

# Article Interpretation Commentary

## Brussels I (Recast) Regulation

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## Article 7

### Article 7

### Judicial Interpretations

1

place of performance

provision of services

software contracts

jurisdiction

Regulation 1215/2012

For contracts to develop and operate software for a customer in another EU Member State, the place of performance is where the customer accesses and uses the software.

Source: **Case C-526/23** • *VariusSystems digital solutions GmbH v GR InhaberIn B & G* • CJEU, 28 November 2024

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special jurisdiction

place where the damage occurred

economic unit

cartel damages

parent-subsidiary relationship

The place where the harmful event occurred, for the purposes of Article 7(2) of Regulation 1215/2012, does not include the registered office of a parent company seeking damages for harm suffered only by its subsidiaries due to a third party's anticompetitive conduct, even if the parent and subsidiaries are part of the same economic unit.

Source: **Case C-425/22** • *MOL Magyar Olaj- és Gázipari Nyrt. v Mercedes-Benz Group AG* • CJEU, 4 July 2024

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special jurisdiction

place where damage occurred

defeat device

cross-border tort

Regulation 1215/2012

If a vehicle with an unlawful defeat device is sold under a contract in one Member State and delivered in another, the place where the damage occurred is the Member State where the vehicle was delivered.

Source: **Case C-81/23** • *MA v FCA Italy SpA and FPT Industrial SpA* • CJEU, 22 February 2024

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provision of services

jurisdiction

contractual penalty

pactum de contrahendo

Brussels I bis Regulation

A contract to enter into a future contract for a franchise, which includes a penalty for non-performance, is not a 'contract for the provision of services' under Article 7(1) (b) of Regulation 1215/2012. Instead, jurisdiction for claims based on such a contract is determined by Article 7(1)(a), which refers to the place where the obligation should be performed.

Source: **Case C-393/22** • *EXTÉRIA s.r.o. v Správime s. r. o.* • CJEU, 14 September 2023

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special jurisdiction

collective action

liquidator

duty of care

tort jurisdiction

The court where the bankrupt company is established has jurisdiction to hear a collective damages action brought by the liquidator against the grandparent company for breach of duty of care to creditors.

Source: **Case C-498/20** • *ZK v BMA Braunschweigische Maschinenbauanstalt AG* • CJEU, 10 March 2022

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collective interests

foundation

jurisdiction

creditors

intervention

It makes no difference to jurisdiction if a foundation acts to defend the collective interests of creditors and the action does not consider individual creditor circumstances.

Source: **Case C-498/20** • *ZK v BMA Braunschweigische Maschinenbauanstalt AG* • CJEU, 10 March 2022

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third-party proceedings

jurisdiction

intervention

concurrent proceedings

Regulation 1215/2012

If a court decides it does not have jurisdiction over the main case, it also loses jurisdiction over claims by intervening third parties.

Source: **Case C-498/20** • ZK v BMA Braunschweigische Maschinenbauanstalt AG • CJEU, 10 March 2022

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Rome II

applicable law

duty of care

manifestly closer connection

non-contractual obligations

The law of the country where the bankrupt company is established generally applies to compensation claims for breach of duty of care by the grandparent company, unless a prior contract shows a much closer connection to another country.

Source: **Case C-498/20** • ZK v BMA Braunschweigische Maschinenbauanstalt AG • CJEU, 10 March 2022

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jurisdiction

place of performance

air passenger rights

connecting flights

Regulation 1215/2012

If a passenger claims compensation for a delay on the first leg of a multi-leg flight (booked as a single journey, operated by different airlines) and sues the airline operating that first leg, the arrival airport of that first leg cannot be considered the 'place of performance' for jurisdiction under Article 7(1)(b) of Regulation 1215/2012.

Source: **Case C-20/21** • JW and Others v LOT Polish Airlines • CJEU, 3 February 2022

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special jurisdiction

internet defamation

partial compensation

place where damage occurred

accessibility of online content

A person harmed by disparaging online comments can claim compensation for damage suffered in a Member State before the courts of that State if the comments were accessible there, even if those courts cannot order rectification or removal of the content.

Source: **Case C-251/20** • Gtflix Tv v DR • CJEU, 21 December 2021

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international jurisdiction

territorial jurisdiction

cartel damages

place where damage occurred

Article 7(2) Regulation 1215/2012

If a company claims damages from a cartel that fixed prices, the court where it bought the goods or, if it bought them in several places, the court where its registered office is located, has both international and territorial jurisdiction to hear the case.

