Acta Universitatis Danubius
JURIDICA

Assessing the Compatibility of Brussels I Regulation with Kosovo's Private International Law

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Abstract: This paper assesses the compatibility between the Brussels I Regulation and the Kosovo Private International Law. Brussels I regulates jurisdiction and the recognition and enforcement of judgments in civil and commercial matters in the European Union. Conversely, Kosovo adds an extra level of complexity into the mix. An independent country since 2008, Kosovo has since sought European Union membership. As such, harmonization - the process of aligning national laws with EU legal and regulatory standards that Kosovo has committed to — is of utmost importance, not simply in terms of legal formalism, but also to illustrate the strategic imperative of the need to align such legislation for the purposes of advancing Kosovo on its path towards the EU. This paper provides an in-depth analysis of the current frameworks, delineating how to rectify differences and suggesting approaches for alignment and integration. It gives insight into two fundamental elements of the two legal instruments, namely, jurisdictional rules and the protection of weaker parties. The jurisdictional rules section examines the regulations basing competence on the defendant's domicile or habitual residence. It also covers related claims, counterclaims, jurisdictional anchors like the defendant's assets and provisional measures. It explicitly addresses the discrepancy between Kosovo's official recognition process and the EU's principle of automatic recognition.

Keywords: Brussels I Recast; choice-of-court agreements; lis pendens; Kosovo International Private Law

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1. Introduction

In an increasingly globalized society in which cross-jurisdictional legal challenges are often the norm, the significance of international legal frameworks to the functioning of domestic courts is tremendous. An example of such a framework is the Brussels I Regulation, a piece of legislation of the European Union that governs jurisdiction, recognition, and enforcement of judgments in civil and commercial matters between its member states. In other words, this regulation ensures that the rules of jurisdiction and rules of recognition are the same among member states in civil and commercial matters (Regulation 1215/2012). Its implications are not limited to the EU, making other countries outside the union which aim to establish similar rules draw inspiration or requirements from the law. One such country is Kosovo, a new state in Southeastern Europe. Since the 2008 declaration of independence, Kosovo has undergone a state-building process that gains momentum along several lines of development, most notably in policy-making and new institutions crafting, including the introduction of its basic Private International Law. Considering the extensive interaction of the country with the EU's member states and the country's EU perspective, the examination for compatibility with the Brussels I Regulation is relevant. At the same time, the legal framework of Kosovo stands out by certain challenges, including inconsistencies of procedures for enforcement of foreign decisions, the importance of reciprocity, and the lack of specialized administrative bodies to deal with international judicial cooperation. These challenges highlight the significance of considering not just legal compatibility but also institutional preparedness.

This paper specifically examines Regulation no. 1215/2012, which is often praised as one of the European Union's most effective legislative acts. It has carved out a European legal space, especially concerning matters of jurisdiction and the recognition of judgments. The Regulation introduces several innovations, such as extending its jurisdictional rules to entities outside the EU, and simplifying the procedure for enforcing court decisions. Specifically, dubbed as the cornerstone in European private international law, the Brussels I Regulation — or Regulation 1 bis — has served as a comprehensive guide for legal practitioners dealing with cross-border civil and commercial issues in Europe. Moreover, the Regulation has a long tradition of being interpreted and applied by the European courts, reinforcing its relevance as an instrument for judicial homogeneity and access to justice. These factors are crucial for attracting foreign investments and harmonizing laws according to European standards for a growing economy like Kosovo.

In addition, a prevailing feature of Brussels I Regulation is its express provision protecting weaker parties in contractual disputes, including consumers, employees, and particularly insured persons. The existing Private International Law of Kosovo does contain certain protections; however, it does not contain specific provisions on insurance contracts, representing a significant divergence which this paper calls for targeted amendments to fill, in order to establish consumer confidence and create procedural fairness.

