The Foreign Element as a Jurisdictional Trigger in EU Civil Procedure: Rethinking Internationality Under Brussels I Bis

Postdoctoral researcher **Serhii KRAVTSOV**[1]
Associate professor **Viktoriia PANCHENKO**[2]
Associate professor **Iryna CHEREVATENKO**[3]

Abstract

This article reconceptualises the «foreign element» as the threshold condition triggering the application of the unified jurisdictional regime of Regulation (EU) No 1215/2012 (Brussels I bis). The objective of the study is to interrogate the conventional understanding of internationality based solely on the domicile of the parties or territorial connections, and to propose a functional taxonomy of the foreign element in EU civil procedure. The research methods employed are doctrinal, comparative, and systemic-teleological analysis of the jurisprudence of the Court of Justice of the European Union, comparative European doctrine, and the instruments of EU judicial cooperation. The results identify three principal modalities through which internationality may arise: ex voluntate, through party autonomy and jurisdiction agreements; ex post, through temporal developments after the formation of the legal relationship; and objectively, through the structure or place of performance of the obligation, including so-called «false internal cases». The implications of the study demonstrate that the foreign element operates as a procedural filter activating the Brussels regime, the free circulation of judgments, and the constitutional guarantees of effective judicial protection under Article 47 of the Charter of Fundamental Rights, thereby securing predictability and uniform application of jurisdictional rules across the Union's integrated judicial area.

Keywords: *foreign element; cross-border litigation; Brussels I bis Regulation; EU private international law; international jurisdiction; party autonomy.*

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[1] Serhii Kravtsov - Luxembourg Centre for European Law, University of Luxembourg; associate professor, Department of Civil Procedure, Arbitration and Private International Law, Yaroslav Mudryi National Law University, Kharkiv, Ukraine, https://orcid.org/0000-0002-8270-193X, serhii.kravtsov@uni.lu. **Corresponding Author.**

[2] Viktoriia Panchenko - Department of Civil Procedure, Arbitration and Private International Law, Yaroslav Mudryi National Law University, Kharkiv, Ukraine, https://orcid.org/0000-0002-9348-4547, v.v.panchenko@nlu.edu.ua.

[3] Iryna Cherevatenko - Civil Justice and Advocacy Department, Yaroslav Mudryi National Law University, Kharkiv, Ukraine, https://orcid.org/0000-0003-2937-1529, i.m.cherevatenko@nlu.edu.ua.

1. Introduction

The question of the «foreign element» in European civil procedure can no longer be approached as a simple catalogue of classical connecting factors inherited from national private international law[4]. Within the legal order of the European Union, the foreign element performs a qualitatively different function. It is not merely descriptive of a relationship extending beyond a single sovereign legal system; rather, it constitutes a structural criterion delimiting the scope of the Union's jurisdictional regime[5].

In the architecture of Brussels I bis, the foreign element operates as a threshold device. It determines whether a dispute falls within the integrated framework of jurisdictional allocation and mutual recognition of judgments, or remains governed exclusively by domestic procedural law. The significance of this transformation should not be understated. What was once a conflict-of-laws indicator has become a jurisdictional gateway[6].

Accordingly, the debate concerning the foreign element under the Brussels regime is not semantic. It is constitutional in character[7]. It concerns the outer limits of the application of EU law and, correlatively, the circumstances in which a national court is obliged to displace domestic jurisdictional rules in favour of the Union's uniform regime.

The normative architecture of Regulation (EU) No 1215/2012 discloses a discernible structural tension. Its recitals repeatedly invoke «judicial cooperation in civil matters having cross-border implications» and refer to «cross-border litigation», thereby unequivocally affirming the Regulation's transnational orientation[8]. Yet the instrument conspicuously refrains from articulating a positive definition of the international—or foreign—element that conditions its application.

This omission has not been treated in the literature as a legislative lacuna. On the contrary, it is widely understood as a deliberate drafting strategy[9]. By preserving conceptual openness, the EU legislature effectively delegated to the Court of Justice the task of elaborating an autonomous meaning of internationality — one detached from national taxonomies and capable of securing uniform interpretation and legal certainty

[4] Jürgen Basedow, *EU Private Law: Anatomy of a Growing Legal Order* (Cambridge, Antwerp, and Chicago: Intersentia, 2021); Ralf Michaels, "The Functional Method of Comparative Law," in *The Oxford Handbook of Comparative Law*, ed. Mathias Reimann and Reinhard Zimmermann (Oxford: Oxford University Press, 2006), 339–382, https://doi.org/10.1093/oxfordhb/9780199296064.013.0011.

[5] Andrew Dickinson and Eva Lein, eds., *The Brussels I Regulation Recast* (Oxford: Oxford University Press, 2015), https://doi.org/10.1093/law/9780198714286.001.0001.

[6] Richard Fentiman, *International Commercial Litigation* (Oxford: Oxford University Press, 2010).

[7] Koen Lenaerts, "The Principle of Mutual Recognition in the Area of Freedom, Security and Justice," *Yearbook of European Law* 34, no. 1 (2015): 472–479, https://doi.org/10.1093/yel/yev024.

[8] Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast), *Official Journal* L 351, 20.12.2012, 1–32 (hereinafter: Brussels I bis Regulation), https://eur-lex.europa.eu/eli/reg/2012/1215/oj.

[9] Xandra E. Kramer, "Harmonisation of Civil Procedure and the Interaction with Private International Law," in *Civil Litigation in a Globalising World*, ed. Xandra E. Kramer and Cornelis H. van Rhee (The Hague: T.M.C. Asser Press, 2012), 121–139, https://doi.org/10.1007/978-90-6704-817-0.

within the internal market[10].

That understanding finds clear expression in the leading commentary on Brussels I bis edited by Magnus and Mankowski, which describes the Regulation as the «cornerstone» of European civil procedure. The implication is doctrinally significant: if the Regulation occupies such a foundational position, the delineation of its scope cannot depend upon divergent domestic conceptions of what renders a dispute international.

In the Court's jurisprudence, therefore, the absence of a statutory definition does not create indeterminacy; it reconstitutes the international element as a category of judicial elaboration. The Court proceeds from a constant premise: the jurisdictional regime of Brussels I bis applies only where an international element is present. What is distinctive, however, is the criterion by which that element is identified. «Internationality» is not assessed primarily through the geographical dispersion of factual circumstances, but through a functional inquiry — whether the situation is capable of raising a question of international jurisdiction[11].

This functional orientation is articulated with particular clarity in the Court's more recent case law. There, the Court expressly states that an international element exists whenever the factual configuration of a dispute is capable of raising a question concerning the determination of international jurisdiction, and not merely where the parties are domiciled in different Member States. The decisive inquiry, therefore, is not whether the relationship appears geographically transnational in a descriptive sense, but whether it engages the jurisdictional logic of the Brussels regime.

Understood in this way, the foreign element operates as a genuine threshold category. It conditions entry into the Union's unified system of jurisdiction and mutual recognition. Its role is not to classify legal relationships according to traditional conflict-of-laws typologies, but to determine whether a dispute falls within the normative architecture of EU judicial cooperation. In this sense, it functions as a scope trigger: a condition of inclusion within the integrated jurisdictional order.

