Regulation BIa: a standard for free circulation of judgments and mutual trust in the European Union (JUDGTRUST)

QUESTIONNAIRE
for National Reports

GREECE

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TABLE OF CONTENTS

ABBREVIATIONS

The following list contains abbreviations related to Greek Codes, courts, data bases, and law reviews. It also distinguishes between Brussels I & Ia Regulations, in order to avoid repeated references to the Regulations within the text in full length.

CC	*Civil Code*
CFI	*Court of first Instance*
CJEU	*Court of Justice of the Europe Union*
CoA	*Court of Appeal*
CPC	*Code of Civil Procedure*
CPLR	*Civil Procedure Law Review [Sakkoulas Publications, www.sakkoulas.gr]*
DBP	*Legal data base of the CFI Piraeus*
ISOCRATES	*Legal data base of the Athens Bar: www.dsanet.gr*
NOMOS	*Private legal data base: https://lawdb.intrasoftnet.com/nomos/nomos_frame.html*
RBI	*Brussels I Regulation Nr. 44/2001*
RBIa	*Brussels Ia Regulation Nr. 1215/2012*
SC	*Supreme Court*
TPCL	*Theory and Practice of Private Law [NOMIKI BIBLIOTHIKI, www.nb.org]*

REFERENCES TO GREEK LAW REVIEWS

Achaian Law Reports	*Αχαϊκή Νομολογία, Patras Bar Review*
Armenopoulos	*Αρμενόπουλος, Thessaloniki Bar Review*
Civil Procedure Law Review	*Επιθεώρηση Πολιτικής Δικονομίας*
Commercial law Review	*Επιθεώρηση Εμπορικού Δικαίου*
Commercial law Survey	*Επισκόπηση Εμπορικού Δικαίου*
Dike	*ΔΙΚΗ*
Enterprises & Companies Law	*Δίκαιο Επιχειρήσεων & Εταιριών*
Hellenic Justice	*Ελληνική Δικαιοσύνη*
Legal Tribune	*Νομικό Βήμα, Athens Bar Review*
Maritime Law Review	*Επιθεώρηση Ναυτιλιακού Δικαίου*
Media & Telecommunications Law Review	*Δίκαιο Μέσων Ενημέρωσης και Επικοινωνίας*
Piraeus Law Reports	*Πειραϊκή Νομολογία, Piraeus Bar Review*
Private Law Chronicles	*Χρονικά Ιδιωτικού Δικαίου*

Theory and Practice of Private Law	*Εφαρμογές Αστικού & Αστικού Δικονομικού Δικαίου*

CHAPTER I

Application of the Regulation – in general

1. Are judgments applying the Brussels Ia Regulation and its predecessor(s) rendered in all instances (first, appellate and in cassation) published? Are they available online?

Judgments applying the Brussels Ia, Brussels I & Brussels Convention are frequently published in the Greek legal press. The majority emanates from the Brussels Convention era, followed by case law related to the Brussels I Regulation. Presently, Brussels Ia judgments are gradually taking over, whereas Brussels I judgments are still published, mostly related to Supreme Court rulings. Brussels Convention judgments do no longer appear in law reviews.

Online availability is mainly granted by two legal data bases: NOMOS, a private data base, and ISOCRATES, i.e. the data base of the Athens Bar. Both provide access to case law published over the last 20-25 years, and offer research through the use of search engines.

2. Has the CJEU case law generally provided sufficient guidance/assistance for the judiciary when applying the Brussels Ia Regulation?

The appearance of CJEU case law in Greek judgments is not frequent; however, it is used in complicated cases, especially when no national case law could be traced for the issue at hand. It is noteworthy that CJEU case law is also cited by Supreme Court rulings, whereas as a rule of thumb, Άρειος Πάγος [Areios Pagos], i.e. the SC, refrains from any references to legal literature or case law, save its own judgments.

3. Which changes introduced in the Brussels Ia Regulation are perceived as improvements and which are viewed as major shortcomings likely to imply difficulties in application – experience in practice and prevailing view in the literature in your jurisdiction?

Up to date, there aren't any significant changes / challenges in regards to the application of the new Regulation. In principle, the vast majority of case law emanates from Chapter II. So far, no judgment concerning Chapter III has been published. Hence, the biggest reform introduced by the Regulation (abolition of exequatur) has not yet being put to the test.

4. Taking into consideration the practice/experience/difficulties in applying the Regulation in your jurisdiction and the view expressed in the literature, what are suggestions for improvement?

The suggestions for improvement are exclusively related to issues of domestic nature. In particular, Greece has never passed additional legislation towards a smoother implementation of EU Regulations in the field of judicial cooperation in civil matters. That is precisely the problem judges and lawyers alike are facing in practice. Academics are urging for initiatives from the legislator; however, no action is taken from the State.

5. Has there been a tension between concepts under national law and the principle of 'autonomous interpretation' when applying the provisions of the Regulation?

The autonomous interpretation of the Regulation was never endangered in Greece. Courts are aware of the principle, and omit any domestic deviations from the application of the Brussels regimes. Recent example: CFI Piraeus 2208/2018, unreported [referring to an earlier ruling of the Supreme Court (18/2006): *the definitions of the Convention* (i.e. the Brussels Regulation) *are to be interpreted autonomously, in order to secure a homogeneous application throughout the Member States' courts*]. The court makes reference to the *Kalfelis* case.

6. The majority of the rules on jurisdiction in the Regulation refer to a Member State and not to a particular competent court. Has the application of national rules on territorial jurisdiction caused difficulties in the application of the Regulation?

Hardly ever. The majority of cases are tried before the court where the defendant has her/his residence or seat. Article 7, nrs. (1) & (2) are treated as rules covering both international and territorial jurisdiction [Nikas/*Sachpekidou*, European Civil Procedure: Commentary on Brussels Ia Regulation, Art. 4 nr. 25, p. 107 & Art. 7 nr. 100, p. 157]. Still, there's a demonstrative exception, where the court applied a domestic exorbitant rule [CoA Thessaloniki 129/2018, CPLR 2018, pp. 156 et seq., see my report in English, in: https://icl-in-greece.blogspot.com/2019/02/right-state-but-wrong-place-exorbitant.html].

7. Has it occurred or may it occur that there is no competent court according to the national rules on jurisdiction in your Member State, thereby resulting in a 'negative conflict of jurisdiction'? If so, how has this issue been addressed?

There has not been a reported case dealing with the matter so far.

8. Are the rules on relative and territorial competence regulated in the same legislative act or are instead contained in different statutory laws (e.g., Code of Civil Procedure and statutory law on organisation of judiciary or other statute)?

Both are regulated in the Code of Civil Procedure, Articles 12-51.

Substantive scope

9. Has the delineation between court proceedings and arbitration led to particular problems in your Member State? If yes, please give examples. Please explain whether the clarification in the Recast (Recital 12) has proved helpful and/or has changed the practice in your Member State.

No case law has been published with respect to the relationship between international arbitration and the Brussels Ia Regulation so far in Greece. Legal scholars doubt on the added value of Recital 12; it is believed that frictions will continue to appear in practice [Nikas/*Sachpekidou*, European Civil Procedure: Commentary on Brussels Ia Regulation, Art. 1 nr. 92, p. 74]. Put differently, it has been stated that the novelty serves as a framework, upon which the CJEU shall have to found its interpretation in the future [*Pamboukis*, International Jurisdiction, Recognition and Enforcement in Civil and Commercial Matters, p. 23]. The latter has also stressed out the danger of conflicting decisions and arbitral awards, referring to the article of *Mayer*, Yearbook of PIL 2012, pp. 37 seq. [*Pamboukis*, ibid, p. 29].

Under the RBIa I found four decisions remotely related to arbitration [CFI Piraeus 158/2017, Commercial Law Review 2017, pp. 900 et seq.]: Application for the arrest of a ship carrying Italian flag, anchored in the forum. The ship owner invoked the foreign arbitration clause. The court applied Articles 3.1, 683.4, 685 CPC and 35 RBIa. Article 3.1 states that Greek courts have international jurisdiction as long as a rule on territorial competence may be applied. Article 683.4 states that provisional measures may be ordered by the court which is based nearest to the place of enforcement. Article 685 states that an arbitration agreement may not include disputes tried in summary proceedings. On the above grounds, the court dismissed the defendant's plea.

Similarly: CFI Piraeus 605/2017, Commercial Law Review 2017, pp. 641 et seq.; CFI Piraeus 437/2018, DBP.

In addition, the Athens CoA suspended court proceedings due to pending arbitration before the ICC. There is however no reference to RBIa, although the case falls under the scope of the Regulation. The court applied Article 249 CPC which allows suspension of court proceedings if the case depends wholly or partially from the existence or non-existence of a legal relationship, the latter being the subject matter of other proceedings. The court did not apply Article 264 CPC (stay of proceedings due to a valid arbitration clause), because there was no identity of parties [CoA Athens 1204/2019, unreported].

10. Has the delineation between "civil and commercial proceedings" on the one hand and "insolvency proceedings" on the other hand led to particular problems in your Member State? If yes, please give examples. Please, explain whether the latest case law of the CJEU (e.g., C-535/17, *NK v BNP Paribas Fortis NV*) has been helpful or has created extra confusion.

No case law has been published so far with respect to the question in Greece. As a general remark, cross border "insolvency proceedings" are a sheer rarity in Greece.

11. Is there case law in your Member State on the recognition and enforcement of court settlements? If yes, please provide information about these.

Only one case found from the RBI era and prior to the entry into force of the Maintenance Regulation [CFI Thessaloniki 40252/2007, ISOCRATES]: A German court settlement was recognized and enforced. Subject mattter: The father was ordered to maintenance payment for his children living with their mother in Germany. The court declared enforceability on the basis of the certificate issued by the German court pursuant to Art. 53-54 Brussels I Regulation. The court examined erroneously the whole catalogue of the grounds for refusal with respect to the judgment preceding the court settlement. It even embarked on verifying the foreign court's international jurisdiction...

12. Is there case law in your Member State on the recognition and enforcement of authentic instruments? If yes, please provide information about these.