Source: **Case C-30/20** • *RH v AB Volvo and Others* • CJEU, 15 July 2021

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jurisdiction

personality rights

centre of interests

online publication

identifiability

Courts in the place where a person's centre of interests is located have jurisdiction to hear claims for damages for online infringement of personality rights only if the online content allows that person to be identified, directly or indirectly, through objective and verifiable elements.

Source: **Case C-800/19** • *Mittelbayerischer Verlag KG v SM* • CJEU, 17 June 2021

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insurance jurisdiction

assignment of claims

weaker party protection

Article 7(2) tort jurisdiction

Article 7(5) branch jurisdiction

If a business acquires a claim from an injured party against a civil liability insurer, it cannot use the special insurance jurisdiction rules in Article 13(2) and Article 10 of Regulation 1215/2012, but may rely on Article 7(2) or 7(5) for jurisdiction if the conditions are met.

Source: **Case C-913/19** • *CNP spółka z ograniczoną odpowiedzialnością v Gefion Insurance A/S* • CJEU, 20 May 2021

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branch agency establishment

loss adjustment

Article 7(5) jurisdiction

permanent presence

insurance operations

A company that adjusts losses for an insurer in another Member State, acting in the insurer's name and on its behalf, is considered a branch, agency, or other establishment under Article 7(5) if it has a permanent presence, its own management, and is equipped to negotiate with third parties.

Source: **Case C-913/19** • *CNP spółka z ograniczoną odpowiedzialnością v Gefion Insurance A/S* • CJEU, 20 May 2021

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international jurisdiction

purely financial loss

place where damage occurred

statutory reporting obligations

Regulation 1215/2012 Article 7(2)

If an investor suffers purely financial loss in an investment account in a Member State due to misleading information from an international listed company, the courts of that Member State do not have international jurisdiction based solely on where the loss occurred, unless the company had statutory reporting obligations there.

Source: **Case C-709/19** • *Vereniging van Effectenbezitters v BP plc* • CJEU, 12 May 2021

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employment contract

jurisdiction

non-performance

cross-border employment

Regulation 1215/2012

The special EU rules on jurisdiction for employment contracts apply even if the employee never performed any work, as long as the contract was made in one Member State and the work was to be performed in another, and the lack of performance was due to the employer.

Source: **Case C-804/19** • *BU v Markt24 GmbH* • CJEU, 25 February 2021

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exclusive jurisdiction

national rules precluded

employee protection

Regulation 1215/2012

uniformity

The EU rules on jurisdiction for employment contracts override any national rules, even if the national rules are more favorable to the employee.

Source: **Case C-804/19** • *BU v Markt24 GmbH* • CJEU, 25 February 2021

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place of performance

habitual place of work

jurisdiction

employment disputes

Article 21(1)(b)(i)

The employee can sue in the court of the place where they were supposed to perform their main work duties under the contract, even if no work was actually done; this is subject to possible application of the rule for branch operations.

Source: **Case C-804/19** • *BU v Markt24 GmbH* • CJEU, 25 February 2021

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special jurisdiction

tort/delict

abuse of dominant position

competition law

contractual relationship

Article 7(2) of Regulation 1215/2012 applies to lawsuits seeking to stop practices within a contract if the claim is that the defendant abused a dominant market position in violation of competition law.

Source: **Case C-59/19** • *Wikinghof GmbH & Co. KG v Booking.com BV* • CJEU, 24 November 2020

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rights in rem

exclusive jurisdiction

co-ownership

erga omnes

immovable property

An action by a co-owner to stop another co-owner from changing the agreed use of co-owned property is a matter of rights in rem (exclusive jurisdiction where the property is) if the agreed use can be enforced against everyone, not just the co-owners. The national court must check if this is the case.

Source: **Case C-433/19** • *Ellmes Property Services Limited v SP* • CJEU, 11 November 2020

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contractual obligation

special jurisdiction

co-ownership agreement

place of performance

immovable property

If the agreed use of co-owned property cannot be enforced against everyone, an action to stop a co-owner from changing that use is a contractual matter. The court where the property is located has jurisdiction, as that is where the obligation must be performed.

Source: **Case C-433/19** • *Ellmes Property Services Limited v SP* • CJEU, 11 November 2020

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jurisdiction

place where damage occurred

tort/delict

emissions manipulation

consumer protection

If a manufacturer in one EU country installs illegal emissions software in vehicles, and those vehicles are later bought in another EU country, the place where the damage occurs (for jurisdiction purposes) is the country where the vehicles were bought.