The consequence is that the foreign element assumes a dual dimension within EU law. It continues, at one level, to signal that a dispute transcends a single legal order. At another, more structurally significant level, it acts as a normative device delineating the boundaries of the Regulation's applicability. Through this mechanism, procedural adjudication is displaced from a purely domestic frame of reference and repositioned within an integrative one, in which judicial decisions are conceived not as territorially confined acts, but as components of a common area of justice characterised by the circulation of judgments.

Against this background, the examination of how the foreign element is defined

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[10] Vesna Lazić and Peter Mankowski, eds., *The Brussels I-bis Regulation: Interpretation and Implementation* (Cheltenham, UK: Edward Elgar Publishing, 2023), https://doi.org/10.4337/9781800370159; Narcisa Gales and Dumitrita Florea, "Fundamental Principles of Private International Law," *European Journal of Law and Public Administration* 12, no. 1 (2025): 51–60, https://doi.org/10.18662/eljpa/12.1/254.

[11] Ulrich Magnus and Peter Mankowski, eds., *Brussels Ibis Regulation: Commentary*, 2nd ed., European Commentaries on Private International Law (Köln: Verlag Dr. Otto Schmidt, 2022), https://doi.org/10.9785/9783504387594.

— both in doctrinal analysis[12] and in the jurisprudence of the Court of Justice — acquires systemic significance. The inquiry is not limited to identifying connecting factors. It concerns the construction of an autonomous concept of internationality in EU law, its relationship to the classical structures of private international law, and its capacity to mediate between competing imperatives: predictability of jurisdiction, effectiveness of judicial protection, and respect for the procedural autonomy of national legal systems.

The *problem investigated* in this study concerns the absence of a positive statutory definition of the foreign element in Regulation (EU) No 1215/2012 and the consequent need for an autonomous, jurisdiction-oriented conception capable of securing uniform application of the Brussels regime. The *novelty* of the analysis lies in moving beyond the descriptive and territorial approach prevailing in classical private international law and in proposing, on the basis of the most recent jurisprudence of the Court of Justice (in particular *Inkreal* (C-566/22, 2024), *FTI Touristik* (C-774/22, 2024), *Commerzbank* (C-296/20, 2021), and the joined cases *Parking and Interplastics* (C-267/19 and C-323/19, 2020)), a *functional taxonomy* of the foreign element articulated along three analytically distinct dimensions: volitional, temporal, and subject-matter. The *research structure* follows this taxonomy: after the introduction, Section 2 examines internationality *ex voluntate*; Section 3 addresses the temporal dimension and internationalisation *ex post*; Section 4 analyses the subject-matter dimension and the so-called «false internal cases»; Section 5 elaborates the constitutional function of the foreign element as a jurisdictional trigger delimiting the scope of Brussels I bis. The study employs *doctrinal, comparative-legal, and systemic-teleological methods*, supplemented by case-law analysis. The *proposed solution* is to conceive the foreign element not as a static descriptive feature, but as a procedural filter and integrative threshold whose operation activates the Brussels regime, the regime of mutual recognition, and the constitutional guarantees of effective judicial protection under Article 47 of the Charter of Fundamental Rights of the European Union.

Within this analytical framework, the foreign element emerges not as a marginal technical notion, but as a central category marking the boundaries of integration in European civil justice.

2. The Foreign Element *Ex Voluntate*: The Limits of Party Autonomy in Constructing the Internationality of a Dispute

Reconceptualising the foreign element as a threshold condition for the activation of the unified jurisdictional regime necessitates a shift from general conceptual exposition to a structured analytical taxonomy. If the preceding discussion

[12] Gilles Cuniberti, *Conflict of Laws: A Comparative Approach: Text and Cases*, 2nd ed. (Cheltenham, UK: Edward Elgar Publishing, 2022); Adrian Briggs, *The Conflict of Laws*, 5th ed. (Oxford: Oxford University Press, 2024), https://doi.org/10.1093/oso/9780198895527.001.0001; Justice Hayton, CCJ, "The Foreign Element," *Trusts & Trustees* 19, nos. 3–4 (2013): 280–282, https://doi.org/10.1093/tandt/ttt045; Igor B. Ilovaisky, "On the Definition of 'Foreign Element' in Private International Law and the Simplicity of Understanding the Law," *Legal Concept* 18, no. 2 (2019): 99–106, https://doi.org/10.15688/lc.jvolsu.2019.2.16.

established the systemic function of the foreign element within the architecture of European international civil procedure, the task that follows is more precise: to identify the distinct modalities through which internationality is constructed for the purposes of Regulation (EU) No 1215/2012.

The Court's jurisprudence reveals that the foreign element in EU law is not confined to a single structural pattern. Rather, it operates across three analytically distinguishable dimensions[13]. First, it may be constructed through party autonomy — where internationality arises *ex voluntate*, by virtue of a choice-of-court agreement. Secondly, it may emerge through temporal transformation — where the cross-border character materialises *ex post*, depending on developments occurring after the formation of the legal relationship. Thirdly, it may derive from the objective configuration of the obligation itself — where the subject matter or place of performance generates jurisdictional relevance independently of the parties' domiciles.

This tripartite structure demonstrates that internationality in EU law is neither exclusively personal nor exclusively territorial. Nor is it temporally fixed. It may be produced through legal design, through subsequent factual evolution, or through the substantive structure of the obligation in dispute. What unites these modalities is not their descriptive features, but their functional consequence: each is capable of engaging the jurisdictional logic of the Brussels regime and thereby triggering inclusion within the integrated system of judicial cooperation[14].

Accordingly, the analysis proceeds deliberately along these three axes. It begins with the volitional dimension — the construction of the foreign element through choice-of-court agreements — and the limits of party autonomy in defining the internationality of a dispute. It then turns to the temporal dimension, examining how internationality may arise *ex post*. Finally, it addresses the objective or subject-matter dimension, where the foreign element derives from the structure or performance of the obligation itself.

By organising the discussion in this manner, the foreign element emerges not as a contingent feature revealed through isolated case law, but as a multi-layered doctrinal construct. It is through this taxonomy that the functional character of internationality in EU law can be most clearly understood.

Within the tripartite framework outlined above, the first dimension concerns internationality constructed through party autonomy. Here, the foreign element does not arise from an objectively multi-State factual matrix, nor from subsequent developments altering the spatial configuration of the dispute[15]. Rather, it is juridically generated

[13] Lorenza Mola and Cristina Poncibò, "The Autonomous Interpretation Standard of International Uniform Private Law: A Dialogue on Methods of Interpretation from the Perspectives of Comparative Private Law and International Public Law," *European Business Law Review* 29, no. 6 (2018): 851–883.

[14] Matthias Weller, "Mutual Trust: In Search of the Future of European Union Private International Law," *Journal of Private International Law* 11, no. 1 (2015): 64–102, https://doi.org/10.1080/17441048.2015.1033203.

[15] Horatia Muir Watt, "Party Autonomy in Global Context: The Political Economy of a Self-Constituting Regime," *Japanese Yearbook of International Law* 58 (2015): 175-195; for a comparative perspective on the procedural manifestations of party autonomy, including the choice of the procedural framework governing the resolution of cross-border disputes, see Viktoriia Panchenko, Polina Kornieva, and Iryna Cherevatenko, "Procedural Law Role in the International Commercial Arbitration: Some Remarks," *Access to Justice in Eastern Europe* 4, no. 16 (2022): 187–200, https://doi.org/10.33327/AJEE-18-5.4-n000437.

through the parties' agreement to confer jurisdiction upon the courts of a Member State other than that which would otherwise appear naturally connected to the relationship.