Only one case found from the RBI era [CFI Preveza 93/2007, Armenopoulos 2008, p. 1390]: Declaration of enforceability pursuant to Art. 57 Brussels I Regulation. Subject matter: Recognition of debt out of a lease contract, and promise to proceed to payment, certified by a German Notary's deed.

Definitions

13. Have the courts in your jurisdiction encountered difficulties when applying the definitions provided in Article 2? If yes, how are these problems dealt with? Is there any controversy in the literature concerning (some of) these definitions?

No case law has been published with respect to the matter in question. No controversy exists in Greek literature concerning the definitions.

14. Whilst largely taking over the definition of a 'judgment' provided in Article 32 of the Regulation Brussels I, the Recast in Article 2 widens its scope so as to expressly include certain decisions on provisional measures within the definition of a 'judgment' in Article 2(a) for the purposes of the recognition and enforcement. What is the prevailing view in the literature or jurisprudence in your jurisdiction on the appropriateness of the definition of 'judgment'?

There is no deviation from the course opted by the Regulation. Prof. *Pamboukis* is criticizing however the provision as a step back, and agrees with Prof. *Honorati* that the formulation is technically wrong [*Pamboukis*, International Jurisdiction, Recognition and Enforcement in Civil and Commercial Matters, pp. 71 et seq.].

Notwithstanding the above, as long as the decision on provisional measures has been served prior to execution, legal scholars see no issue worthy of criticism. It was questioned however, whether service of the decision should take place exclusively in accordance with the Service Regulation or not. The prevailing view rejects fictitious service, whereas at the same time it favors both direct and indirect service, and the application of domestic rules in case of unknown residence of the recipient [*Anthimos*, Amendments to the Chapter on Recognition and Enforcement, Armenopoulos 2013, p. 2083. Similarly *Nikas*/Sachpekidou, European Civil Procedure: Commentary on Brussels Ia Regulation, Art. 2 nr. 16, p. 86, note 62, *Triantafyllidis*, Provisionals Measures under Regulation 1215/2012, Armenopoulos 2015, p. 1830 note 5].

For the time being, no case law has been reported on the matter.

15. Within the context of including certain decisions on provisional measures in the definition of a 'judgment', how is 'jurisdiction as to the substance of the matter' to be understood/interpreted – jurisdiction actually exercised or jurisdiction that can be established according to the rules of the Regulation?

For the purposes of Art. 2(a), the latter applies. If a Greek court assumes international jurisdiction based on national rules, the radius of the provisional

measure is confined within the country, and no enforcement may begin abroad [*Nikas*/Sachpekidou, European Civil Procedure: Commentary on Brussels Ia Regulation, Art. 2 nr. 15, p. 85, *Pamboukis*, International Jurisdiction, Recognition and Enforcement in Civil and Commercial Matters, p. 71, *Triantafyllidis*, Provisionals Measures under Regulation 1215/2012, Armenopoulos 2015, p. 1830].

16. Should a decision on provisional measure issued by a court of a Member State, that could base its jurisdiction on the substance of the matter according to the Regulation's rules, be considered as a 'judgment' for the purposes of enforcement in your jurisdiction, when no proceedings on the merits of the case have yet been initiated? If the claim on the substance of the matter is subsequently filed with a court in another Member State also having jurisdiction under the Regulation, how would that reflect on the request for enforcement in your Member State of the 'judgment' issuing the provisional measure?

According to the prevailing opinion, main proceedings need not be pending; It lies with the court examining the application for provisional measures to decide on the international jurisdiction of the court which will try the merits of the case [*Nikas*/Sachpekidou, European Civil Procedure: Commentary on Brussels Ia Regulation, Art. 35 nr. 17, p. 505. Contrary *Pamboukis*, International Jurisdiction, Recognition and Enforcement in Civil and Commercial Matters, pp. 72-73, departing from, but not fully in line with the analysis of *Nuyts* (Rev.Crit.Dip. 2013, pp. 38 et seq.). It is the main court which should decide first on its jurisdiction. Nevertheless, the same author acknowledges the inefficiency caused by this solution, and does not fully exclude the opposite view. Similarly *Marazopoulou*, Extraterritorial enforcement pursuant to European Law in civil and commercial matters, p. 108].

17. When deciding on the enforcement of a decision issuing a provisional measure, are the courts in your jurisdiction permitted to review the decision of the court of a Member State confirmed by the certificate that the court has jurisdiction as to the substance of the matter? What is the prevailing view on this point?

There is no case law on the matter. It has been stated in literature that the production of the certificate is important, in the sense that it provides security that the court of origin had international jurisdiction and it did not make use of its domestic provisions for granting provisional measures [*Nikas*/Sachpekidou, European Civil Procedure: Commentary on Brussels Ia Regulation, Art. 42 nr. 3, p. 556 et seq. note 11]. It is also underlined that, contrary to the previous status, courts are called to proceed to a formal control of the certificate [*Pamboukis*,

International Jurisdiction, Recognition and Enforcement in Civil and Commercial Matters, pp. 75]. Hence, a review of the decision has not been proposed in literature.

18. Has the definition of the 'judgment' and the 'court or tribunal' attracted particular attention in your jurisdiction (e.g., raising issues similar to those in CJEU case C-551/15, *Pula Parking d.o.o. v Sven Klaus Tederahn*)?

No attention under the RBIa. There are however two cases reported under RBI, dealing at least indirectly with the terms in question:

i. CFI Thessaloniki 7606/2012, Armenopoulos 2015, pp. 1169 et seq. See my report on the ruling in: https://icl-in-greece.blogspot.com/2016/10/no-application-of-brussels-i-regulation.html].

ii. CFI Thessaloniki 19865/2017, Armenopoulos 2018, pp. 812 et seq., for which I published a note in the German review *Praxis des International Prvatrechts*: Nichtanwendung der EUGVVO 2001 für einen Kassenärztliche Vereinigung-Bescheid in Griechenland, IPRax 2019 (forthcoming Issue 4). In particular, in the case aforementioned, the Greek court refused to declare enforceable a Notice of the National Association of Statutory Health Insurance Physicians in Rhineland-Palatinate. The Greek judge considered that the above order is of an administrative nature; therefore, it falls out of the ambit of the Brussels I Regulation.

CHAPTER II

Personal scope (scope *ratione personae*)

19. The Recast introduces a number of provisions aimed at further improving the procedural position of 'weaker' parties. Thus, it widens the scope of application *ratione personae* so as to enable consumers and employees to rely on the protective provisions of the Regulation against non-EU 'stronger party' defendants (Article 6(1) referring to, *inter alia*, 18(1) and 21(2)). Are there any statistics available illustrating an increased number of suit actions filed by consumers and/or employees in your jurisdiction?

No statistics are available for the entire domain of judicial cooperation in civil and commercial matters, let alone specific parts of it.

20. As to the scope of application *ratione personae*, has it been dealt with in case law or discussed in the literature whether Article 26 applies regardless of the

domicile of the defendant, considering that Article 6 does not specifically refer to Article 26?

The question has not been examined either in the practice of the courts or in literature.

21. In a similar vein, what is the prevailing view in your jurisdiction on whether provisions on *lis pendens* contained in Articles 29 and 30 apply regardless of the domicile of the defendant? Is the fact that a court of a Member State has been seised first the only relevant/decisive factor for the court second seised to stay its proceedings or does the obligation to stay persist only if the court first seised has jurisdiction according to the Regulation (with respect to the claim falling within the substantive, *ratione personae* and temporal scope of Regulation's application)?

Regarding the first question, domicile is irrelevant [*Nikas*/Sachpekidou, European Civil Procedure: Commentary on Brussels Ia Regulation, Art. 29 nr. 2, p. 455, note 7: even if one or both parties live outside the EU]. Regarding the second question, the second court does not examine the international jurisdiction of the first court [*Nikas*/Sachpekidou, ibid, Art. 29 nr. 20]. The issue has not been examined by Greek courts yet.

Temporal scope

22. Have your courts or other authorities had difficulties with the temporal scope of the Brussels Ia Regulation? E.g., have they found it clear when the abolition of *exequatur* applies and when not?

There is minimal confusion as to the proper regime to be followed [CFI Piraeus 1291/2018, DBP: The court applied the RBI instead of RBIa]. However, this relates exclusively to Chapter II issues.

Cases pertinent to the abolition of exequatur and/or direct enforcement are almost inexistent in Greece for the time being. The first sample demonstrates however confusion: An application for declaration of enforceability concerning a German payment order (issued in May 2015) was filed with the CFI Thessaloniki. The court correctly dismissed the application, because there was no standing to sue [CFI Thessaloniki 1308/2018, Armenopoulos 2018, pp. 809 et seq.].

Alternative Grounds of Jurisdiction

23. In general, have the provisions containing alternative jurisdictional grounds in Article 7, 8 and 9 triggered frequent discussion on the interpretation and application of these provisions in theory and practice? Which rules have been relied upon most frequently? Which have proved to be particularly problematic?

Article 7 is undoubtedly in the forefront, mostly, if not exclusively Article 7(1) & (2), followed by Article 8. Article 7(1) is the provision which needs to be more carefully examined. The judgments will be cited in the following questions. No case law has been reported as to Article 9.

24. Which issue(s) proved particularly problematic in the context of Article 7(1): interpretation of the concept 'matters relating to a contract', distinction between the types of contracts, principle of 'autonomous interpretation' of the Regulation, determination of the place of performance? How were the difficulties encountered dealt with?

Determination of the place of performance is the cardinal issue in Greek case law. Examples follow:

CFI Thessaloniki 4889/2017, Armenopoulos 2017, pp. 1926 et seq. [dispute between members of a limited liability company with seat in Thessaloniki; claims of the manager against a member, residing in Italy; Greece is the place of performance for the claims (manager's remuneration and loan given from the claimant to the Italian member, in order to purchase equity shares)].

CFI Thessaloniki 4921/2017, unreported [dispute between a person residing in Thessaloniki, Greece (claimant) and a Bulgarian company (respondent); claimant gave a loan to the respondent which was not paid back; Greece is the place of performance for the claim, in accordance with Article 321 Greek CC, i.e. the residence of the lender. Hence, application of Art. 7.1 (a)].

