



New European Regulation on jurisdiction and the recognition and enforcement of judgments

Regulation (EU) No 1215/2012, of 12 of December of 2012, on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters

In order to facilitate the free movement of judgments in the EU and to improve access to justice, the European Parliament and Council have enacted on 12 of December of 2012 a new Regulation 1215/2012 on jurisdiction, recognition and enforcement of judgment in civil and commercial matters, which shall apply to legal proceedings instituted from 10 of January of 2015, and replaces Regulation 44/2001, of 22 of December of 2000.

The judgments of a Member State shall be directly enforceable in the EU

The biggest novelty of Regulation 1215/2012 is the abolishment of the exequatur. Currently, in order to execute a judgment given in another Member State the declaration of enforceability on behalf of a national court is required prior to its enforcement. In the new regulation such requirement disappears, therefore any judgment given in a Member State of the EU must be automatically recognized without the need of any proceedings and must be directly enforced, as if it were issued in the State where the enforcement is sought.

However, Regulation 1215/2012 maintains the mechanisms for challenging the recognition and enforcement of the judgments in case the recognition is contrary to the public order of the State where such recognition is sought, the judgment has been issued by default without the defendant having been given enough time to defend itself, if the judgment is irreconcilable with another one issued between the same

parties or if it comes into conflict with the provisions of the Regulation in matters of insurance, consumers, employees or exclusive jurisdiction.

Reinforcement of the freedom of choice-of-court

Regulation 44/2001 already established that the parties are free to agree which must be the competent judicial authority to settle any dispute that might arise from their contractual relation. However, under such Regulation it is necessary that at least one of the two parties is domiciled in an EU State. With the new Regulation such requirement disappears, and therefore a court of the EU shall have to declare itself to be competent when the parties have agreed to be subjected to its jurisdiction although both parties are domiciled outside the EU.

Likewise, Regulation 1215/2012 reinforces the effectiveness of choice-of-court agreements modifying the *lis pendens* rules. Under the new Regulation, in the case that claims involving the same subject-matter and cause of action are filed between the same parties before courts of two different Member States, the court designated by the parties shall have priority over any other, regardless of before which court the first claim was brought. In this way, a court that is not the one designated by the parties shall be required to stay its proceedings until the designated court rules on its jurisdiction.