The Court's case law confirms that internationality *ex voluntate* is neither dismissed as a juridical fiction nor embraced as an unlimited product of contractual freedom. Rather, it is treated as a structurally meaningful, yet carefully delimited, modality of cross-borderity.

In recent jurisprudence, the Court has increasingly interpreted the foreign element not as a purely objective connecting factor anchored in territory or personal status, but as a configuration capable of emerging from the autonomous will of the parties — most notably through a jurisdiction agreement under Article 25 of Regulation (EU) No 1215/2012. The foreign element, in this setting, is not discovered; it is juridically generated[16].

The judgment in *Inkreal s.r.o. v. Dúha reality s.r.o.* (C-566/22) provides a particularly lucid illustration. The dispute arose from a contract concluded between two companies domiciled in Slovakia. The contract, however, contained a clause conferring exclusive jurisdiction on the courts of the Czech Republic. No other factual element connected the transaction to that State. The question, therefore, was stark: can a dispute be characterised as cross-border where both parties are established in the same Member State and the sole «external» feature consists in their decision to designate the courts of another Member State?

The Court answered in the affirmative. It held that the existence of a foreign element may be established solely on the basis of a jurisdiction agreement designating the courts of another Member State, even where all parties are domiciled in the same State and the underlying contractual relationship displays no additional cross-border connecting factors.

This reasoning effects a notable recalibration of the concept. The definitional focus shifts from traditional factual criteria — nationality, domicile, place of performance — to a volitional parameter embedded in the procedural design of the relationship. The foreign element may thus arise not only from the objective structure of the legal relationship, but from the parties' deliberate allocation of jurisdiction within the Union's judicial space.

Three propositions follow from the Court's approach. First, internationality is not confined to objectively transnational factual constellations; it may be constructed through the exercise of party autonomy. Secondly, the designation of the courts of another Member State constitutes, in itself, a sufficient jurisdictional link to engage the Brussels regime. Thirdly, this interpretation is presented as consonant with the Regulation's foundational objectives: the promotion of predictability, the protection of legitimate expectations, and the uniform application of jurisdictional rules across the Union.

At the same time, the significance of *Inkreal* lies not merely in its outcome, but in its conceptual implication. The foreign element is understood as emerging where the

[16] Jan-Jaap Kuipers, "Party Autonomy in the Brussels I Regulation and Rome I Regulation and the European Court of Justice," *German Law Journal* 10, no. 11 (2009): 1505–1524, https://doi.org/10. 1017/ S2071832200018502.

parties' agreement establishes a procedural relationship between two Member States — one as the natural locus of the dispute, the other as the chosen forum. The cross-border dimension, in this sense, is institutional rather than geographical. What matters is not the descriptive internationality of the transaction, but the activation of jurisdictional differentiation within the Union's integrated judicial order.

Internationality *ex voluntate* thus becomes a paradigmatic example of the functional conception of the foreign element. It confirms that the threshold condition of inclusion within the Brussels regime may be satisfied by the parties' structuring of their procedural future — provided that this structuring genuinely engages the transnational system of judicial cooperation rather than merely disguising a wholly internal dispute[17].

Thus understood, the foreign element in contemporary EU law may assume not only an objective–geographical form, but also a formal–contractual dimension. Its doctrinal contours are thereby widened: internationality is no longer confined to the spatial distribution of factual elements, but may arise from the procedural architecture deliberately constructed by the parties. This development is of practical significance for courts in the Member States. It ensures that access to the Union's unified judicial area does not depend exclusively on the physical localisation of the underlying transaction, but may follow from the jurisdictional configuration embedded in the parties' agreement.

Yet the Court's position in *Inkreal* did not go unchallenged. In a separate Opinion, the Advocate General articulated a principled counter-argument. On this view, the mere inclusion of a clause designating the courts of another Member State should not, in itself, suffice to characterise the dispute as containing a foreign element within the meaning of Regulation (EU) No 1215/2012.

The core of this reasoning lies in a stricter conception of cross-borderity. The Advocate General emphasised that the voluntary designation of a forum cannot generate internationality where no objective transnational features exist. The Brussels regime, it was argued, is structurally intended to govern genuinely cross-border disputes. To permit contractual choice alone to activate its application would risk detaching the system from its foundational premise of judicial cooperation in matters having cross-border implications.

Accordingly, the foreign element, on this account, must be established by reference to objective criteria: the residence or domicile of the parties in different Member States, the place of performance of the obligation, or the locus of damage. A situation in which both parties are domiciled in the same State, but select the courts of another Member State, remains — so the argument runs — essentially internal. Internationality arises *ex facto*, not *ex voluntate*.

Behind this doctrinal disagreement lies a deeper structural concern. An expansive understanding of internationality risks blurring the boundary between national and European jurisdiction. If the foreign element can be generated solely by contractual design, access to the European judicial space becomes susceptible to what

[17] Court of Justice of the European Union, *Inkreal s.r.o. v. Dúha reality s.r.o.*, Case C-566/22, Judgment of 8 February 2024, ECLI:EU:C:2024:123, https://curia.europa.eu/juris/document/document.jsf?docid=282586.

might be termed the «contractualisation» of internationality: parties could circumvent domestic jurisdictional rules by a simple agreement, thereby transforming a wholly internal dispute into one governed by the Brussels regime.

Such an outcome, the separate Opinion suggests, would effectively delegate to private actors the power to define the scope of application of EU law. This would sit uneasily with the principle of legal certainty and with the structured allocation of competences between the Union and the Member States. The further argument that the foreign element should be assessed at the moment of the contract's conclusion — rather than at the stage of litigation — reinforces the insistence on its objective and pre-existing character.

The Advocate General's conclusion was therefore unequivocal: Article 25 cannot operate as a self-standing generator of internationality where no other transnational features are present. To accept otherwise would, in this view, compromise the coherence of the EU system of jurisdiction.

The tension between the majority judgment and the separate Opinion reveals that internationality *ex voluntate* is not merely a technical question of interpretation. It exposes the conceptual fault line between two models of the foreign element: one functional and integrative, oriented towards activating the Union's jurisdictional framework wherever a procedural link between Member States is created; the other structural and objective, insisting that cross-borderity must precede, rather than result from, contractual design.

This debate provides a critical vantage point from which to assess the limits of the autonomous conception of the foreign element. It compels a clearer distinction between its subjective and objective dimensions and situates the discussion within the broader constitutional logic of EU judicial cooperation.

3. The Temporal Dimension of the Foreign Element: Internationalisation *Ex Post*

If the volitional dimension demonstrates that internationality may be constructed through juridical design, the temporal dimension reveals a further and equally significant development: the foreign element in EU law is not necessarily fixed at the moment when the substantive legal relationship comes into existence. It may crystallise later, at the procedural stage.

This marks a clear departure from the classical premises of private international law. Traditionally, the foreign element was identified at the time of contract formation or at the moment when the obligation arose[18]. Internationality was treated as an inherent attribute of the relationship — either present from the outset or absent altogether. By contrast, the contemporary jurisprudence of the Court of Justice adopts a more dynamic conception[19]. The relevant inquiry is not confined to the historical configuration of the

[18] Lawrence Collins, Christopher G. J. Morse, and John D. McClean, eds., *Dicey, Morris & Collins on the Conflict of Laws*, 15th ed., vol. 1 (London: Sweet & Maxwell, 2012), 5–6.