CFI Thessaloniki 1855/2018, CPLR 2018, pp. 168 et seq. [dispute between a Greek merchant (claimant) and a German company (defendant); sale of goods from claimant, delivered in Cologne; lack of international jurisdiction; place of performance is Germany; application of Art. 7.1 (no further analysis or reference to Art. 7.1 (b)].

CFI Thessaloniki 6354/2018, unreported [dispute between a Greek (claimant) and a Bulgarian company (respondent / in default of appearance); claimant sold recycling material to the respondent; price was not paid; Greece is the place of performance for the claim; the goods were delivered to the forwarder. Reference to Art. 7.1. The court did not take into account the *Car trim* case (C-381/08)].

CFI Thessaloniki 1568/2019, unreported [dispute between a Greek (claimant) and a Czech company (respondent / in default of appearance); claimant sold elevator doors and spare parts to the respondent; price was not paid; Thessaloniki, Greece is the place of performance for the claim; Reference to the characteristic performance and to Art. 7.1 (a) & (b)]. The court referred to the *Car trim* case (C-381/08), seemingly without reading it.

A number of issues still relevant to the present come from the RBI era. Examples:

- **Agreement regarding the place of performance between a Dutch seller and a Greek buyer: It was agreed that 27 cows would be delivered to the veterinary unit of the buyer; cows delivered, international jurisdiction of Greek courts established [Supreme Court 1027/2011, CPLR 2011, pp. 606 et seq., note *Arvanitakis*]. Similarly CFI Volos 199/2013, Legal Tribune 2014, pp. 1139 et seq. [sale of steel to a German company by a Greek company with seat in Athens. The parties agreed that the place of performance was the port of the town of Volos; international jurisdiction established by the court].**

- **The co-existence with CISG was examined in a number of cases. The courts referred to Article 31 CISG, thus establishing international jurisdiction in the place where the seller has its seat [CoA Thessaloniki 1137/2011, CPLR 2011, pp. 618 et seq., note *Yiannopoulos*, CFI Thessaloniki 16319/2007, Private Law Chronicles 2008, pp. 147 et seq.]. After the *Car trim* case (C-381/08), the issue has to be solved according to the findings of the CJEU.**

- **The relationship between a ship owner and a shipping agent has been interpreted as a mixed cooperation agreement, and may not be considered falling under the scope of Article 5(1)b RBI. Thus, international jurisdiction is exercised in accordance with Article 5(1)c, which refers to Article 5(1)a RBI [CoA Thessaloniki 1549/2012, Armenopoulos 2013, pp. 1913 et seq., (critical) note *Anthimos* (in favor of applying Article 5(1)b RBI, i.e. services].**

- **Cargo claims by cargo owners against the seller's insurer are within the ambit of Article 5(1) RBI [CoA Piraeus 542/2012, Armenopoulos 2013, pp. 2146 et seq., (critical) note *Anthimos* (in favor of applying Article 5(3) RBI)].**

- **Claim for attorney fees; services provided in Thessaloniki for a Cypriot company; international jurisdiction established pursuant to Article 5(1)b 2nd case RBI [CFI Thessaloniki 2407/2016, unreported]. Similarly CFI Athens 1/2016, unreported.**

25. Is the place where the goods were delivered or services provided decisive for determining jurisdiction even when the place of payment is agreed upon and a failure to pay the price has solely given rise to the dispute? If so, what is the

prevailing view in the literature and case law on how the wording 'unless otherwise agreed' in Article 7(1)(b) is to be understood?

There are no cases reported on the matter.

26. Has Article 7(2) given rise to difficulties in application, if so which particular aspect(s): the wording 'matters relating to tort, delict or quasi-delict', the wording 'place where the harmful event occurred or may occur'/locating the place of damage, cases where the place of wrongful act is distinct from the place where the damage has been sustained, types of claims and actions falling within the scope of this provision, identification of the 'centre of interests' in cases of the infringement of personality rights/privacy, application of the requirement of 'immediate and direct damage' in the context of financial loss, interplay between the rules on jurisdiction contained in other EU legal instruments and in the Regulation especially in the context of infringement of intellectual property rights?

Article 7(2) is frequently applied by Greek courts. Judgments are grouped as follows:

Locating the place of damage

CFI Piraeus 2208/2018, unreported [dispute between the family members of a deceased Greek (claimants) and the State of Libya and a Libyan company with seat in Tripoli, Libya (respondents). The deceased was killed on a ship at the port of Tripoli, which was bombed by an aircraft of the Libyan army. The court declined its international jurisdiction by reference to cases C-364/93 & C-168/2002: the 'centre of interests' of the claimants, i.e. Athens, may not prevail in the case above, otherwise it would lead to a forum actoris; a restrictive interpretation is imperative].

Cases where the place of wrongful act is distinct from the place where the damage has been sustained

Justice of the Peace Athens 5286/2017, Armenopoulos 2017, pp. 2090 et seq. [dispute between a car owner living in Athens (claimant) and a German car manufacturer (respondent); claim for damages resulting from fraudulent acts (software manipulation related to gas emissions); Greece is the place where the damage has been sustained, irrespective of the place where the wrongful act was committed, i.e. Germany]. Similarly CFI Thessaloniki 3390/2016, unreported [claim against a Belgian company, representing an automobile manufacturer in Europe; product liability; damage occurred and suffered in Thessaloniki; international jurisdiction established].

CFI Thessaloniki 2512/2019, unreported [dispute between a Greek family (claimants) and two German companies (respondents); the third claimant (a minor, son of claimants 1 & 2) suffered minor injuries as a result of an accident in an amusement park in Stuttgart, owned by respondent 1, who was insured by respondent 2. Upon return to Greece, the child's psychological condition worsened. The claimants sought damages for pain and suffering; Thessaloniki, Greece is not the place where the harmful event occurred; Consequential damages are not sufficient for establishing international jurisdiction in a different country, other than the one where the harmful event occurred]. Reference to the *Kronhofer* case and three Supreme Court rulings from 2009, 2006 and 2003 respectively.

Place where the harmful event occurred or may occur'

CFI Thessaloniki 18016/2017, unreported [dispute between a Greek company (claimant) and three Greeks living in Germany (respondents); the parties agreed to engage jointly in cross-border car transactions; the respondents embezzled sums which was agreed to be transferred to the claimant; the latter claimed for damages plus pain and suffering; Thessaloniki, Greece is the place where the harmful event occurred]. Not in line with the *Kronhofer* case (C-168/02).

CFI Thessaloniki 2013/2019, unreported [dispute between a UK national living in Monaco (claimant) and his ex-wife residing in Monaco, and five more parties with residence / seat in Cyprus (respondents); the claimant sought damages for defamation occurred before Thessaloniki, Greece, and Cypriot courts; International jurisdiction assumed for the defamatory actions taken place in Greece and declined for those actions taken place in Cyprus; Thessaloniki is the place where the harmful event occurred for the former].

Earlier cases

CoA Thessaloniki 1215/2008, Commercial Law Survey 2008, pp. 1154 et seq. [a claim against a German manufacturer may be filed before the court where the plaintiff suffered the damages; international jurisdiction confirmed].

CoA Dodecanese 220/2013, Media & Telecommunications Law 2014, pp. 198 et seq., also reported by *Anthimos*, Synigoros, Issue 103, pp. 70 et seq. For a short English report, see https://icl-in-greece.blogspot.com/2014/04/online-defamation-international.html [Defamatory postings on the WWW by UK citizens in UK based web sites against the claimant, a real estate agent in the island of Rhodes. International jurisdiction of Greek courts for damages established; defamation accessible from any place in the world; Rhodes is however the center of main interests of the plaintiff].

CFI Piraeus 464/2014, ISOCRATES [Article 5(3) may not serve as a ground for international jurisdiction against a foreign Mutual Insurance Organization; the special chapter on matters relating to insurance is to be applied].

27. The Recast introduced a new provision on jurisdiction regarding claims for the recovery of cultural objects as defined in Directive 93/7/EEC. Has this triggered discussion in the literature or resulted in court cases?

Article 7(4) remains untouched both in literature and in court practice.

28. Have there been any significant controversies in connection with other rules on jurisdiction under Article 7, 8 and 9, if so which particular rule: regarding claims based on acts giving rise to criminal proceedings, interpretation of 'operations of a branch, agency or other establishment, claims relating to trusts, claims relating to salvage of a cargo or freight, proceedings involving multiple defendants, third-party proceedings, counterclaims, contractual claims related to a right *in rem* on immovable property, limitation of liability from the use or operation of a ship?

Article 7(5) 'operations of a branch, agency or other establishment'

CFI Piraeus 1394/2018, unreported [dispute between a Greek company (claimant) and a UK Mutual Insurance Organization and its branch in Greece (respondents); claimant sought compensation in the name of its debtor, emanating from maritime insurance claims of the latter against Respondent 1; International jurisdiction of the Piraeus court; the dispute is related to the operations of the branch in Piraeus, i.e. Respondent 2; the latter's capacity as the Greek branch of Respondent 1 is proven by the web site of the head office in London, which lists among the Offices worldwide the contact details of Respondent 2. Hence, international jurisdiction is founded upon Article 7(5)]. The court did not examine whether in the case at hand the dispute was arising out of the operations of the Greek branch / establishment. Earlier case law underlines this imperative condition [Supreme Court 1527/2013, Legal Tribune 2014, pp. 355, CFI Piraeus 464/2014, ISOCRATES].

Article 8 'Proceedings involving multiple defendants'

CFI Thessaloniki 15130/2018, unreported [dispute between a person residing in France (claimant) and two persons residing in Germany and Thessaloniki, Greece respectively (respondents); the claimant sought damages for defamation occurred before Thessaloniki courts. Counterclaim by the respondents; the counterclaimants sought damages on the grounds of fraud committed by the counter-defendant in Switzerland. International jurisdiction assumed for the defamatory actions taken place in Greece on the grounds of Article 8(1); in regards to the counterclaim, international jurisdiction was established pursuant to Article 26]. No reference to Article 8(3) with respect to the counterclaim.