Kosovo, through its Law 05/L-069, has ratified the Stabilization-Association Agreement with the EU. In this agreement, art. 6 obligates Kosovo to harmonize its laws with EU legislation. The purpose of this paper is to conduct a comparative analysis between the Brussels I Regulation and Kosovo's Private International Law. Beyond legislative harmonization, however, this paper highlights practical challenges Kosovo faces, such as the urgent need for judicial capacity-building, administrative improvements, and addressing deep-rooted cultural differences in legal practice that could impede the effective implementation of Brussels I principles. It compares lessons from newer EU member states, in particular Croatia, to derive concrete lessons of how Kosovo can overcome such implementation hurdles. This analysis aims to provide useful perspectives on the path toward Kosovo's legal alignment with the EU, by comparing the legal framework for significant projects and identifying the challenges and opportunities that harmonization of Kosovo's legislation may offer. By doing so, we engage in the larger conversation on the harmonization of law in Europe and the challenges of integrating non-EU countries into the European legal sphere. Hence, the significance of aligning Kosovo's Private International Law with the Brussels I Regulation goes beyond the accustomed domain of academic curiosity. Thus, the results and insights of this paper could become a strategic guide for the relevant stakeholders in Kosovo. Moreover, the implications obtained could contribute to better understanding of how Kosovo's legal system could be with that of the EU on the one hand, and on the other, promote the Kosovo's membership of the EU and participation in the European legal system.

By considering both the legal substance and practical constraints—including administrative capacity, judicial training, and the complex scenarios presented by family law and custody issues—this paper offers actionable recommendations. These recommendations aim not only at aligning Kosovo's legal texts with EU norms but also at ensuring effective institutional application, thereby facilitating Kosovo's broader integration into the European legal landscape.

2. Kosovo Private International Law

2.1. Overview

The Law on Private International Law, which came into effect in the Republic of Kosovo on September 21, 2022, marks an important step for Kosovo's legal system, especially considering its areas of the rule that are very important for all citizens that live in Kosovo and foreigners. The adoption of this new law was driven by Kosovo's ambitions to align its legal framework with the European Union's standards also that arises as obligations from the Stabilization Association Agreement signed with European Union which serves as a mechanism for Kosovo for integration into EU, specifically with the Rome I, II, and III Regulations, as well as the Hague Protocol.

The law purpose is to equip clear rules for determining the applicable law to private law relations with a foreign element, the competence of judicial bodies in examining these relations, and the recognition and enforcement of foreign court judgments and decisions from other states. This legislation is particularly important given Kosovo's lack of an advanced practice in this field. The new law addresses very important issues for Kosovo's large diaspora and businesses involved in international commercial relations, covering areas such as marriage, parental responsibility, adoption, inheritance, and contracts for the sale of goods, services, franchise or distribution agreements, and intellectual property rights (Kosovo, 2022).

The personification of the Law on Private International Law is a momentous and decisive moment for Kosovo, promising to regulate matters of special interest to Kosovo citizens and Kosovo businesses alike. It is awaited that this law will also advance discussion and professional treatment of private international law at both the academic level and among law enforcement actors.

2.2. Jurisdiction

Of particular importance is the jurisdictional provisions used for the adjudication of disputes involving private investments within Kosovo. At the essence of the Kosovo Private International Law's jurisdictional framework is art. 111, which draws out the general jurisdiction of Kosovo courts in contentious proceedings. Parallel to this provision, Kosovo courts have jurisdiction over disputes if the defendant is a natural person domiciled or habitually resident in Kosovo, or if the defendant is a legal entity headquartered within the country establishes a geographical criterion that is common across many international legal frameworks ensuring that entities and individuals

with substantial connections to Kosovo are subject to its legal system (Kosovo, 2022, art. 111).