[19] Ulrich Magnus and Peter Mankowski, eds., *European Commentaries on Private International Law: Brussels IIbis Regulation—Commentary*, vol. 4 (Köln: Verlag Dr. Otto Schmidt, 2017), https://doi.org/10.9785/9783504385606.

transaction; it extends to the factual constellation existing at the moment when proceedings are instituted.

In this model, internationality ceases to be a static descriptive characteristic and becomes a functional procedural category. The foreign element may arise *ex post*, that is, after the original substantive link between the parties has been formed. What matters is whether, at the stage of litigation, the dispute engages the jurisdictional framework of the Union or of a convention forming part of its judicial cooperation system.

The judgment in *Commerzbank AG v. E.O.* offers a particularly clear illustration. The case concerned the interpretation of Article 15(1)(c) of the Lugano II Convention (2007) in a consumer context. The central issue was whether a contract initially concluded between parties domiciled in the same State could later acquire a cross-border character when the consumer relocated to another State before proceedings were brought.

The Court answered this question affirmatively. It held that the presence of a foreign element does not depend exclusively on the situation existing at the time of contract formation. Even if both parties were domiciled in the same State at that stage, the subsequent relocation of the consumer to another contracting State may suffice to introduce the requisite international dimension. The decisive factor is the consumer's place of residence at the moment the court is seised[20].

This temporal reorientation has wide-ranging implications. It demonstrates that the cross-border character of a dispute is not necessarily an immutable feature of the underlying legal relationship. It may emerge, dissolve, or shift in response to changes in the parties' personal circumstances — particularly residence or domicile. Internationality, in this configuration, becomes a dynamic and procedurally contingent category, evaluated by reference to the situation at the moment when the litigation arises rather than at the moment of contract formation[21].

The Court's reasoning thus consolidates a procedurally oriented understanding of the foreign element. The jurisdictional regime of the Union — and, by extension, of associated instruments such as the Lugano II Convention — operates by reference to the configuration of the dispute as it crystallises at the litigation stage[22]. This avoids the rigidity of a purely structural test, which would freeze the international or domestic character of the relationship at the moment of its formation, and aligns the determination of jurisdiction with the actual procedural reality faced by the court.

The temporal dimension of the foreign element, therefore, captures the responsiveness of EU jurisdictional law to factual evolution. The Brussels and Lugano regimes are not designed as static instruments tied to the historical genesis of legal relationships. They are oriented towards the present jurisdictional configuration of the dispute and towards the integrative effects produced by the application of the Union's

[20] Paul Beaumont, Mihail Danov, Katarina Trimmings, and Burcu Yüksel, eds., *Cross-Border Litigation in Europe* (Oxford: Hart Publishing, 2017), 274–276, https://doi.org/10.5040/9781782256793.
[21] Adrian Briggs, *Civil Jurisdiction and Judgments*, 8th ed. (London: Informa Law from Routledge, 2025), https://doi.org/10.4324/9781003480327.
[22] Court of Justice of the European Union, *Commerzbank AG v. E.O.*, Case C-296/20, Judgment of 9 September 2021, ECLI:EU:C:2021:784, https://curia.europa.eu/juris/document/document.jsf?docid=246786.

judicial cooperation framework.

In this sense, the foreign element *ex post* embodies a structural choice in favour of practical effectiveness[23]. It enables the Union's jurisdictional regime to engage with relationships that, although initially internal, have acquired a transnational character through the autonomous decisions of one or both parties — particularly through cross-border mobility within the internal market. This responsiveness is not a deviation from the system; it is integral to it. The free movement of persons, services, and capital presupposes a jurisdictional regime sensitive to subsequent transformations of the spatial configuration of legal relationships.

4. The Subject-Matter Dimension: Internationality Through the Structure of the Obligation and «False Internal Cases»

The third dimension of the foreign element shifts the analytical focus from the parties to the obligation itself. Here, internationality arises neither from the parties' agreement nor from subsequent factual transformations, but from the objective configuration of the obligation in dispute — its subject matter, its place of performance, or the locus of the event giving rise to the claim[24].

This dimension is most clearly articulated in the recent judgment in *JX v. FTI Touristik GmbH* (C-774/22). The Court was confronted with a dispute between a German consumer and a German tour operator concerning a package travel contract whose performance — the holiday itself — was to take place in another State. Both parties shared a common domicile in Germany; the only transnational element resided in the destination of the trip. The question, therefore, was whether such a configuration could constitute a foreign element capable of engaging Regulation No. 1215/2012[25].

This reasoning confirms that the foreign element in EU law is not reducible to the nationality or domicile of the litigants[26]. It may be rooted in the place of performance, in the locus of the harmful event, or in any other substantive feature that renders the dispute potentially transnational in its jurisdictional implications. What matters is whether the situation, viewed objectively, may engage the allocation of jurisdiction within the Union's integrated judicial system.

The subject-matter dimension thus completes the threefold taxonomy of internationality. It demonstrates that the foreign element may be personal, volitional, temporal, or objective in character. In each instance, however, its decisive function remains constant: to identify whether the dispute belongs within the sphere of judicial

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[23] Bianca Scraback, "The International Element Requirement for Consumer Contract Jurisdiction in the Brussels Ia Regulation," *Journal of Private International Law* 21, no. 3 (2025): 550–570, https://doi.org/10.1080/17441048.2025.2589587.

[24] Jasper Krommendijk, "'Wide Open and Unguarded Stand Our Gates': The CJEU and References for a Preliminary Ruling in Purely Internal Situations," *German Law Journal* 18, no. 6 (2017): 1359–1394, https://doi.org/10.1017/S2071832200022501.

[25] Richard Fentiman, *International Commercial Litigation*, 2nd ed. (Oxford: Oxford University Press, 2015), https://doi.org/10.1093/law/9780198712916.001.0001.

[26] Court of Justice of the European Union, *Handelskwekerij G.J. Bier BV v. Mines de Potasse d'Alsace SA*, Case 21/76, Judgment of 30 November 1976, ECLI:EU:C:1976:166.

cooperation and the unified regime of jurisdiction established by EU law[27]. This development is not a matter of rhetorical refinement. In substance, the Court displaces the traditional static inquiry — whether foreignness is embedded in the structure of the legal relationship — with a functional test: whether the circumstances of the dispute are such as to require the activation of the mechanism for determining international jurisdiction. The decisive consideration is thus not the mere presence of a foreign factual element, but whether the situation is capable of generating a potential plurality of fora or of implicating another legal order in the assessment of jurisdiction.

The tension exposed in the reasoning of the referring court, and reflected in parts of the German jurisprudence, centres on the distinction between what may be termed a «normative» and a «purely substantive» international element. On this view, the travel destination constitutes no more than a factual aspect of contractual performance. It does not, in itself, create a genuine conflict of jurisdictions within the Union and therefore should not suffice to trigger the application of Regulation No 1215/2012. To accept otherwise, it is argued, would risk the artificial «internationalisation» of essentially internal contracts through the simple designation of a foreign place of performance.