CFI Thessaloniki 1886-1887/2018, unreported [dispute between a person residing in Thessaloniki, Greece (claimant) and two persons residing in Greece and Bulgaria respectively (respondents); the claimant sought damages for defamation occurred in Thessaloniki; the court assumes international jurisdiction on the grounds of Article 8(1), in spite of the claimant's waiver concerning the Greek respondent]. The court did not refer to the ruling of the CJEU in case C-352/13; nevertheless, its reasoning was adopted, i.e. no collusion between claimant and respondent 1 was proven.

CoA Piraeus 369/2010, Commercial Law Review 2012, pp. 115 et seq. [Claim against three ship owning companies with seat in Piraeus and one person with residence in London; international jurisdiction established; parties closely connected: if the court ascertains the existence of debts by the companies, this would lead to the liability of Respondent 4]. Confirmed by Supreme Court 1521/2013, CPLR 2014, pp. 715 et seq. Similarly CFI Piraeus 714/2015, ISOCRATES [avoidance of irreconcilable judgments].

Supreme Court 1527/2013, Legal Tribune 2014, pp. 355 et seq. [purposeful filing of a claim against a branch in Greece and the foreign mother company; lack of an actual involvement of the former with respect to the breach of contract. No connection with Greece; lack of international jurisdiction].

CoA Piraeus 223/2013, ISOCRATES [No international jurisdiction according to Article 6(1) RBI for a claim of a Chinese company against a Greek and a Hong Kong company; Greek procedural law applies]. Similarly earlier (under the Brussels Convention): CoA Piraeus 25/2003, Armenopoulos 2003, pp. 1123 et seq, note *Arvanitakis*.

<u>Rules on jurisdiction in disputes involving 'weaker parties'</u>

29. In the newly introduced paragraph 2 in Article 26, the Recast imposes the obligation upon the courts in Member States to inform 'weaker parties' of the right to oppose jurisdiction according to the protective provisions of the Regulation, but does not expressly regulates consequences of a court's failure to do so. What is the prevailing view in your jurisdiction on the point whether the omission of the court qualifies as a ground to oppose the recognition and enforcement of a decision rendered in violation of this obligation under Article 45?

Following the opinion of *v. Hein* [RIW 2013, p. 109], it has been proposed to make use of Art. 45 in the exact fashion mentioned in the question asked [Nikas/*Sachpekidou*, European Civil Procedure: Commentary on Brussels Ia Regulation, Art. 26 nr. 42, p. 439].

30. According to the prevailing view in your jurisdiction, do the provisions limiting effectiveness of prorogation clauses in cases involving 'weaker parties' apply to choice-of-court agreements providing for jurisdiction of a court in a country outside the EU?

The issue has not been thoroughly debated. There is mainly a sheer reference to the *Mahamdia* case [Nikas/*Sachpekidou*, European Civil Procedure: Commentary on Brussels Ia Regulation, Art. 25 nr. 159, p. 424, *Sachpekidou*, Prorogation of international jurisdiction pursuant to Articles 25 and 26 Regulation 1215/2012,CPLR 2018, p. 473]. The conclusion though favors the ruling of the CJEU.

31. According to the prevailing literature in your Member State, do provisions in Sections 3, 4 and 5 provide effective protection to 'weaker parties'?

The overall perception in Greek literature is that the above Sections safeguard weaker parties [Nikas/*Sachpekidou*, European Civil Procedure: Commentary on Brussels Ia Regulation, pp. 241 et seq.]. Case law is still scarce.

32. In general, have there been difficulties in applying Section 3 of the Regulation on the jurisdiction in matters relating to insurance, if so which aspect(s): definition of 'branch, agency or other establishment' in the identification of the competent court, the identification of 'the place where the harmful event occurred', the definition of 'injured party', the application of the provisions of Articles 15 and 16 relating to choice-of-court agreements?

General remarks

A number of rulings of the Greek Supreme Court have been rendered on the issue of jurisdiction in matters relating to insurance. Several decisions of Areios Pagos (Άρειος Πάγος) have applied the findings of the ECJ in the case *FBTO Schadeverzekeringen NV v Jack Odenbreit*. In a nutshell, the line of the European Court (according to which "*the reference in Article 11(2) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters to Article 9(1)(b) of that*

***regulation is to be interpreted as meaning that the injured party may bring an action directly against the insurer before the courts for the place in a Member State where that injured party is domiciled, provided that such a direct action is permitted and the insurer is domiciled in a Member State*"), has been followed literally, unlike 1st & 2nd instance decisions, where motions to declare the court as lacking jurisdiction had prevailed in the past (see CoA Athens 5419/2007, TPCL 2008, 956, CoA Athens 392/2008, Hellenic Justice 2009, 838, CoA Athens 7270/2007, 5152/2008, 6364/2009 & 2352/2010 [unreported]). Admittedly, for some of the instance rulings, it was not possible to take into account the fresh news coming from Luxemburg, given the fact that they were tried or published before December 13, 2007 (the publication date of the CJEU ruling).**

The Supreme Court took a firm stance on the matter, starting from 2009. In a series of decisions (2163/2009, CPLR 2010, 68, 599/2010, unreported, 640/2010, Commercial Law Review 2010, 640, 487/2011, CPLR 2011, 468, 37/2012, Chronicles of Private Law 2012, 449, and 442/2013, not yet reported) the Court reiterated the ruling of the ECJ and reversed all 2nd instance decisions. The exception to the rule was the decision Nr. 379/2013 [Commercial Law Review 2013, pp. 891 et seq.]: In this case, the Supreme Court denied the cassation (appeal), because the German foreign company proved that the appellant was not a resident of Greece. In light of the unambiguous wording of the European Court in the *FBTO* case, namely that the injured party may bring an action directly against the insurer before the courts for the place in a Member State where (s)he is domiciled, the CoA ruling was confirmed.

A final comment on the situation in Greece: it is no coincidence that almost all cases were tried before the courts of the capital. As it is well known, articles 9 & 11 Regulation 44/2001 deal with the issue of international jurisdiction, leaving the venue of the court to be decided pursuant to domestic law provisions. Apparently the claimants (i.e. their lawyer) made use of Article 6.1 Brussels I Regulation, in conjunction with Article 37.1 Greek Code of Civil Procedure, in order to establish the venue of the Athens court. In particular, by filing a claim against the foreign insurance company and its agent in Greece (it is common ground that all agents of foreign enterprises are situated in the capital), the Athens court becomes territorially competent by virtue of a joinder of parties.

The identification of the competent court

- **CFI Thessaloniki 14497/2017, unreported [Fatal car accident in Malvasia, Laconia district, Greece; claim of the deceased's family members against the Greek insurer of the driver causing the accident; international jurisdiction of Thessaloniki courts established under Article 11(1) a; the claimants opted to file the claim at the seat of the insurer].**
- **CoA Athens 693/2013, ISOCRATES [Claimant: A company registered in Blagoevgrad, Bulgaria; respondent: a German car insurance company; accident occurred at the port of Venice; claim for damages by the Bulgarian company against the insurer of the German car; international jurisdiction established: the actual seat of the Bulgarian company is in**

Athens, wherefrom the manager and sole member of the company runs the business matters of the company]

The definition of 'injured party

CFI Thessaloniki 10721/2017, unreported [Fatal car accident in Munich; claim of the deceased's daughter against the German insurer of the driver causing the accident; international jurisdiction of Thessaloniki courts established under Article 11(1) b; the claimant (injured party) is treated as the *beneficiary* of the claim, in conjunction with Article 13(2)]. Absolutely prevailing opinion, see: Supreme Court 2163/2009, TPCL 2010, pp. 438 et seq., Supreme Court 599/2010, NOMOS, Supreme Court 640/2010, Hellenic Justice 2012, pp. 400 et seq., Supreme Court 37/2012, Hellenic Justice 2013, pp. 710 et seq., Supreme Court 379 & 442/2013, Legal Tribune 2013, p. 1907, Supreme Court 419/2014, CPLR 2014, pp. 523 et seq.

33. Have there been difficulties in applying Section 4 of the Regulation on the jurisdiction in matters relating to consumer disputes, if so which aspect(s): requirements for a transaction to be considered as a 'consumer contract' as defined in Article 17, the application of the norms on the choice-of-court agreements?

Requirements for a transaction to be considered as a 'consumer contract'

CFI Thessaloniki 1946/2016, Armenopoulos 2016, pp. 830, note *Anthimos, see also report in Engish: https://icl-in-greece.blogspot.com/2016/06/first-judgment-on-application-of.html* [dispute between a person residing in Thessaloniki, Greece (claimant) and a credit institution with seat in London (respondent); claimant opened an account at the respondent's headquarters in his capacity as an administrator of investment funds of a third person (whose identity is not revealed); claimant asked the respondent to proceed to a transaction of a certain sum to his account in a Bulgarian bank; the transaction was not completed; the respondent issued a letter which certified that the transaction has taken place from its side, although the sum was not credited to the Bulgarian account; claim for compensation; no international jurisdiction of Greek courts pursuant to Article 18; The prerequisite of Article 17(1)c is not fulfilled; the respondent does not offer or direct its services in Greece]. The court did not examine whether the claimant falls under the notion of *consumer*. The claimant was not the real owner of the bank account in London; He was a professional advisor to a foreign investor. Hence, Section 4 should not have been applied in the first place, because the claimant was not supposed to be considered as a consumer.

Application of the norms on the choice-of-court agreements

CFI Patras 244/2015, NOMOS [Consumer credit contract concluded in Patras; Claim of the consumer against a Cypriot Bank (respondent); choice of forum clause in favor of Cypriot courts in the contract; international jurisdiction of

Greek courts established; Articles 17 & 23(5) RBI apply; Reference to case *Marc Brogsitter v Fabrication de Montres Normandes EURL, Karsten Frassdorf*, C-548/2012].

