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National Reports of the Judgtrust project
The scope rules of Brussels Ia
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Structure of presentation

- Research methodology National Reports
- Findings on the scope rules of Brussels Ia





Research methodology National Reports

- Interviews with experts of all Member States
- Predetermined questionnaire
 - 80 (!) questions
 - Written replies
 - See annex of the final report on the [Asser website](#)
 - Various sections in the questionnaire, such as questions about the general application, scope rules, jurisdiction grounds, protection of weaker parties and the enforcement and execution of judgments
 - UK included in research, yet excluded in our presentations of the research





Questions relating to the scope of Brussels Ia

- Refreshing our memories...
 - Before applying a private international law instrument, such as Brussels Ia, we have to assess the criteria for applicaton....
 - Three types of criteria
 - Material scope rule → Art. 1, 2 and 3 Brussels Ia
 - Personal scope rule → In general, Art. 4 Brussels Ia
 - Temporal scope rule → Art. 66 Brussels Ia



Questions relating to the scope of Brussels Ia

- Many practical issues....
- 14 questions; where are the bottlenecks in practice?



- Question regarding the material scope of Brussels Ia
 - ‘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.’



Outcome question I

- In most Member States no particular issues;
- However, unclarity about importance of legal basis of a claim as a criterion to decide whether a claim qualifies under Brussels Ia or the Insolvency Regulation;
- Recent caselaw CJEU casuistic, which makes application of caselaw to different cases hard.

- Question regarding regarding the personal scope of Brussels Ia
 - ‘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?’



Outcome question II

- Most Member States report that the prevailing opinion in literature is that Art. 26 applies regardless of the domicile of the defendant;
- Other Member States however submit that there are different views in this respect
 - E.g. Austria, France, Sweden

- Question regarding the temporal scope of Brussels Ia
 - ‘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?’



Outcome question III

- Most Member States have encountered no or just minor problems regarding the temporal scope;
- However a small number of Member States identified some problems
 - E.g. Estonia, France, Poland



Thank you for your attention!