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**National Reports of the Judgtrust project  
Session 4: Weaker Party Disputes and  
Recognition and Enforcement of Judgments  
22 April 2022**



# Questions relating to weaker parties and recognition and enforcement

- Weaker party rules on jurisdiction
  - Insurance, Art. 10-16 Brussels Ia
  - Consumers, Art. 17-19
  - Employment, Art. 20-23
- Recognition and enforcement
  - Recognition, Art. 36-38 Brussels Ia
  - Enforcement, Art. 39-44
  - Refusal of recognition and enforcement, Art. 45-51
  - Common provisions, Art. 52-54
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## Questions relating to weaker parties and recognition and enforcement

- Weaker party rules on jurisdiction
  - Questions 29-35
- Recognition and enforcement of foreign judgments
  - Questions 62-74



## Question I

- Question 31 regarding the protection that the jurisdiction rules offer
  - According to the prevailing literature in your Member State, do provisions in Sections 3, 4 and 5 provide effective protection to 'weaker parties'?

- According to a large group of Member States the prevailing view is that the provisions in Sections 3, 4 and 5 do provide effective protection to 'weaker parties'.
- Some Austrian commentators have proposed to extend the protection.
- The NR from Slovenia mentions: effective protection for consumers; mostly effective protection for employees; in certain instances too much protection for beneficiaries of insurance contracts

- Question 29 regarding the court's obligation to inform weaker parties on the right to oppose jurisdiction and consequences for recognition and enforcement.
  - 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 regulate 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?



## Question II

- Ground for refusal: Greece, Poland and Slovenia.
- No ground for refusal: Bulgaria and Netherlands.
- Both views: Austria, Germany, Italy, Poland, Croatia, Romania and Finland.

- Question 67 interface between the Brussels Ia Regulation and national rules on enforcement
  - 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?





## Question III

- Many National Reports show that no particular problems have arisen (yet).
- However, future problems are assumed (Greece) or very likely (Portugal), when no legislation is implemented.
- Controversies in legal writing (Austria and Slovenia), more grounds for refusal.
- Issues with Art. 41 (1) and 41 (2) Brussels I (a) (France).

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

- The NR's of many Member States indicate that the prohibition of *révision au fond* is complied with.
- Exceptional deviations (France and Poland).
- Problems: applicability of regulation (France); public policy (Italy, Netherlands and Slovenia).
- Not always complied with (Ireland).

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**The end**