The Court of Justice does not dismiss concerns about predictability or the need for strict interpretation of exceptional jurisdictional rules. Instead, it reframes the definitional threshold. Within the logic of the Regulation, internationality exists where the dispute concerns contractual obligations to be performed in another Member State or in a third State, because such a circumstance may objectively necessitate the determination of international jurisdiction. The foreign element, in this sense, is not decorative, incidental, or contingent upon the personal status of the parties. It is structurally linked to the place where a substantial part of the contractual purpose is to be realised and where the parties' anticipated performance unfolds.

The particular significance of the judgment lies in the Court's articulation of an operational criterion. It does not merely concede that internationality may arise from the subject matter of the dispute; it insists that the existence of the foreign element must be readily ascertainable by the court called upon to determine jurisdiction. The assessment must be possible without entering into the merits. The travel destination constitutes a clear and objectively verifiable factual parameter. It enables the court to identify, at the outset, whether the dispute falls within the scope of the unified jurisdictional regime, thereby enhancing legal certainty and foreseeability for the parties.

In this way, the Court consolidates a procedural conception of the foreign element: it must be sufficiently concrete to function as a practical jurisdictional filter, yet sufficiently principled to prevent arbitrary or artificial expansions of the Regulation's scope.

This reasoning confirms that the Court does not conceptualise the foreign element as a refined doctrinal taxonomy, but as a procedural filter capable of being

[27] Court of Justice of the European Union (Second Chamber), *JX v. FTI Touristik GmbH*, Case C-774/22, Judgment of 29 July 2024, ECLI:EU:C:2024:646, https://curia.europa.eu/juris/document/document.jsf?docid=288841.

applied *ex ante*. Its function is not to measure the intensity of a foreign connection through a nuanced balancing exercise. Rather, it is to provide a clear and operational threshold. It is sufficient that, on the basis of the formal parameters of the dispute, the court can objectively ascertain the potential jurisdictional relevance of a foreign factor. In this respect, the foreign element becomes an instrument of legal certainty: it must be identifiable without recourse to an elaborate inquiry into the merits or into the «centre of gravity» of the relationship.

Within the consumer chapter of the Regulation, the Court introduces an additional and significant clarification. Article 18(1) expressly formulates the jurisdictional rule in favour of the consumer «irrespective of the domicile of the other party». The Court treats this legislative choice as deliberate and normatively meaningful. It indicates that the consumer jurisdiction regime is designed to operate even where the professional counterparty is domiciled in the same Member State as the consumer.

The consequence is clear: in consumer disputes, the personal foreignness of the other party is not a precondition for the application of the protective rule. The foreign element may instead be derived from objective aspects of performance or from the factual configuration giving rise to the dispute[28]. In this way, the Court effectively legitimises the category of «false internal cases» as a genuine segment of the Regulation's scope. Internationality is ensured not through divergent domiciles, but through the structural features of the obligation or the event at issue.

The culmination of this line of reasoning is the conclusion that a dispute arising from a travel contract falls within the scope of Regulation No 1215/2012 even where both parties share a common domicile, provided that the travel destination lies abroad. At this point, the conceptual axis of analysis is definitively shifted. The question of the foreign element is removed from the plane of formal transnationality of the parties and relocated to that of jurisdictional relevance inherent in the factual configuration of the dispute.

Importantly, the Court does not conflate this threshold inquiry with the separate requirement that derogating or exceptional jurisdictional rules be interpreted strictly. The existence of an international element, as a condition for the Regulation's applicability, must be assessed uniformly and independently of whether the specific rule invoked is general or exceptional in character. In doing so, the Court corrects a recurrent analytical error in practice: the tendency to equate strict interpretation with a restrictive delimitation of scope achieved through the artificial denial of internationality.

In sum, the judgment crystallises a significant doctrinal development within the Brussels I bis system. The foreign element is not reducible to the parties' differing domiciles. It exists wherever the dispute objectively raises a question of international jurisdiction, including situations in which contractual obligations are to be performed in another Member State or in a third State. This yields a procedurally oriented conception of internationality: one that ensures clarity and ease of verification for the court, while preventing the «nationalisation» of disputes solely on the basis of a shared

[28] Court of Justice of the European Union, *Color Drack GmbH v. Lexx International Vertriebs GmbH*, Case C-386/05, Judgment of 3 May 2007, ECLI:EU:C:2007:262.

domicile where the factual centre of performance or of the relevant event extends beyond the forum State and potentially implicates other jurisdictional spheres.

5. The Foreign Element as a Jurisdictional Trigger: Delimiting the Scope of Brussels I bis

The institutional significance of the foreign element extends beyond the internal architecture of jurisdictional allocation. It performs a constitutional function within the Union's system of judicial cooperation. The presence of an international element does not merely determine which head of jurisdiction applies; it determines whether EU law is engaged at all[29]. In this respect, the foreign element operates as a gateway to the EU legal order.

Once established, it may generate a sufficient «connection with EU law» to activate the preliminary reference procedure under Article 267 TFEU and to subject national procedural mechanisms to review in light of the fundamental principles of the Union. At this level, the foreign element ceases to be a descriptive feature of the dispute and assumes the character of a procedural trigger of integrative competence[30]. It marks the point at which a formally national dispute enters the sphere of supranational scrutiny.

This broader dimension becomes particularly visible in Case C-267/19. There, the question of the foreign element was framed not only as an issue concerning the scope of Regulation No. 1215/2012, but also as one bearing directly on the Court's own jurisdiction in the preliminary ruling procedure. The reasoning proceeds in a structured sequence. The applicability of the Regulation depends on two cumulative conditions: first, the dispute must fall within its substantive scope as a civil or commercial matter under Article 1(1); secondly, it must contain an «external element» constituting the minimal indicator of cross-border character. Where both conditions are satisfied, the Regulation applies; where the Regulation applies, a connection with EU law arises; and where such a connection exists, the Court's interpretative jurisdiction is engaged.

The foreign element thus functions as the hinge connecting national proceedings to the Union's judicial order. It activates the regime of mutual recognition and the free circulation of judgments, and, by extension, the possibility of reviewing national procedural arrangements against the standards of EU law.

In Case C-267/19, the external element was straightforward: the debtor had its registered office in Slovenia, while the proceedings were initiated elsewhere. The cross-border dimension was therefore evident. By contrast, Case C-323/19 presented a more nuanced configuration. There, the creditor was established in another Member State,

[29] Court of Justice of the European Union, *Hypoteční banka a.s. v. Udo Mike Lindner*, Case C-327/10, Judgment of 17 November 2011, ECLI:EU:C:2011:745. On the broader doctrinal context in which European integration reconfigures the traditional architecture of State sovereignty — and, by extension, the constitutional perimeter of national jurisdictional regimes — see Ivan Yakoviyk, Yevhen Bilousov, and Kateryna Yefremova, "European Integration as a Challenge for the Implementation of State Economic Sovereignty," *Access to Justice in Eastern Europe* 3, no. 15 (2022): 8–18, https://doi.org/10.33327/AJEE-18-5.2-a000330.

[30] Burkhard Hess, *Europäisches Zivilprozessrecht* [*European Civil Procedure Law*] (Berlin and Boston: De Gruyter, 2021), https://doi.org/10.1515/9783110715156.

whereas the debtor and the objective elements of the dispute were, at least prima facie, concentrated in Croatia. This asymmetry prompted the European Commission to question whether the mere foreign status of the applicant sufficed to bring the case within the scope of Regulation No 1215/2012.