34. Have the courts in your jurisdiction encountered difficulties in the application of Article 18(2), in the case of *perpetuatio fori*, occurring if the consumer moves to another State? If yes, how are these problems dealt with?

No case law reported on the question asked. I could trace only one unreported judgment on the application of Article 18 [CFI Thessaloniki 1742/2017], which applied Article 18(1) properly, however it erred in regards to the venue: A person with residence in the district of Kilkis filed a claim against two Greek sellers, residing in Kilkis, and a German company (producer) for damages. The claimant suffered injuries as a result of the use of the item bought. The harmful event occurred in the Thessaloniki district. The court assumed both international jurisdiction and territorial competence on the grounds of Article 18(1) and Article 35 Greek Code of Civil Procedure. However, the former establishes both, and leaves no space for the application of domestic rules on the venue of the courts [see also *Nikas*/Sachpekidou, European Civil Procedure: Commentary on Brussels Ia Regulation, Art. 18 nr. 6, p. 305]. Hence, the court should have referred the case to the CFI Kilkis.

35. Have there been difficulties in applying Section 5 of the Regulation on the jurisdiction in matters relating to employment contracts, if so which aspect(s): the interpretation of the concept of 'matters relating to individual contracts of employment', the interpretation of the concept of 'branch, agency or establishment', 'place where or from where the employee habitually carries out his work', the application of the provision on the choice-of-court agreements?

Place where or from where the employee habitually carries out his work

Supreme Court 954/2014, Private Law Chronicles 2015, pp. 36 et seq. [Individual contract for employment between a Greek living in Thessaloniki and an Austrian company; the employee was carrying out his work mainly within Greece, while at the same time he was frequently departing from Thessaloniki to Istanbul, and occasionally from Thessaloniki to Romania; international jurisdiction of Greek courts established]. No precise reference to the rule applied under Article 19 RBI.

The interpretation of the concept of 'branch, agency or establishment'

In various occasions, the Piraeus courts assumed international jurisdiction against foreign maritime companies by accepting that their actual seat and center of

interests is located in Piraeus [CFI Piraeus 2783/2014, ISOCRATES, 97, 1844, 2494, 2918, 2950/2015, and 97, 620, 3551/2017, all unreported].

Exclusive jurisdiction

36. Article 24(1) uses the expression rights '*in rem'*, but provides no definition. The same holds true for case-law of the CJEU, even though it has to some extent clarified the concept by holding that it is not sufficient that the action merely concerns a right *in rem* or is connected with such right. Do the courts in your Member State experience difficulties in distinguishing between disputes which have 'as their object' 'rights *in rem'* from those that merely relate to such rights and accordingly do not fall within the exclusive jurisdiction? If so, how are these problems solved? Have there been any problems with applying Article 31(1) in this respect?

The major issue in Greece is related to commitment and allotment contracts. Both courts [CoA Dodecanese 174/1997, Commercial law Survey 1998, pp. 127 et seq., CoA Patras 217/2006, Achaian Law Reports 2007, pp. 286 et seq., CFI Rhodes 91/2005, Armenopoulos 2005, pp. 1789 et seq., CFI Kos 705/2006, Hellenic Justice 2007, 638] and legal scholars [*Klavanidou*, Issues related to allotment contracts, Hellenic Justice 2002 p. 27, *Koutsouradis*, Exclusive jurisdiction under the Brussels Convention, Liber Amicorum Kerameus (2000), pp. 206 et seq.] opt for the inclusion of those agreements under Article 24(1). However, there seems to be a shift in literature recently [Nikas/*Sachpekidou*, European Civil Procedure: Commentary on Brussels Ia Regulation, Article 24 nr. 29, pp. 351 et seq., *Rizos*, Contracts between hotel owners and travel agents (2016), pp. 354 et seq.], influenced by the *Pammer* case [C-585/08 & 144/09]. Despite the above, courts continue along the same lines, see very recently CFI Corfu 148/2019, NOMOS [guarantee contract between a hotel owner in Corfu (claimant) and limited company with its seat in Cologne (respondent). Claim for damages due to non-payment of 9,5 Million € for the years 2011-2014. Choice of forum clause in the contracts in favor of Cologne courts. International jurisdiction assumed by the court on the grounds of Article 24(1) RBIa].

37. For the purposes of applying Article 24(2), which rule of private international law applies for determining the seat of the company in your legal system? Do the courts in your Member State experience difficulties in this respect and, if so, how are these problems dealt with?

The rule which applies is Article 10 Civil Code: *The (legal) capacity of a legal entity is governed by the law of its seat.* The rule is construed extensively, thus encompassing the entire ambit of disputes referred in Article 24(2) [see

***Pamboukis*, Legal Persons and specifically Companies in Conflict of Laws (2004), pp. 131 et seq.]. In addition, Article 27 CPC regulates the venue of company disputes, establishing exclusive jurisdiction of the court where the company has its seat. So far courts have not been confronted with the application of Article 24(2) RBIa. As a general rule, courts grant jurisdiction to the place where the company has its actual seat, not where it has been registered.**

38. In cases concerning the violation of an intellectual property right, the invalidity of the patent may be raised as a defence. In *GAT v Luk* (C-4/03) the CJEU ruled that for the exclusive jurisdiction it should not matter whether the issue is raised by way of an action or as a defence. This rule is now incorporated in the text of Article 24(4). Do the courts in your Member State experience any particular difficulties when applying the provision regarding the validity of the rights covered by Article 24(4)? If so, how are these dealt with?

Solely one judgment applying Article 24(2) was found [CFI Piraeus 4001/2018, NOMOS]. The subject matter was not relevant to the question asked.

39. Given the variety of measures in national law that may be regarded as 'proceedings concerned with the enforcement of judgements', which criteria are used by the courts in your Member State to decide whether a particular procedure falls under the scope of Article 24(5)? Please elaborate and provide examples.

Case law is scarce, if not inexistent [CFI Piraeus 2861/2016, DBP: A Maltese company filed opposition for setting aside the auction sale of a vessel in Greece. The court assumed international jurisdiction on the grounds of Article 24(5)]. Similarly CFI Piraeus 1854/2016, unreported. There is reference to CJEU rulings in literature (case *Reichert,* C-261/90, *Autoteile Service,* C-220/84). The cases aforementioned have been scrutinized by *Marazopoulou* [Extraterritorial enforcement pursuant to European Law in civil and commercial matters, pp. 128 et seq.]. She is supporting an autonomous interpretation of the provision [ibid, pp. 137 et seq.].

In addition, the following situations have been considered as falling outside the scope of the provision:

i. **A claim for the recognition of invalidity of a fraudulent transaction [CFI Thessaloniki 585/1993, Armenopoulos 1994, p. 308]**
ii. **A claim for restitution in integrum and damages due to unlawful execution (Article 940 CPC), despite the precedential nature of the lawfulness of enforcement proceedings [Nikas/*Sachpekidou*, European Civil Procedure: Commentary on Brussels Ia Regulation, Article 24 nr. 100, p. 369, *Marazopoulou*, ibid, pp.147 et seq.].**

iii. An application of the judgment creditor, seeking an order of the court against the judgment debtor, who is obliged to give an oath of disclosure concerning her/his assets (Article 941 CPC) [*Marazopoulou*, ibid, pp.145 et seq.].

On the other side, in the field of garnishee proceedings, an opposition against the contested declaration of a third party, claiming at the same time compensation for the injury caused by the inaccurate or insincere declaration (Article 986 CPC, see for this provision *Yessiou-Faltsi*, Civil procedure in Hellas, p. 415) does fall within the ambit of the provision [*Marazopoulou*, ibid, pp. 150 et seq.].

Finally, a choice of forum concerning the main proceedings of the dispute does not affect the exclusive character of Article 24(5) RBIa in regards to enforcement proceedings [Nikas/*Sachpekidou*, ibid, Article 24 nr. 102, p. 369].

40. Does the removal of a conservatory third party attachment (in case of seizure) fall within the scope of 'enforcement' in the sense of Article 24 chapeau and fifth paragraph Brussels Ia leading to the exclusive jurisdiction of the court where the removal has to be enforced, or can jurisdiction of the removal be based on Article 35 leading to jurisdiction of the court that has granted leave to lay a conservatory third-party attachment (seisure)? In other words, is Article 24 interpreted extensively or narrowly in you Member State?

The provision is interpreted extensively. In particular, provisional measures, such as a conservatory third-party attachment (Article 712 CPC), may be removed by the court which has jurisdiction pursuant to Article 35 RBIa [Nikas/*Sachpekidou*, European Civil Procedure: Commentary on Brussels Ia Regulation, Art. 24 nr. 101, p. 369].

<u>Prorogation of jurisdiction and tacit prorogation</u>

41. Application of Article 25 requires a minimum degree of internationality. Is there any particular case-law and/or literature, in your Member State in which this minimum degree of internationality has been discussed and/or a certain threshold has been set? If yes, what are the considerations and/or arguments that have been made?

The cross-border element is an essential requirement for the application of the provision. A choice of forum agreement between two parties located in Greece, establishing the jurisdiction of Greek courts, whereas at the same time not infringing any rule of the Regulation, shall be subjected only to domestic legislation. The same applies also to agreements establishing territorial competence, for which Articles 42 et seq. CPC come into play [Nikas/*Sachpekidou*,

European Civil Procedure: Commentary on Brussels Ia Regulation, Art. 25 nr. 24, p. 379].

42. The requirement that at least one of the parties to the choice-of-court agreement must be domiciled in a member state, as stated in Article 23 Brussels I, has been deleted in Article 25 Brussels Ia. Has this amendment resulted in an increase of a number of litigations in which jurisdiction has been based on choice- of-court agreement falling under the Regulation?

Choice of court agreement disputes have been in the forefront under both the Brussels Convention and RBI. The above assumption is illustrated in the fact that a monograph on the matter was published already in 2000 [*Sachpekidou*, Prorogation of international jurisdiction in the unified European space]. See also my inventory for the years 2012-2014 [*Anthimos*, Europäisches Zivilprozessrecht in Griechenland, GPR 2015, pp. 291 et seq.]. Hence, the importance of the matter is not under dispute; however, I haven't noticed an increase in the selection of choice of forum clauses falling under the scope of RB1a.