Art. 112 and 113 of Kosovo's Private International Law extend the jurisdiction of Kosovo courts to more complex scenarios involving joint defendants and related claims. Art. 112 provides that Kosovo courts have jurisdiction over disputes involving multiple defendants if at least one of the defendants meets the jurisdictional criteria set out in the law. This is particularly important in cases where multiple parties are involved in investment disputes, ensuring that such disputes can be resolved in a single jurisdiction rather than across multiple legal systems (Craig & de Búrca, 2020, p. 800). Art. 113 further broadens the jurisdictional reach by allowing Kosovo courts to adjudicate related claims if they are closely connected to a claim over which the court already has jurisdiction. This provision aims to prevent contradictory rulings and promote judicial efficiency by consolidating related legal disputes within the same jurisdiction. Art. 114 further addresses the jurisdiction over counterclaims, asserting that Kosovo courts can hear counterclaims related to the original claim (Briggs, 2021, p. 74). This facilitates the comprehensive resolution of disputes within a single legal framework. Art. 115 introduces an asset-based jurisdiction, granting Kosovo courts international jurisdiction if the defendant possesses assets within the territory of Kosovo. Enabling disputes to be resolved in their entirety in one legal forum. Art. 115 establishes an asset-based jurisdiction, which allows for Kosovo courts to have international jurisdiction over a defendant if they hold an asset in the territory of Kosovo. This allows judges and judicial practice to be exercised and more effective in regards to the enforcement of the court decision if something real or monetary value is attached to the act leading to the legal proceeding in Kosovo. As for the non-contentious proceedings, art. 116 provides that the courts of Kosovo have general jurisdiction when the parties are resident or have headquarters in Kosovo. This expands the scope of the law to include other non-contentious legal issues, and strengthens the role of Kosovo's legal system in dealing with private investment matters. Last but not least, art. 117 gives Kosovo courts the authority to determine provisional and security measures, which helps safeguard the parties' rights while the dispute is being resolved. Protective orders are essential for preserving the status quo and preventing harm in advance of case adjudication.

The law of Private International Law of Kosovo, in Chapter VII, also provides an institutionalized and detailed way of recognizing foreign judicial decisions within Kosovo, similar to the Brussels I Recast Regulation (European Union, Regulation No 1215/2012) which works as a universal principle for the recognition of

international legal decisions with the Kosovo national legal system. The stage starts with a petition summarizing request for recognition and examination by the court over certain conditions. This process enables the incorporation and enforcement under certain conditions of foreign judgments on personal status and other matters within Kosovo. More specifically, the law establishes jurisdiction for recognition in the basic court and enables recourse to appeal against decisions recognition, providing a full guarantee of fair judicial process (Dickinson, 2015, p. 118). Provisional measures as well the regulated detailed procedure in addressing objections and appeals introduces Kosovo with a two-pronged approach to establish legal conditions necessary for the enforcement of judicial decisions issued from abroad, therefore ensuring legal certainty and trust among international investors and other parties involved in cross-border legal relations.

2.3. Protection of Weaker Parties

The 2022 Kosovo Private International Law enunciates (through art. 80, 147, and the emanations of art. 81) significant elements for weaker party beneficiary in a contract. This body of legislation reflects Kosovo's strong-willed dedication to protecting consumers (accepted as more vulnerable parties in commercial transactions) and employees (perceived the weaker members in every workplace relationship) from potential exploitation and for their placement with appropriate legal protections against these practices (Micklitz, Reich, Rott & Tonner, 2014, p. 1074). This research paper delves into the specific provisions, explaining how they fit within the larger field of private international law and what drives their effect on consumer and worker protection.

Art. 147 fills this protective gap by providing jurisdictional rules for disputes based on consumer contracts, thus complementing art. 80. The law provides jurisdiction for Kosovan courts to hear disputes where the consumer sues the trader, if the consumer has a domicile in Kosovo "thus granting consumers access to justice on their own doorstep and reducing some of the procedural barriers that come with litigating internationally." If a trader commences action against the consumer, relying on this Agreement which is not more favorable to that trader than would have applied if initially issued in Kosovo the Courts of Kosovo shall have exclusive jurisdiction and therefore protecting consumers from being convenient going abroad defending actions. The exceptions provided to these jurisdictional rules are meticulously designed to allow exception under specified conditions, thus preventing the core objective of consumer protection by further being dented through

it rather being ensured and rigid implementation (Beaumont & Johnston, 2017, p. 78). Beyond consumer protection, moreover, the protective dimension of the law extends specifically to individual employment contracts (Kosovo, 2022, art. 81).

