



ZADAR, 5-6.07.2022

Day 1

CI/2022/06

Tuesday, 5 – 7 -2022

Seminar - Face to Face

Mihovila Pavlinovića 1, 23000 Zadar, Croatia

EJTN CIVIL JUSTICE SEMINAR

E-Commerce

Dr. APOSTOLOS ANTHIMOS

INTRODUCTION

E-commerce and dispute resolution

1. ADR
2. Litigation
 - i. Jurisdiction
 - ii. Applicable law
 - iii. Recognition and enforcement

ADR EU LEGISLATION ON E-COMMERCE

- Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR)
- Regulation (EU) No 524/2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Regulation on consumer ODR)

DIRECTIVE 2013/11/EU ON ALTERNATIVE DISPUTE RESOLUTION FOR CONSUMER DISPUTES

Tomorrow...

REGULATION (EU) NO 524/2013 ON ONLINE DISPUTE RESOLUTION FOR CONSUMER DISPUTES

Also tomorrow...

LITIGATION

Tomorrow too...

I. JURISDICTION

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

JURISDICTION - SECTION 1 - GENERAL PROVISIONS

Article 4

1. Subject to this Regulation, persons domiciled in a Member State shall, whatever their nationality, be sued in the courts of that Member State.

2. Persons who are not nationals of the Member State in which they are domiciled shall be governed by the rules of jurisdiction applicable to nationals of that Member State.

JURISDICTION - SECTION 1 - GENERAL PROVISIONS

Article 5

1. Persons domiciled in a Member State may be sued in the courts of another Member State only by virtue of the rules set out in Sections 2 to 7 of this Chapter.

JURISDICTION - SECTION 1 - GENERAL PROVISIONS

Article 6

1. If the defendant is not domiciled in a Member State, the jurisdiction of the courts of each Member State shall, subject to Article 18(1), Article 21(2) and Articles 24 and 25, be determined by the law of that Member State.

2. As against such a defendant, any person domiciled in a Member State may, whatever his nationality, avail himself in that Member State of the rules of jurisdiction there in force, and in particular those of which the Member States are to notify the Commission pursuant to point (a) of Article 76(1), in the same way as nationals of that Member State.

SECTION 2 - SPECIAL JURISDICTION

Article 7

A person domiciled in a Member State may be sued in another Member State:

(1) (a) in matters relating to a contract, in the courts for the place of performance of the obligation in question;

(b) for the purpose of this provision and unless otherwise agreed, the place of performance of the obligation in question shall be

SECTION 2 - SPECIAL JURISDICTION

— in the case of the sale of goods, the place in a Member State where, under the contract, the goods were delivered or should have been delivered,

— in the case of the provision of services, the place in a Member State where, under the contract, the services were provided or should have been provided;

(c) if point (b) does not apply then point (a) applies

SECTION 2 - SPECIAL JURISDICTION

(2) in matters relating to tort, delict or quasi-delict, in the courts for the place where the harmful event occurred or may occur

SECTION 4

JURISDICTION OVER CONSUMER CONTRACTS

ARTICLE 17

1. In matters relating to a contract concluded by a person, the consumer, for a purpose which can be regarded as being outside his trade or profession, jurisdiction shall be determined by this Section, without prejudice to Article 6 and point 5 of Article 7, if

SECTION 4

JURISDICTION OVER CONSUMER CONTRACTS

ARTICLE 17

- (a) it is a contract for the sale of goods on instalment credit terms;
- (b) it is a contract for a loan repayable by instalments, or for any other form of credit, made to finance the sale of goods; or
- c) in all other cases, the contract has been concluded with a person who pursues commercial or professional activities in the Member State of the consumer's domicile or, by any means, directs such activities to that Member State or to several States including that Member State, and the contract falls within the scope of such activities.

SECTION 4

JURISDICTION OVER CONSUMER CONTRACTS

ARTICLE 17

2. Where a consumer enters into a contract with a party who is not domiciled in a Member State but has a branch, agency or other establishment in one of the Member States, that party shall, in disputes arising out of the operations of the branch, agency or establishment, be deemed to be domiciled in that Member State.

3. This Section shall not apply to a contract of transport other than a contract which, for an inclusive price, provides for a combination of travel and accommodation.

SECTION 4

JURISDICTION OVER CONSUMER CONTRACTS

ARTICLE 18

1. A consumer may bring proceedings against the other party to a contract either in the courts of the Member State in which that party is domiciled or, regardless of the domicile of the other party, in the courts for the place where the consumer is domiciled.
2. Proceedings may be brought against a consumer by the other party to the contract only in the courts of the Member State in which the consumer is domiciled.
3. This Article shall not affect the right to bring a counterclaim in the court in which, in accordance with this Section, the original claim is pending

SECTION 4

JURISDICTION OVER CONSUMER CONTRACTS

ARTICLE 19 [+ARTICLE 25]

The provisions of this Section may be departed from only by an agreement:

- (1) which is entered into after the dispute has arisen;
- (2) which allows the consumer to bring proceedings in courts other than those indicated in this Section; or
- (3) which is entered into by the consumer and the other party to the contract, both of whom are at the time of conclusion of the contract domiciled or habitually resident in the same Member State, and which confers jurisdiction on the courts of that Member State, provided that such an agreement is not contrary to the law of that Member State.

II. APPLICABLE LAW

Next presentation!

III. RECOGNITION AND ENFORCEMENT

SECTION 3

Refusal of recognition and enforcement

Subsection 1

Refusal of recognition

Article 45

1. On the application of any interested party, the recognition of a judgment shall be refused: ...

(e) if the judgment conflicts with: (i) Sections 3, **4** or 5 of Chapter II where the policyholder, the insured, a beneficiary of the insurance contract, the injured party, **the consumer** or the employee was the defendant;

THANK YOU !

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Instructor

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