43. Are there particular examples in which the formal requirements for validity of choice-of-court agreements (Article 25(1)(a-c)) caused difficulties in application for the judiciary or debate in literature? Which requirement has appeared most problematic in practice? When applying the respective requirements of an agreement 'in writing or evidenced in writing', 'practice which the parties have established between themselves' and 'international trade usages', which facts do the courts and/or literature deem decisive?

The most known case relates to the subjective boundaries of choice-of-court agreements [Areios Pagos 468/2016, Legal Tribune 2016, pp. 2018 et seq.]. I reported on this case in: https://icl-in-greece.blogspot.com/2016/11/compulsory-joinder-and-jurisdiction.html. The Supreme Court referred the matter to the CJEU, which issued its ruling in 2017 [C-436/16 - *Leventis and Vafias*, ECLI:EU:C:2017:497]. The judgment of the CJEU was recently commented by *Siaplaouras*, Gerichtsstandsvereinbarungen und Sreitgenossenschaft im Europäischen Zivilprozessrecht, Zeitschrift für das Privatrecht der Europäischen Union - GPR 2019 N°1 p.13-19. A similar judgment was issued a year later [CFI Piraeus 2333/2017, ISOCRATES: Permissive (i.e. non-compulsory) joinder of defendants; choice of court between the 2nd defendant and the claimants in favor of English courts; lack of international jurisdiction only for the latter defendant; the permissive joinder does not affect the choice of forum agreement]. However, the prorogation clause is binding for the employees / agents / proxies of the parties [CoA Piraeus 5973/2013, Enterprises and Companies Law 2014, pp. 711 et seq.: The choice of forum agreement in favor of English courts between a British art

auction house and a participant in the auctions taking place in Greece applies also to the agents of the former, providing their services in Greece].

In writing or evidenced in writing

Supreme Court 1580/2011, Maritime Law Review 2011, pp. 433 et seq.: [The content of a letter of guarantee does not fulfil the requirements under Article 23(1)a RBI, given that the above letter was drafted and signed by the insurance agency, not the defendant. In addition, it is unambiguously stated in the letter that it binds exclusively the insurance agency].

Practice which the parties have established between themselves

CFI Athens 680/2007, TPCL 2008, 447 [A Greek company (claimant) files a claim against a German company (defendant); the latter brings forward the existence of a choice of forum agreement, embedded in the general terms attached to the invoices; lack of international jurisdiction on the grounds of Article 23(1)c RBI: International trade usage and practice established between the parties, without any previous complaint by the claimant]. No reference to Article 23(1)b RBI. Reference to rulings of the CJEU in cases C-106/1995 και C-159/1997. Similarly: CoA Piraeus 479/2011, Enterprises and Companies Law 2011, pp. 1289 et seq., CFI Athens 649/2013, ISOCRATES, CoA Thessaloniki 1484/2017, Commercial Law Survey 2018, pp. 644 et seq, note *Anthimos*.

International trade usages

Supreme Court 8/2015, TPCL 2015, pp. 914 et seq. [A choice of forum clause contained in the general terms printed on the reverse of an invoice, which referred explicitly to the general terms in the front page, constitutes a valid agreement in accordance with Article 23(1)b & c RBI]. Similarly SC 313/2015, TPCL 2015, pp. 451 et seq.

CoA Piraeus 62/2013, ISOCRATES [A choice of forum embedded in the Rules and Regulations for the Classification of Ships, issued by Lloyd's Register is valid, falling under the scope of Article 23(1)c RBI].

44. Is there case-law in your Member State in which the formal requirement(s) of Article 25 (1)(a-c) have been fulfilled, but the choice of court agreement was held invalid from the point of view of substantive validity due to a lack of consent? If the answer is in the affirmative, what were the considerations made by the court?

Negative, no cases reported. From the RBI era, there is a noteworthy Supreme Court ruling [SC 246/2016, TPCL 2016, pp. 78 et seq.]: Fatal accident occurred in a hotel on an Ionian island; Claim for damages & pain and suffering by the relatives (all UK nationals); defendant invokes a choice of forum agreement in favor of UK courts, printed on the backside of the reservation sheet signed by the child's mother; no valid clause for two reasons: i. there was no reference to the choice of forum clause in the first side, hence lack of proper formal requirements; ii. The clause does not include tortuous liability disputes.

45. Are there cases in which the courts in your Member State experienced problems with the term 'null and void' with regard to the substantive validity of a choice-of-court agreement?

Negative, no cases reported. From the RBI era, see SC 948/2015, Legal Tribune 2016, pp. 316 [appellant: a Greek commercial agent, appellee: a German company; agreement in favour of German courts; appeal against the validity of the clause; the appellant invoked abuse of rights, violation of the ECHR and the Charter of Fundamental rights; all grounds rejected; cassation dismissed].

46. Article 25(1) Brussels Ia has been revised so as to explicitly state that the substantial validity of a choice-of-court agreement is determined by the national law of the designated court(s). Recital 20 clarifies that the designated court is to apply its own law including its private international law rules. Has the reference to private international law in this context led to discussion in literature or difficulties in application for the judiciary in your Member State?

The matter has been critically discussed in literature. In particular, legal scholars concur that the new provision causes an unnecessary perplexity to the proper function of the rule, most notably in regards to its application by the judges [Nikas/*Sachpekidou*, European Civil Procedure: Commentary on Brussels Ia Regulation, Art. 25 nr. 84, pp. 399 et seq., *Sachpekidou*, Prorogation of international jurisdiction pursuant to Articles 25 and 26 Regulatin 1215/2012, CPLR 2018, p. 462]. Therefore, it has been proposed to strike out the reference to conflict-of-laws rules [*Pamboukis*, International Jurisdiction, Recognition and Enforcement in Civil and Commercial Matters, pp. 44 et seq.].

No application in practice up to date, save one recent judgment [CFI Athens 1593/2018, TPCL 2018, pp. 965 et seq.], which mistakenly applied RBI, a choice demonstrative of the court's ignorance both of RBIa and the amendments made under Article 25(1)…

47. Is there particular case law or literature in your Member State in which the test of substantive validity of non-exclusive choice-of-court agreements was discussed? If yes, how is dealt with the substantial law of the different designated Member States?

Negative, no cases reported and no academic discourse present for the time being. Under RBI, one decision deserves attention [CFI Pireaus 1732/2016, unreported]: Choice of court clause drafted by a UK credit institution in favor of UK courts; the UK entity filed a claim before Greek courts; defendants invoked lack of international jurisdiction; defense dismissed; this was a non-exclusive choice-of-court agreement, as evidenced by a document signed by the parties, wherein the defendants waived any rights to challenge the jurisdiction selected by the UK entity.

48. Has the express inclusion of the doctrine of severability of choice-of-court agreements, as mentioned in Article 25(5) Brussels Ia merely confirmed a principle that had already been firmly established and accepted in theory and practice within your Member State?

Apparently so [Nikas/*Sachpekidou*, European Civil Procedure: Commentary on Brussels Ia Regulation, Art. 25 nr. 92 et seq., pp. 402 et seq.]. However, all references emanate from foreign sources and case law of the CJEU (C-352/13).

49. Do the courts in your Member State experience difficulties in applying the rules as to defining 'entering an appearance' for the purposes of applying Article 26 Brussels Ia?

No difficulties in sight. Some examples:

- **CFI Piraeus 1087/2017, DBP: Article 26 does not apply if the defendant has raised lawfully, primarily, and timely the defense of lacking jurisdiction, in accordance with Article 263 CPC. Similarly Supreme Court 1580/2011, Maritime Law Review 2011, 433, Supreme Court 1697/2013, Private Law Chronicles 2014, 371 (see my report in English, in: https://icl-in-greece.blogspot.com/2014/08/greek-supreme-court-on-interpretation.html), CFI Athens 2586/2018, TPCL 2018, 912 et seq., CoA Athens 4467/2010, CPLR 2011, 358, note *Yiannopoulos*, CoA Piraeus 369/2010, Commercial Law Review 2012, 115, CFI Thessaloniki 22195/2010, Armenopoulos 2013, 1911, note *Anthimos*, CFI Piraeus 778/2016, unreported.**

- **CFI Piraeus 1142/2017, DBP: Unreserved appearance of the foreign respondent before the court establishes its international jurisdiction. Similarly CFI Piraeus 3443/2018, DBP. Similarly CFI Piraeus 96 & 737/2015, unreported.**

One exception, however the judgment was quashed in second instance [CoA West Macedonia 23/2018, NOMOS]:

- **Appearance of the respondent was not entered with the sole task to contest the international jurisdiction of the first instance court; appeal sustained.**
- **Even if one of the defendants contests international jurisdiction, the remaining defendants must contest the court's jurisdiction separately and individually; appeal sustained.**

Examination jurisdiction and admissibility; *Lis pendens* related actions

50. Have courts in your Member State experienced any particular problems when interpreting the 'same cause of action' within the meaning of Article 29(1) (e.g. a claim for damages for breach of contract and a claim for a declaration that there has been no breach ('mirror image')? Please elaborate and provide examples from your own jurisdiction (if any).

No case law examples to provide under RBIa. Earlier judgments are also scarce:

- **CoA Piraeus 339/2007, ISOCRATES [The same cause of action is evidenced in the contracts for loan granted for the salvage of ship, in spite of the difference in the motions filed (declaratory / compensatory actions). The actions are identical because the performance of the loan contract depends on the existence or non-existence of the debt arising out of the loan agreement, the latter being the subject matter of the negative declaratory action].**

- **CoA Piraeus 617/2004, Piraeus Law Reports 2004, 351 [appellate court quashed the first instance decision, which assumed international jurisdiction, holding that the pending case before an Italian court does not hinder the proceedings, given that the Greek court has jurisdiction to try the case].**

- **CFI Thessaloniki 12820/2015, unreported [a claim previously filed before a Polish court hinders the application for a payment order by the same party before a Greek court and on the same grounds, i.e. same cause of action].**

51. Do you know whether the courts of the other Member State are typically contacted immediately once sufficient evidence has been gathered which suggests or confirms that courts in the other Member State may have been seised of the 'same cause of action'? Is there a standardised internal procedural guideline which is followed by the courts of your Member State? And are there any practical (for example, linguistic, cultural or organisational) obstacles or considerations which may hinder contact between the courts of your Member State and the other Member State?