The underlying issue was methodological and has long been reflected in academic debate. In the literature on European private international law, the cross-border element has been conceptualised in two competing ways. One strand of doctrine tends to associate internationality with the foreign position of the defendant or with the objective centre of gravity of the legal relationship, thereby favouring a symmetrical or defendant-oriented assessment of cross-borderity[31]. Another approach, developed particularly in the context of the Brussels regime, conceives the foreign element as structurally neutral, satisfied wherever the legal constellation connects parties established in different Member States, irrespective of procedural posture[32].

Against this doctrinal background, the question arises whether the foreign element is to be assessed symmetrically — requiring that the defendant or the objective centre of gravity be situated abroad — or whether it is indifferent to procedural roles and satisfied whenever at least one party is domiciled or established in another Member State. The Court's subsequent reasoning in Cases C-267/19 and C-323/19 must be read as an implicit resolution of this methodological controversy.

Accordingly, the presence of a party domiciled or established in another Member State is sufficient to introduce the requisite external element, irrespective of whether that party appears as claimant or defendant. What matters is the objective coexistence of at least two jurisdictional spheres within the same legal constellation. The foreign element, in this configuration, is not tied to the forum's perspective nor to the procedural posture of the parties. It is defined by the structural possibility that the dispute may generate transnational effects within the Union's integrated system of recognition and enforcement.

Through this line of reasoning, the Court consolidates the conception of the foreign element as a jurisdictional trigger in the strict sense. It is the minimal threshold that transforms a national dispute into one governed by the logic of judicial cooperation and, consequently, subject to the constitutional discipline of EU law.

At this juncture, the definitional problem reveals its full doctrinal weight. Is the foreign element a symmetrical criterion — one that requires the foreignness of the party against whom proceedings are directed — or is it indifferent to procedural posture, satisfied wherever the legal relationship connects actors established in different States? Put differently, does internationality depend upon the external position of the defendant, or does it arise from the structural coexistence of multiple jurisdictional spaces within

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[31] Thomas Rauscher, ed., *Europäisches Zivilprozess- und Kollisionsrecht: EuZPR/EuIPR, Kommentar, Band III: Rom I-VO, Rom II-VO* [*European Civil Procedure and Conflict of Laws: Commentary, Volume III: Rome I and Rome II Regulations*], 4th ed. (Köln: Verlag Dr. Otto Schmidt, 2016).

[32] Andrew Dickinson, *The Proposal for a Regulation of the European Parliament and of the Council on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters (Recast) ("Brussels I bis" Regulation)* (Brussels: European Parliament, September 2011), Sydney Law School Research Paper no. 11/58, https://ssrn.com/abstract=1930712.

a single dispute?[33]

The Court's response decisively rejects a role-based conception. By invoking its established case law on the «respective domiciles of the parties», it underscores that cross-borderity is not to be assessed through the directional vector of claimant and defendant, creditor and debtor. Rather, the relevant inquiry concerns the relational juxtaposition of at least two jurisdictional spheres. The foreign element is constituted by this coexistence, not by the procedural alignment of the parties.

This reasoning marks a significant methodological departure from certain strands of national doctrine, where the foreign element has often been intuitively associated with the presence of a foreign defendant or with the prospect of extraterritorial enforcement. Within the framework of EU judicial cooperation, however, such asymmetries are immaterial. It is sufficient that at least one party is domiciled or established in a Member State other than that of the court seised. The international dimension resides in the objective distribution of legal actors across jurisdictional spaces, not in their procedural roles.

Notably, Regulation No. 1215/2012 does not contain an explicit definition of «cross-border litigation». Faced with this silence, the Court adopts a systemic interpretative technique. It draws upon the definition of a «cross-border case» contained in Regulation No 1896/2006 on the European Order for Payment, which characterises such a case as one in which at least one party is domiciled or habitually resident in a Member State other than that of the court seised.

The importance of this move lies not merely in the act of interpretative borrowing, but in the principle it embodies. Concepts operating within the same normative field — judicial cooperation in civil matters with cross-border implications — must be interpreted coherently and harmoniously. The foreign element thus acquires the status of an autonomous concept of EU law. Its content is not determined by national understandings of internationality, but by the teleology of mutual recognition and the structural logic of the Union's integrated judicial area.

In this way, the Court consolidates a uniform threshold of cross-borderity across the instruments of judicial cooperation. The foreign element becomes a minimal but decisive connecting factor: once established, it situates the dispute within the sphere of EU law and subjects it to the discipline of the Brussels regime and its constitutional framework[34].

This interpretative stance is not merely of theoretical interest; it carries concrete procedural consequences. In substance, the Court identifies a minimal threshold of cross-border character. The mere fact that the parties are domiciled in different Member States within the Union suffices to establish an «international element» for the purposes of Regulation No. 1215/2012. This holds true even where the subject matter of the claim, the place of performance, the provision of services, and the procedural context — such as a national enforcement stage—are formally concentrated within a single

[33] Xandra E. Kramer, "Cross-Border Enforcement and the Brussels I-Bis Regulation: Towards a New Balance between Mutual Trust and National Control over Fundamental Rights," *Netherlands International Law Review* 60, no. 3 (2013): 343–373, https://doi.org/10.1017/S0165070X12001295.

[34] Court of Justice of the European Union, *Parking d.o.o. v. SAWAL d.o.o.* and *Interplastics s.r.o. v. Letifico d.o.o.*, Joined Cases C-267/19 and C-323/19, Judgment of 7 May 2020, ECLI:EU:C:2020:351.

State.

In this configuration, the foreign element does not function as a composite, multifactorial assessment requiring a search for the «centre of gravity» of the legal relationship. It operates instead as a binary indicator: either there exists an intersection of jurisdictional spheres through a personal connecting factor, or there does not. Once that intersection is present, the dispute is brought within the scope of the Brussels regime. The threshold is minimal, but decisive.

A further and more subtle dimension concerns the capacity of the foreign element to draw even preliminary or seemingly internal stages of national procedure into the sphere of EU law. The Court articulates a clear chain of reasoning. Where objections are lodged against a notarial writ of execution and the matter proceeds before a national court which will ultimately issue decisions capable of recognition and enforcement in other Member States, the applicability of Regulation No. 1215/2012 becomes the relevant connecting factor. That applicability, in turn, establishes the requisite link with EU law to justify the Court of Justice's jurisdiction under the preliminary ruling procedure.

The foreign element thus performs a bridging function. It connects a procedural segment that appears, at first glance, to be purely domestic — the notarial issuance of an enforceable instrument — to its potential supranational consequences. These consequences include the free circulation of judgments, the applicability of standards of effective judicial protection under Article 47 of the Charter, and the principle of non-discrimination within the internal market.

In this way, the foreign element does not merely determine the allocation of jurisdiction. It delineates the constitutional perimeter within which national procedural mechanisms may be scrutinised under EU law. Once the minimal cross-border threshold is crossed, even preliminary national acts may fall within the normative orbit of the Union, insofar as they are capable of producing effects within the integrated judicial space.