Source: **Case C-343/19** • *Verein für Konsumenteninformation v Volkswagen AG* • CJEU, 9 July 2020

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public powers

civil and commercial matters

jurisdiction

bar association

lawyer's fees

A dispute about a lawyer's obligation to pay annual fees to a bar association is covered by Regulation No 1215/2012 only if the bar association is not using public powers under national law, which the referring court must determine.

Source: **Case C-421/18** • *Ordre des avocats du barreau de Dinant v JN* • CJEU, 5 December 2019

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contractual obligation

special jurisdiction

freely consented services

insurance services

bar association fees

A bar association's action to recover annual fees is a 'matter relating to a contract' under Article 7(1)(a) of Regulation No 1215/2012 only if the fees are for services provided to the member and the member freely agreed to those services, which the referring court must decide.

Source: **Case C-421/18** • *Ordre des avocats du barreau de Dinant v JN* • CJEU, 5 December 2019

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jurisdiction

air passenger rights

Regulation 261/2004

Montreal Convention

parallel claims

When a court hears a case seeking both standardised compensation under Regulation 261/2004 and further damages under the Montreal Convention, it must determine its jurisdiction for the Regulation 261/2004 claim using Article 7(1) of Regulation 1215/2012, and for the Montreal Convention claim using Article 33 of that Convention.

Source: **Case C-213/18** • *Adriano Guaitoli and Others v easyJet Airline Co. Ltd* • CJEU, 7 November 2019

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territorial jurisdiction

Montreal Convention

international carriage by air

damages

court competence

Article 33(1) of the Montreal Convention decides both which country and which specific court within that country has jurisdiction for damages claims under the Convention.

Source: **Case C-213/18** • *Adriano Guaitoli and Others v easyJet Airline Co. Ltd* • CJEU, 7 November 2019

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special jurisdiction

place where the harmful event occurred

cartel damages

affected market

Article 7(2) Regulation 1215/2012

For damages claims arising from a cartel that distorted prices, the courts of the country where the affected market is located (where prices were distorted and the victim suffered damage) have jurisdiction under Article 7(2) of Regulation 1215/2012, even if the victim did not have a direct contractual relationship with the defendant.

Source: **Case C-451/18** • *Tibor-Trans Fuvarozó és Kereskedelmi Kft. v DAF TRUCKS N.V.* • CJEU, 29 July 2019

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special jurisdiction

contractual obligation

property owners' association

binding decisions

Article 7(1)(a) Regulation 1215/2012

A dispute about payment obligations from a decision of a general meeting of property owners (even if the association is not a legal entity and the decision binds all owners) is considered a 'matter relating to a contract' under Article 7(1)(a) of Regulation 1215/2012.

Source: **Case C-25/18** • *Brian Andrew Kerr v Pavlo Postnov and Natalia Postnova* • CJEU, 8 May 2019

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applicable law

provision of services

communal property maintenance

Article 4(1)(b) Regulation 593/2008

contractual character

A dispute about payment obligations for communal area maintenance, decided by a general meeting of property owners, is considered a contract for the provision of services under Article 4(1)(b) of Regulation 593/2008.

Source: **Case C-25/18** • *Brian Andrew Kerr v Pavlo Postnov and Natalia Postnova* • CJEU, 8 May 2019

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branch jurisdiction

international jurisdiction

airline compensation

Regulation 1215/2012

branch involvement

A court cannot claim jurisdiction over a compensation dispute against an airline from another Member State just because the airline has a branch in its territory, unless that branch was involved in the relationship with the passenger.

Source: **Case C-464/18** • *ZX v Ryanair DAC* • CJEU, 11 April 2019



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implied prorogation

appearance

tacit acceptance

jurisdiction

Regulation 1215/2012

Article 26(1) does not apply if the defendant has not appeared or submitted any observations in the proceedings.

Source: **Case C-464/18** • *ZX v Ryanair DAC* • CJEU, 11 April 2019

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jurisdiction clause

general conditions

written evidence

consensus

Regulation 1215/2012

A jurisdiction clause only mentioned in the general terms of sale on invoices does not meet the requirements of Article 25(1) of Regulation 1215/2012, unless the referring court finds otherwise after further checks.

Source: **Case C-64/17** • *Saey Home & Garden NV/SA v Lusavouga-Máquinas e Acessórios Industriais SA* • CJEU, 8 March 2018

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commercial concession agreement

place of performance

provision of services

jurisdiction determination

Regulation 1215/2012

For claims about ending a commercial concession agreement between companies in different Member States for distribution in a third Member State, the competent court is in the Member State where the main supply of services happened, as shown by the contract or its actual performance, or if unclear, where the agent is domiciled.