There are no such procedures, and I do not expect domestic courts to engage in similar efforts without state intervention by means of a decree or law.

52. When should a court in your Member State be considered to be seised for the purposes of Article 32 Brussels Ia? Is this when the document instituting the proceedings or 'equivalent document' is lodged with the court (a) or when such document is received by the authority responsible for service (b)? Does the moment of filing a suit with the court determine the moment as from which a proceeding is deemed pending or the proceeding is considered to be actually pending at a later point after certain administrative/organisational steps have been taken (see e.g., circumstance in C-173/16 *M.H. v. M.H.* relating to this issue under Regulation Brussels IIbis)?

Greek law has always been following the first option, i.e. Article 32(1)a [see *Nikas*/Sachpekidou, European Civil Procedure: Commentary on Brussels Ia Regulation, Art. 32 nr. 2, pp. 485 et seq., note 9].

53. Do subsequent amendments of claims in any way affect the determination of the date of seising in your Member State? Is any differentiation made in that respect between cases where a new claim concerns facts known at the date of the original proceedings and amendments based on facts which have only emerged after the date of the original proceedings?

Prior answering to the question, the regulation of the issue in Greece needs to be explained first. In principal, the issue of mutatio and emendatio libelli is covered in two provisions of the Greek Code of Civil Procedure (CPC). Article 223 CPC states that upon lis pendens no amendment of the request (included in the action) is allowed. However, the claimant may exceptionally reduce his request until the termination of the proceedings in first instance. This is possible in two fashions: either by a specific reference in the pleadings, or an oral declaration during the hearing, which is recorded in the protocol of the session. By no means is the

claimant permitted to extent his request, unless he serves an additional writ to the respondent (a pattern almost inexistent in practice).

The amendment of the cause of action is regulated under Article 224 CPC. It is one of the most controversial issues in Greek civil proceedings, strongly connected with Article 216 CPC, which provides for the essentials of the writ. The first paragraph stipulates a straightforward prohibition: An amendment of the cause of action is inadmissible. The exceptions do follow in the second paragraph: The plaintiff may supplement, clarify or correct his allegations, as long as no amendment of claim is caused herewith. The means by which he is allowed to proceed are similar to those mentioned in Article 223 CPC, i.e. either by a specific reference in the pleadings, or an oral declaration during the hearing, which is recorded in the protocol of the session. Courts adopted the substantiation theory, and construed Article 224 CPC in the following fashion: Mutatio libelli is always inadmissible. Its main appearances are threefold: First, when the plaintiff proceeds to an addition of a new cause of action; second, when the plaintiff substitutes the initial with a new cause of action; third, when the plaintiff intents to heal an unsubstantiated claim, by submitting facts and allegations by a specific reference in the pleadings, or an oral declaration during the hearing. The latter is undisputedly the most difficult issue with which Greek courts are confronted, and is strongly connected with the interpretation of Article 216 CPC, i.e. the essentials of the writ.

On the basis of the above, amendments to claims filed are not touching upon the request and the cause of action, i.e. the entire subject matter of the dispute. Nevertheless, concerning the second question, the Greek CPC contains a provision on incidental actions (Article 283), which presupposes the existence of new facts, i.e. those occurred following litispendence of the main action. Both actions are tried in common. However, an incidental action must be related to the main action, and it has to be served individually. Hence, the date seised coincides with the date the incidental action was filed.

54. Do courts in your Member State tend to decline jurisdiction if the court seised previously had jurisdiction over the actions in question 'and its law permits the consolidation thereof' (see Article 30(2))?

No case law refers to Article 30(2) so far.

55. Has the application of Article 31(2) proved to be counterproductive and resulting in delaying the proceedings by the obligation of the court seised to stay the proceedings until a designated court has decided on the validity of a

choice- of- court agreement, even when a prorogation clause has never been entered into or is obviously invalid?

No case law refers to Article 31(2) so far. One related case reported under RBI: CFI Piraeus 714/2015, ISOCRATES [A choice of court agreement in favor of Italian courts was not considered reason enough to stay proceedings of a Greek claimant against an Italian defendant, because the clause referred solely to the main cause of action, thus not covering the ancillary claim filed. Hence, the risk of irreconcilable judgments through separate proceedings for related actions favors the continuation of Greek proceedings].

56. Has the combined application of Articles 33 and 34 in your view contributed to greater procedural efficiency and accordingly diminished the risk of delays in resolving disputes as well as the risk of irreconcilable judgments between a third state and your Member State?

No case law refers to Articles 33 and 34 so far. Only one judgment under the Brussels Convention: CoA Piraeus 339/2007, ISOCRATES [Stay of proceedings regarding some of the Greek claimants which are not parties to the action pending in England; stay imperative for avoiding the risk of irreconcilable judgments resulting from separate proceedings].

57. Apart from concerns regarding procedural efficiency, are connections between the facts of the case and the parties in relation to the third state typically also taken into account by the courts in your Member State in determining their jurisdiction under Articles 33 and 34, bearing in mind the aims as expounded by Recital 24 of the Regulation?

No case law refers to Articles 33 and 34 so far.

58. Does the application of both provisions in your view amount to a sufficiently 'flexible mechanism' (see further Recital 23) to address the issue of parallel proceedings and *lis pendens* in relation to third states?

No case law refers to Articles 33 and 34 so far.

<u>Provisional measures, protective measures</u>

59. Do the courts in your Member State experience difficulties defining which 'provisional, including protective, measures' are covered by Article 35?

Greek courts apply the rule with respect to:

i. **the arrest of ships [CFI Pireaus 1540/2014, NOMOS, CFI Piraeus 108/2017, ISOCRATES, CFI Piraeus 158/2017, Commercial Law Review 2017, pp. 900 et seq., CFI Piraeus 605/2017, Commercial Law Review 2017, pp. 641 et seq., CFI Piraeus 437/2018, DBP, CFI Piraeus 1162/2018, ISOCRATES],**
ii. **temporary restraint [CFI Piraeus 1326/2015, NOMOS],**
iii. **domain name attachment [CFI Thessaloniki 21480/2013, CPLR 2014, 371, note *Yiannopoulos***

60. In the *Van Uden Maritime v Deco-Line and Others* case (C-391/95) the CJEU introduced a requirement of territorial connection between the subject matter of the measures sought and the territorial jurisdiction of the Member State's court to issue them. How is the 'real connecting link' condition in *Van Uden* interpreted in the case-law and doctrine in your Member State?

The prevailing Greek doctrine clearly and unambiguously abides by the findings of the CJEU in the ruling aforementioned [*Nikas*/Sachpekidou, European Civil Procedure: Commentary on Brussels Ia Regulation, Art. 35 nr. 22-27, pp. 508-51]. Notwithstanding the findings of the *Van Uden* case, Prof. Pamboukis criticizes the definition under Article 2(b), which departs from the requirement of the court's international jurisdiction in the main proceedings [*Pamboukis*, International Jurisdiction, Recognition and Enforcement in Civil and Commercial Matters, pp. 71 et seq.].

The *real connection link* condition is not clearly interpreted in Greek Case law. Examples follow in three different groups:

1. ***Lack of international jurisdiction***

- **CFI Athens 10053/2013, Armenopoulos 2013, 2421, note *Anthimos* [see in detail: https://icl-in-greece.blogspot.com/2014/02/greece-no-forum-for-summary-proceedings.html].**
- **CFI Thessaloniki 30907/2009, Armenopoulos 2010, 105 [application against a Dutch company; request to cease unfair competition; the tort is presumably committed in the Netherlands; hence, lack of international jurisdiction].**
- **CFI Piraeus 3775/2007, TPCL 2008, 976 [application for the production of documents against an Irish company; dismissed, because the defendant has no branch or assets in Greece, and the provisional measure would have to**

be enforced in Ireland, i.e. the place where the documents in question are stored by the defendant].

- **CFI Piraeus 5240/2007, Dike 2008, 900, note *Beys* [no international jurisdiction with respect to an application related to paintings located on a ship anchored in Marseille].**

2. International jurisdiction confirmed

- **CFI Piraeus 1753/2014, ISOCRATES: Collision of two ships under UK flag; Arrest of ship; international jurisdiction on the grounds of the place where the collision occurred.**
- **CFI Piraeus 283 & 537/2015, ISOCRATES: Application for temporary restraint against a Liberian company; special reference to a ship anchored in the forum. Similarly CFI Pireaus 1540/2014, NOMOS: Ship owner located in La Valetta, Malta; actual seat in Thessaloniki. The vessel was however anchored at the port of Piraeus.**
- **CFI Piraeus 1326/2015, NOMOS: Application for temporary restraint against Cypriot companies; no reference to international jurisdiction of the court in main proceedings; vague reference to the powers of the court to order provisional measures which may be enforced abroad; the court orders temporary restraint on all assets of the defendants, with no clear reference to the existence of any property in Greece.**
- **CFI Piraeus 158/2017, Commercial Law Review 2017, pp. 900 et seq.: Application for temporary restraint against an Italian company; special reference to a ship anchored in the forum; the court orders the arrest of the ship. The foreign arbitration clause defense does not hinder Greek courts to order provisional measures in accordance with Article 685 Greek CPC; provisional measure granted.**

3. International jurisdiction confirmed, application dismissed on other reasons

- **CFI Piraeus 605/2017, Commercial Law Review 2017, pp. 641 et seq.: Application for temporary restraint against a foreign company; special reference to a ship anchored in Barcelona; the court assumes international jurisdiction on the grounds of domestic law (Article 33 CPC: forum where the contract was drawn). The foreign arbitration clause defense does not hinder Greek courts to order provisional measures in accordance with Article 685 Greek CPC; application dismissed due to lack of urgency and imminent danger.**
- **CFI Piraeus 437/2018, DBP: Application of a Liberian company against a Moroccan company for the arrest of its ship, which is anchored in the forum; The foreign arbitration clause defense does not hinder Greek courts to order provisional measures in accordance with Article 685 Greek CPC; application dismissed due to lack of urgency and imminent danger.**

Relationship with other instruments

61. Has the Hague Convention on Choice of Court Agreements to your knowledge ever been relied upon in declining jurisdiction in your Member State and allocating jurisdiction to third states party to that Convention? Please provide examples from case-law with a short summary.