This logic also clarifies why the Court affirms its jurisdiction to review the compatibility of national legislation with the fundamental principles of EU law — most notably Article 18 TFEU and Article 47 of the Charter — even where the referring court formulates its question, at least in part, by reference to Article 6(1) ECHR. The decisive element is not the formal invocation of the Convention, but the structural fact that the Member State is acting within the scope of EU law[35]. Once Regulation No. 1215/2012 is applicable, the national authorities are «implementing EU law» within the meaning of Article 51(1) of the Charter.

In this configuration, the foreign element performs the initial triggering function: it renders the Regulation applicable. The applicability of the Regulation, in turn, establishes the requisite link to EU law that brings the Charter and the principle of non-discrimination within the ambit of judicial review. The analytical sequence is therefore cumulative and tightly structured. The external element activates the Brussels regime; the Brussels regime situates the dispute within EU law; and the engagement of

[35] Court of Justice of the European Union, *Åklagaren v. Hans Åkerberg Fransson*, Case C-617/10, Judgment of 26 February 2013, ECLI:EU:C:2013:105.

EU law subjects national procedural mechanisms to constitutional scrutiny at Union level[36].

The resulting construction is rigorous. Once an international element has been identified in the autonomous sense of EU law, even procedural steps that appear domestically confined — such as preliminary enforcement measures — may be assessed in light of their potential impact on the subsequent recognition and enforcement of judgments in other Member States. It is sufficient that the national mechanism forms part of a procedural continuum capable of producing cross-border effects. The scrutiny is not limited to final judgments; it extends to earlier stages insofar as they are structurally linked to the free circulation of decisions.

At a deeper level, the reasoning exposes a tension between formalism and functionalism in the definition of the foreign element[37]. On a formal plane, the Court relies on a clear and easily ascertainable personal criterion, domicile, thus promoting predictability and uniform application across the Union. On a functional plane, however, the analysis is guided by the teleology of judicial cooperation. The decisive question is not how «international» the factual matrix appears in descriptive terms, but whether the dispute is capable of generating cross-border effects through the mechanism of mutual recognition.

This explains why the Commission's concern regarding «one-sided foreignness» — that is, a situation in which only the applicant is established in another Member State — is ultimately rejected. For the purposes of EU judicial cooperation, the involvement of a party from another Member State is sufficient to introduce jurisdictional differentiation and to create the potential for transnational consequences, irrespective of procedural posture. The foreign element is thus defined not by factual geography alone, but by the coexistence of distinct jurisdictional spheres within a single legal constellation.

In essence, the judgment crystallises a conceptual shift. Internationality in EU judicial cooperation is not measured by the degree of external factual dispersion. It is defined by jurisdictional differentiation between the parties, capable of activating the regime of mutual recognition and the supranational guarantees of effective judicial protection.

6. Conclusions

The analysis undertaken in this study confirms that, within EU law, the «foreign element» can no longer be understood as a merely technical indicator of transnationality in the traditional conflict-of-laws sense. It has evolved into a structural criterion delimiting the scope of the Union's unified jurisdictional regime. Within the architecture of Brussels I bis, it operates as a threshold category: it determines whether

[36] Koen Lenaerts and José A. Gutiérrez-Fons, "The Place of the Charter in the EU Constitutional Edifice," in *The EU Charter of Fundamental Rights: A Commentary*, ed. Steve Peers, Tamara Hervey, Jeff Kenner, and Angela Ward (Oxford: Hart Publishing, 2014), 1559–1593.

[37] Alex Mills, *The Confluence of Public and Private International Law: Justice, Pluralism and Subsidiarity in the International Constitutional Ordering of Private Law* (Cambridge: Cambridge University Press, 2009), https://doi.org/10.1017/CBO9780511576058.

a dispute falls within the sphere of judicial cooperation and is thereby integrated into the system of mutual recognition and free circulation of judgments. Its function is not primarily to register geographical foreignness, but to identify the jurisdictional relevance of a dispute for the EU legal order.

The jurisprudence of the Court of Justice discloses the consolidation of an autonomous and functional conception of internationality. The foreign element is recognised not only where classical objective connecting factors are present, but wherever the situation is capable of generating a question of international jurisdiction or of producing cross-border effects within the Union's judicial space. This development unfolds along three analytically distinct axes: the volitional dimension, in which internationality may arise through party autonomy; the temporal dimension, in which it may emerge *ex post* at the procedural stage; and the subject-matter dimension, in which it is derived from the objective configuration of performance or of the event underlying the dispute. In each of these configurations, what proves decisive is not the original territorial localisation of the legal relationship, but its potential integrative significance within the system of judicial cooperation.

At the same time, the expansion of the concept cannot be without limits. The logic of judicial cooperation presupposes that the foreign element reflect a genuine jurisdictional differentiation between legal orders, rather than a purely formal or artificial construction. The challenge lies in preserving a principled boundary between internal and cross-border disputes while avoiding an unduly restrictive approach that would undermine the effectiveness of the unified regime. A balanced model emerges from the Court's case law: objective criteria — such as domicile or place of performance — are combined with a functional assessment of the potential for cross-border consequences. This synthesis secures both predictability and coherence without transforming the threshold of internationality into an open-ended gateway.

In contemporary European civil procedure, the foreign element thus appears as a central instrument of systemic coordination. It delineates the reach of EU law, activates the mechanisms of mutual recognition, and anchors national procedural action within the constitutional framework of the Union. Its transformation from a static conflict-of-laws indicator into a procedural trigger of integrative competence reflects a deeper reconfiguration of the very concept of internationality in EU law — one oriented not towards territorial dispersion as such, but towards the structured interaction of jurisdictional spheres within a common judicial area. The results obtained may serve as a basis for further comparative-legal research, as well as for the systemic refinement of national procedural rules of those Member States and candidate States, including Ukraine, whose jurisdictional regimes are progressively aligning with the standards of EU judicial cooperation in civil matters[38].

[38] On Ukraine's structured progress toward integration into the European area of justice — through the alignment of judicial cooperation, mutual recognition of foreign judgments, and harmonisation of legal frameworks with EU standards — see Iryna Izarova, "About Issue 4 of 2024 and Ukraine's Progress toward EU Integration," *Access to Justice in Eastern Europe* 7, no. 4 (2024): 6–10, https://doi.org/10.33327/AJEE-18-7.4-ed000001.