Source: **Case C-64/17** • *Saey Home & Garden NV/SA v Lusavouga-Máquinas e Acessórios Industriais SA* • CJEU, 8 March 2018

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special jurisdiction

third State defendant

international jurisdiction

Regulation 44/2001

domicile

The special jurisdiction rule in Article 5(1)(b) of Regulation 44/2001 does not apply to defendants based outside the EU.

Source: **Joined Cases C-274/16, C-447/16 and C-448/16** • *flightright GmbH v Air Nostrum, Líneas Aéreas del Mediterráneo SA, Roland Becker v Hainan Airlines Co. Ltd and Mohamed Barkan and Others v Air Nostrum, Líneas Aéreas del Mediterráneo SA* • CJEU, 7 March 2018

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matters relating to a contract

operating air carrier

no direct contractual relationship

Regulation 261/2004

jurisdiction

Claims by air passengers for compensation under Regulation 261/2004 against an operating air carrier (even if there is no direct contract) are considered 'matters relating to a contract' under Article 5(1)(a) of Regulation 44/2001.

Source: **Joined Cases C-274/16, C-447/16 and C-448/16** • *flightright GmbH v Air Nostrum, Líneas Aéreas del Mediterráneo SA, Roland Becker v Hainan Airlines Co. Ltd and Mohamed Barkan and Others v Air Nostrum, Líneas Aéreas del Mediterráneo SA* • CJEU, 7 March 2018

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place of performance

connecting flights

final destination

special jurisdiction

Regulation 1215/2012

For connecting flights, the 'place of performance' is the final destination (arrival of the second leg), even if the disruption occurred on the first leg operated by a different carrier.

Source: **Joined Cases C-274/16, C-447/16 and C-448/16** • *flightright GmbH v Air Nostrum, Líneas Aéreas del Mediterráneo SA, Roland Becker v Hainan Airlines Co. Ltd and Mohamed Barkan and Others v Air Nostrum, Líneas Aéreas del Mediterráneo SA* • CJEU, 7 March 2018

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centre of interests

jurisdiction

personality rights

online defamation

legal person

A legal person whose personality rights are allegedly infringed online can sue for rectification, removal of comments, and full compensation in the courts of the Member State where its centre of interests is located, even if that is not where its registered office is.

Source: **Case C-194/16** • *Bolagsupplysningen OÜ and Ingrid Ilsjan v Svensk Handel AB* • CJEU, 17 October 2017

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rectification

removal of content

jurisdiction

internet publication

personality rights

A person cannot bring an action for rectification and removal of online information before the courts of every Member State where the information is accessible.

Source: **Case C-194/16** • *Bolagsupplysningen OÜ and Ingrid Ilsjan v Svensk Handel AB* • CJEU, 17 October 2017

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recourse claim

joint and several liability

matters relating to a contract

jurisdiction

credit agreement

A recourse claim between jointly and severally liable debtors under a credit agreement is a 'matter relating to a contract' under Article 7(1) of Regulation 1215/2012.

Source: **Case C-249/16** • *Saale Kareda v Stefan Benkö* • CJEU, 15 June 2017

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credit agreement

provision of services

jurisdiction

contract classification

Article 7(1)(b)

A credit agreement between a bank and two jointly and severally liable debtors is a 'contract for the provision of services' under Article 7(1)(b) of Regulation 1215/2012.

Source: **Case C-249/16** • *Saale Kareda v Stefan Benkö* • CJEU, 15 June 2017

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place of performance

territorial jurisdiction

credit institution

recourse action

Article 7(1)(b)

For such credit agreements, the place of performance is the registered office of the credit institution, unless otherwise agreed; this determines which court has jurisdiction over recourse actions between joint debtors.

Source: **Case C-249/16** • *Saale Kareda v Stefan Benkö* • CJEU, 15 June 2017

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exclusive jurisdiction

special jurisdiction

rights in rem

contract avoidance

capacity to contract

A lawsuit to void a gift of real estate because the donor lacked capacity does not fall under the exclusive jurisdiction of the courts where the property is located (Article 24(1)), but instead under the special jurisdiction for contract matters (Article 7(1)(a)).

Source: **Case C-417/15** • *Wolfgang Schmidt v Christiane Schmidt* • CJEU, 16 November 2016