No case law reported so far.

CHAPTER III

Recognition and Enforcement

62. How frequently is the optional procedure, established in Article 36(2), to apply for a decision that there are no grounds of refusal of recognition employed in your jurisdiction?

This procedure did never appear in court practice.

63. Abandoning *exequatur*, Section 2 of Chapter III grants direct access to national enforcement agents (in a wide sense, including particularly courts and *huissiers*) or enforcement agencies. Have such agents or members of such agencies in your jurisdiction received specific training or instruction on how to deal with enforcement requests based on judgments rendered in other Member States? If so, who undertook the effort and who seized the initiative?

No training was ever scheduled or even perceived as a possibility. I engaged the Thessaloniki Association of bailiffs in the first conference organized in Thessaloniki in late 2013, under the auspices of the Thessaloniki Bar. We discussed training as an option. Nothing happened since then. The scarcity of cases in practice, coupled with other existential problems of the profession of enforcement agents work as a disincentive to any initiative towards this direction.

64. Has there been a concentration of local jurisdiction (venue) at the national or regional level in your jurisdiction institutionalising specialised enforcement agents for the enforcement of judgments rendered in other Member States?

There is absolutely no reported practice of enforcement under the Brussels Ia Regulation. I referred on the matter also on the CoL blog end March [Recognition and Enforcement: 30 years from the entry into force of the Brussels Convention in Greece – A practitioner's account –, http://conflictoflaws.net/2019/recognition-and-enforcement-30-years-from-the-entry-into-force-of-the-brussels-convention-in-greece-a-practitioners-account]. There are neither statistics, nor reported cases dealing with execution of foreign judgments under the Regulation, and no steps have been taken by the Federation of Bailiffs in regards to specialization.

65. Have there been other specific legislative or administrative measures in your jurisdiction possibly facilitating the direct access of creditors or applicants from other Member States to the enforcement agents?

Absolutely none. We are still on ground zero.

66. Has the transgression to direct enforcement enhanced the number of attempts to enforce judgments rendered in other Member States? Are there any respective statistics available in your jurisdiction? If so, may you please relay them?

As stated under Q 64, the landscape is pretty vague. One can only speculate in a twofold manner: Either enforcement is enhanced, without any opposition filed by the debtors, or it is simply totally lame, given the Grexit and the ensuing lack of confidence from foreign creditors to engage into business with Greek entities or entrepreneurs.

67. Section 2 of Chapter III has created a specific interface between the Brussels Ia Regulation and national rules on enforcement. Has this generated particular problems in your jurisdiction?

Given that no pertinent case law exists, the problems are yet to come. This assumption is based on the omission of the state to pass implementing legislation, in spite of the grave problems highlighted by legal scholars. I published an article in the YPIL on the matter [see Recognition and enforcement of foreign judgments according to the Brussels I Regulation in Greece, Yearbook of Private International Law 2015, 345-364]. Nothing has changed since then. We are waiting for the first case to cope with the issue.

For the time being, and in spite of sufficient publications on the matter, confusion prevails in practice. In the scarce cases I managed to trace, judgment creditors are still applying the old regime. In other words, we are still faced with mistakenly initiated exequatur proceedings, for which I reported recently [*Anthimos*,

Transitional issues from Brussels I to Brussels I bis in the execution of foreign judgments, Armenopoulos 2018, pp. 895.]

68. Has Article 41(2) in particular attracted specific attention in your jurisdiction?

From a court practice point of view, not yet.

69. Article 46 introduced the so called 'reverse procedure'. Are there any statistics available in your jurisdiction on the absolute frequency and the relative rate of such proceedings, the latter in comparison to the number of attempts to enforce judgments rendered in other Member States? If so, may you please relay the said statistics?

No reported or even unreported cases available so far.

70. Public policy and denial of a fair trial to the defaulting defendant in the state of origin (now Article 45(1)(a) and (b) respectively) have a certain tradition of being invoked rather regularly as grounds for refusal of recognition or enforcement. Has this changed in your jurisdiction following the advent of the 'reverse procedure' (Article 46)? Has the rate of success invoking either of them changed?

No reported or even unreported cases available so far. Not within the field of application of RBIa, but perhaps noteworthy: The Supreme Court confirmed recognition and enforcement of a French ordonnance de référé, dismissing public policy allegations [Areios Pagos 93/2017]. See my short report on this case [The Supreme Court recognizes a French ordonnance de référé, International Journal of Procedural Law 2017, pp. 318-319].

71. Has the extension of now Article 45(e)(i) to employment matters practically altered the frequency of, or the approach to, enforcing judgments in employment matters in your jurisdiction?

No reported or even unreported cases available so far.

72. Article 52 strictly and unequivocally inhibits *révision au fond*. Do courts or enforcement agents in your jurisdiction comply with this in practice?

No reported or even unreported cases available so far. Courts always complied in the previous regimes. Examples

- **Supreme Court 87/2004, NOMOS [Examination of the claim filed before the foreign court (here: lack of substantiation) violates the principle of revision au fond].**
- **CoA Piraeus 711/2004, Piraeus Law Reports 2004, 489 [examination of the foreign judgment to the merits (here: liability matters) runs contrary to the principle of revision au fond].**
- **CoA Larissa 484/2011, Armenopoulos 2013, 765, note *Anthimos* [Differences between Greek and UK law in the procedure followed on the issue at hand (here: an order of the court); Article 36 RBI impedes re-examination of the matter].**

73. Article 54 introduced a rule for adaptation of judgments containing a measure or an order which is not known in the law of the Member State addressed. How frequently or regularly does such adaptation occur in practice in your jurisdiction? In the event that the judgment gets adapted, how frequently is such adaptation challenged by either party?

No reported or even unreported cases available so far.

74. Translation of the original judgment is optional, not mandatory by virtue of Article 37(2) or Article 54(3) respectively. How often require courts or enforcement agents in your jurisdiction the party invoking the judgment or seeking its enforcement to provide a translation of the judgment?

No reported or even unreported cases available so far.

CHAPTER VII

Relationship with Other Instruments

75. Which impact has Annex (1)(q) of Directive 93/13/EEC (Unfair Terms in Consumer Contracts) generated in your jurisdiction?

No impact in regards to Regulation BIa.

76. Can you identify examples for an application of Article 70 in your jurisdiction?

Pursuant to Article 76(1)(c), the Hellenic Republic notified to the Commission the following bilateral conventions referred to in Article 69 of the Regulation:

- **the Convention between the Kingdom of Greece and the Federal Republic of Germany for the Mutual Recognition and Enforcement of Judgments, Settlements and Authentic instruments in Civil and Commercial Matters, signed at Athens on 4 November 1961,**
- **the Agreement between the Federal People's Republic of Yugoslavia and the Kingdom of Greece on the Mutual Recognition and Enforcement of Judgments, signed at Athens on 18 June 1959 [concerning Slovenia and Croatia],**
- **the Convention between the People's Republic of Hungary and the Hellenic Republic on Legal Assistance in Civil and Criminal Matters, signed at Budapest on 8 October 1979,**
- **the Convention between the People's Republic of Poland and the Hellenic Republic on Legal Assistance in Civil and Criminal Matters, signed at Athens on 24 October 1979,**
- **the Treaty between the Czechoslovak Socialist Republic and the Hellenic Republic on Legal Assistance in Civil and Criminal Matters, signed at Athens on 22 October 1980 and still in force as between the Czech Republic, Slovakia and Greece,**
- **the Convention between the Republic of Cyprus and the Hellenic Republic on Legal Cooperation in Matters of Civil, Family, Commercial and Criminal Law, signed at Nicosia on 5 March 1984,**
- **the Convention between the Socialist Republic of Romania and the the Kingdom of Greece on Legal Assistance in Civil and Criminal Matters, signed at Bucharest on 19 October 1972, and**
- **the Agreement between the People's Republic of Bulgaria and the Hellenic Republic on Legal Assistance in Civil and Criminal Matters, signed at Athens on 10 April 1976.**

There are a significant number of judgments applying the above conventions. I have systematically compiled a list of judgments per country in my monograph published in Greek in 2014 [Foreign judgments and arbitral awards, Sakkoulas publications]. However, the vast majority of cases relates to personal status, family, succession, maintenance and matrimonial property matters. The only judgment concerning the ambit of BIa was published in 2015, concerning the declaration of enforceability of a Cypriot judgment issued in 2001 [CoA Thessaloniki 780/2015, CPLR 2015, 760, note *Anthimos*]. This was the second instance ruling dismissing the appeal against the judgment of the CFI Thessaloniki, which granted exequatur [CFI Thessaloniki 14810/2009, unreported]. The appellate court applied the 1984 Greek-Cypriot convention, and

examined the exequatur requirements pursuant to Article 22 of the bilateral convention.

77. Has the precedence of Art. 351 TFEU to Article 71 Brussels Ia, as established by the CJEU in *TNT v AXA* (C-533/08) and *Nipponkoa Insurance Co. (Europe) Ltd v Inter-Zuid Transport BV* (C-452/12) prompted any practical consequences in your jurisdiction?

No reported or even unreported cases available so far.

78. Which Treaties and international Conventions have triggered Article 71 in your jurisdiction?

No reported or even unreported cases available so far.

79. Have there been problems in your Member State with the delineation of the application of Article 25 Brussel Ia and the The Hague Convention on Choice-of-Court agreements?

No reported or even unreported cases available so far.

80. Have Articles 71(a) – 71(d) been already applied in your jurisdiction?

No reported or even unreported cases available so far.

ANNEX I
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ANNEX II
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