Bibliography

1. Basedow, Jürgen. *EU Private Law: Anatomy of a Growing Legal Order*. Cambridge, Antwerp, and Chicago: Intersentia, 2021.
2. Beaumont, Paul, Mihail Danov, Katarina Trimmings, and Burcu Yüksel, eds. *Cross-Border Litigation in Europe*. Oxford: Hart Publishing, 2017. https://doi.org/10.5040/9781782256793.
3. Briggs, Adrian. *Civil Jurisdiction and Judgments*. 8th ed. London: Informa Law from Routledge, 2025. https://doi.org/10.4324/9781003480327.
4. Briggs, Adrian. *The Conflict of Laws*. 5th ed. Oxford: Oxford University Press, 2024. https://doi.org/10.1093/oso/9780198895527.001.0001.
5. Collins, Lawrence, Christopher G. J. Morse, and John D. McClean, eds. *Dicey, Morris & Collins on the Conflict of Laws*. 15th ed. Vol. 1. London: Sweet & Maxwell, 2012.
6. Cuniberti, Gilles. *Conflict of Laws: A Comparative Approach: Text and Cases*. 2nd ed. Cheltenham, UK: Edward Elgar Publishing, 2022.
7. Dickinson, Andrew. *The Proposal for a Regulation of the European Parliament and of the Council on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters (Recast) ("Brussels I bis" Regulation)*. Brussels: European Parliament, September 2011. Sydney Law School Research Paper no. 11/58. https://ssrn.com/abstract=1930712.
8. Dickinson, Andrew, and Eva Lein, eds. *The Brussels I Regulation Recast*. Oxford: Oxford University Press, 2015. https://doi.org/10.1093/law/9780198714286.001.0001.
9. European Union. "Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters (Recast)." *Official Journal of the European Union* L 351 (December 20, 2012): 1–32. https://eur-lex.europa.eu/eli/reg/2012/1215/oj.
10. Fentiman, Richard. *International Commercial Litigation*. 2nd ed. Oxford: Oxford University Press, 2015. https://doi.org/10.1093/law/9780198712916.001.0001.
11. Gales, Narcisa, and Dumitrita Florea. "Fundamental Principles of Private International Law." *European Journal of Law and Public Administration* 12, no. 1 (2025): 51–60. https://doi.org/10.18662/eljpa/12.1/254.
12. Hayton, Justice, CCJ. "The Foreign Element." *Trusts & Trustees* 19, nos. 3–4 (2013): 280–282. https://doi.org/10.1093/tandt/ttt045.
13. Hess, Burkhard. *Europäisches Zivilprozessrecht* [*European Civil Procedure Law*]. Berlin and Boston: De Gruyter, 2021. https://doi.org/10.1515/9783110715156.
14. Ilovaisky, Igor B. "On the Definition of 'Foreign Element' in Private International Law and the Simplicity of Understanding the Law." *Legal Concept* 18, no. 2 (2019): 99–106. https://doi.org/10.15688/lc.jvolsu.2019.2.16.
15. Izarova, Iryna. "About Issue 4 of 2024 and Ukraine's Progress toward EU Integration." *Access to Justice in Eastern Europe* 7, no. 4 (2024): 6–10. https://doi.org/10.33327/AJEE-18-7.4-ed000001.
16. Kramer, Xandra E. "Cross-Border Enforcement and the Brussels I-Bis Regulation: Towards a New Balance between Mutual Trust and National Control over Fundamental Rights." *Netherlands International Law Review* 60, no. 3 (2013): 343–373. https://doi.org/10.1017/S0165070X12001295.
17. Kramer, Xandra E. "Harmonisation of Civil Procedure and the Interaction with Private International Law." In *Civil Litigation in a Globalising World*, edited by Xandra E. Kramer and Cornelis H. van Rhee, 121–139. The Hague: T.M.C. Asser Press, 2012.

https://doi.org/10.1007/978-90-6704-817-0.
18. Krommendijk, Jasper. "'Wide Open and Unguarded Stand Our Gates': The CJEU and References for a Preliminary Ruling in Purely Internal Situations." *German Law Journal* 18, no. 6 (2017): 1359–1394. https://doi.org/10.1017/S2071832200022501.
19. Kuipers, Jan-Jaap. "Party Autonomy in the Brussels I Regulation and Rome I Regulation and the European Court of Justice." *German Law Journal* 10, no. 11 (2009): 1505–1524. https://doi.org/10.1017/S2071832200018502.
20. Lazić, Vesna, and Peter Mankowski, eds. *The Brussels I-bis Regulation: Interpretation and Implementation*. Cheltenham, UK: Edward Elgar Publishing, 2023. https://doi.org/10.4337/9781800370159.
21. Lenaerts, Koen. "The Principle of Mutual Recognition in the Area of Freedom, Security and Justice." *Yearbook of European Law* 34, no. 1 (2015): 472–479. https://doi.org/10.1093/yel/yev024.
22. Lenaerts, Koen, and José A. Gutiérrez-Fons. "The Place of the Charter in the EU Constitutional Edifice." In *The EU Charter of Fundamental Rights: A Commentary*, edited by Steve Peers, Tamara Hervey, Jeff Kenner, and Angela Ward, 1559–1593. Oxford: Hart Publishing, 2014.
23. Magnus, Ulrich, and Peter Mankowski, eds. *Brussels Ibis Regulation: Commentary*. 2nd ed. European Commentaries on Private International Law. Köln: Verlag Dr. Otto Schmidt, 2022. https://doi.org/10.9785/9783504387594.
24. Magnus, Ulrich, and Peter Mankowski, eds. *European Commentaries on Private International Law: Brussels IIbis Regulation—Commentary*. Vol. 4. Köln: Verlag Dr. Otto Schmidt, 2017. https://doi.org/10.9785/9783504385606.
25. Michaels, Ralf. "The Functional Method of Comparative Law." In *The Oxford Handbook of Comparative Law*, edited by Mathias Reimann and Reinhard Zimmermann, 339–382. Oxford: Oxford University Press, 2006. https://doi.org/10.1093/oxfordhb/9780199296064.013.0011.
26. Mills, Alex. *The Confluence of Public and Private International Law: Justice, Pluralism and Subsidiarity in the International Constitutional Ordering of Private Law*. Cambridge: Cambridge University Press, 2009. https://doi.org/10.1017/CBO9780511576058.
27. Mola, Lorenza, and Cristina Poncibò. "The Autonomous Interpretation Standard of International Uniform Private Law: A Dialogue on Methods of Interpretation from the Perspectives of Comparative Private Law and International Public Law." *European Business Law Review* 29, no. 6 (2018): 851–883.
28. Muir Watt, Horatia. "Party Autonomy in Global Context: The Political Economy of a Self-Constituting Regime." *Japanese Yearbook of International Law* 58 (2015): 175–195.
29. Panchenko, Viktoriia, Polina Kornieva, and Iryna Cherevatenko. "Procedural Law Role in the International Commercial Arbitration: Some Remarks." *Access to Justice in Eastern Europe* 4, no. 16 (2022): 187–200. https://doi.org/10.33327/AJEE-18-5.4-n000437.
30. Rauscher, Thomas, ed. *Europäisches Zivilprozess- und Kollisionsrecht: EuZPR/EuIPR, Kommentar, Band III: Rom I-VO, Rom II-VO* [*European Civil Procedure and Conflict of Laws: Commentary, Volume III: Rome I and Rome II Regulations*]. 4th ed. Köln: Verlag Dr. Otto Schmidt, 2016.
31. Scraback, Bianca. "The International Element Requirement for Consumer Contract Jurisdiction in the Brussels Ia Regulation." *Journal of Private International Law* 21, no. 3 (2025): 550–570. https://doi.org/10.1080/17441048.2025.2589587.

32. Weller, Matthias. “Mutual Trust: In Search of the Future of European Union Private International Law.” *Journal of Private International Law* 11, no. 1 (2015): 64–102. https://doi.org/10.1080/17441048.2015.1033203.
33. Yakoviyk, Ivan, Yevhen Bilousov, and Kateryna Yefremova. “European Integration as a Challenge for the Implementation of State Economic Sovereignty.” *Access to Justice in Eastern Europe* 3, no. 15 (2022): 8–18. https://doi.org/10.33327/AJEE-18-5.2-a000330.