furthermore, the Court has already clarified that a situation in which the parties to a contract, who are established in the same Member State, agree on the jurisdiction of the courts of another Member State to settle disputes arising out of that contract, has an international element, even if that contract has no further connection to the other Member State. In such a situation, the existence of an agreement conferring jurisdiction on the courts of a Member State other than that in which the parties are established in itself demonstrates the international nature of the situation at issue."*

Strictly speaking, this is irrelevant, as neither Cabris Investments nor Revetas Capital Advisors are domiciled in Austria. Just like in its earlier decision in *Inkreal*, to which the Court refers, this fact alone establishes the required international element.

With the applicability of the Brussels Ia Regulation established, the scope of Art. 25 Brussels Ia needs to be examined:

> ***(Para. 35)*** *"It is clear from the very wording of that provision ["regardless of their domicile"] that the rule which it lays down applies regardless of the domicile of the parties. More particularly, the application of that rule shall not be subject to any condition relating to the domicile of the parties, or of one of them, in the territory of a Member State."*
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> ***(Para. 36)****"In the second place, as regards the context of Article 25(1) of the [Brussels Ia Regulation], it is important, first, to point out that that provision differs from the one which preceded it, namely Article 23(1) of the Brussels I Regulation, which, for its part, required, for the application of the rule of jurisdiction based on an agreement conferring jurisdiction, that at least one of the parties to that agreement be domiciled in a Member State."*

This is also confirmed by Art. 6(1) Brussels Ia (see **para. 39**).

These arguments (and some ancillary considerations) lead the Court to the answer that

> ***(Para. 49)*** *"Article 25(1) [Brussels Ia Regulation] must be interpreted as meaning that that provision covers a situation in which two parties to a contract domiciled in the United Kingdom agree, by an agreement conferring jurisdiction concluded during the transition period, on the jurisdiction of a court of a Member State to settle disputes arising from that contract, even where that court was seised of a dispute between those parties after the end of that period."*

Commentary

Overall, the Court's decision is hardly surprising. In fact, the decisions in *Owusu* and *Inkreal* could well have allowed the *Handelsgericht Wien* to consider its

question *acte eclairé* and assume its international jurisdiction on the basis of the unambiguous wording of Art. 25(1) Brussels Ia.

What is surprising, though, is that the Court did not address the relationship between Art. 25(1) Brussels Ia and the Hague Convention on Choice of Court Agreements (HCCCA) at all. According to Art. 71(1) Brussels Ia, the latter takes precedent where it is applicable. For this, at least one of the parties must be a resident of a Contracting State of the Hague Convention that is not a Member State of the European Union, Art. 26(6) lit. a) HCCCA. This seems debatable given that the jurisdiction clause in question was entered into during the transition period. However, even if the Hague Convention were applicable, its application would be precluded as the case does not fall within its international scope of application (Art. 1(1) HCCCA). As set out in Art. 1(2) HCCCA, contrary to the Brussels Ia Regulation's international scope as established in *Inkreal*, a case is considered international under the Hague Convention unless the parties are resident in the same Contracting State and the relationship of the parties and all other elements relevant to the dispute, regardless of the location of the chosen court, are connected only with that State.

Accordingly, the Court's decision is consistent with its previous rulings on international jurisdiction clauses and does not conflict with other international instruments on the subject. To put it in the words of Geert Van Calster: "A very open door kicked open by the CJEU".