2.4. Enforcement Mechanics and Administrative Role

According to Chapter VII of Kosovo's Private International Law, a foreign judgment will be recognized if the basic court finds that certain conditions are met in relation to due process, jurisdictional and propriety and compatibility with public policy. The process requires a petition to be filed for the judgment creditor, and then a judicial review occurs during which the respondent can raise objections (Kosovo, 2022). This offers a level of procedural protection, albeit one that brings Kosovo closer to the classical exequatur model.

Conversely, Brussels I Recast removed exequatur requirements in EU Member States, permitting judgments to be recognized and enforced with minimal formality (Dickinson & Lein, 2015). Brussels I Recast streamlines cross-border litigation in the EU by cutting excess administrative red tape. The result of this discrepancy is that decisions from EU Member States will generally face a more stringent scrutiny in Kosovo courts potentially hindering enforcement, which is contrary to the quick circulation of judgments intended in the EU framework, which has the ultimate goal of facilitating procedures for citizens of member states.

2.5. Reciprocity Requirement

Kosovo courts also review whether the principle of reciprocity is met before they recognize a foreign judgment, in addition to procedural safeguards and public policy concerns. Under the existing legal framework, recognition may be refused by the rendering state if it does not recognize judgments from Kosova in return. This condition, which follows from Yugoslav-era law that Kosovo inherited, is rather different from EU practice (Qerimi, 2019, pp. 84-85). While reciprocity is presumed, it is not objectionably presumed and there have been cases where courts have refused recognition on the grounds that its equivalent was not extended (Qerimi, 2019, p. 87). In contrast, the Brussels I Recast Regulation does not provide for reciprocity between EU Member States, signaling a policy of mutual trust. WCAM will need to adjust to the new alternative enforcement regime, on the one hand, and, on the other hand, as Kosovo aspires to align its policy to the principles of the Brussels I

Regulation (European Union, 2000), any necessary legal adjustments will need to be made with regard to the reciprocity clause (Qerimi, 2019, p. 89).

2.6. Administrative Bodies

At this moment in time, Kosovo does not have a dedicated "central authority" for monitoring cross-border judicial cooperation, similar to the European Judicial Network (EJN). MS: Instead, recognition petitions are handled in the ordinary courts, and the Ministry of Justice sometimes provides oversight in high-level coordination. With the prospect of EU membership on the horizon, Kosovo may wish to formalize an administrative body (or strengthen an existing unit) devoted to cross-border judgment enforcement coordination, communications with EU counterparts and data collection on the timeliness of recognition proceedings (Butt, 2024a). This approach is similar to strategies in younger EU Member States (e.g. Croatia) where centralized coordination has assisted adaptations to Brussels I Recast (Beaumont, 2013).

3. Brussels I Regulation

3.1. Overview

The Brussels I Regulation, previously known as Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters is one of the key pillars within the EU acquis communautaire, especially within judicial cooperation in civil matters (Craig & de Búrca, 2020, p. 996).

The Brussels I Regulation was originally aimed at the unification and simplification of rules relating to jurisdiction across different EU member states as well as the facilitation of recognition and enforcement of judgments. Its aim was to secure legal certainty and predictability for citizens, businesses, consumers, judges and international courts (Dickinson, 2015, p. 20). The regulation sought to simplify recognition of judgments and resolve conflicts of jurisdiction in cross-border disputes by providing clear rules as to the jurisdiction of a court of one-member state over proceedings and ensuring that any judgment issued in one-member state would be also recognized in another without the need for separate procedures (Beaumont, 2013, p. 12). The Brussels I Regulation fits in larger goals of the European integration process as well, which aimed to increase the free movement of people,

goods, services and capital by reducing legal barriers and uncertainties (Craig & de Búrca, 2020, pp. 693-694).

The history of regulation on cross-border legal issues in the EU should by no means start with the Brussels I Regulation (Hartley, 2015, p. 19). The Brussels Convention on jurisdiction and the enforcement of judgments in civil and commercial matters, implemented in 1968. The convention was originally concluded among the then six-member states of the European Economic Community (EEC) and has since been extended to all members of the European Union. Divergence however developed, as the European Union expanded, and an increasingly modern and efficient solution became necessary to deal with the combined growth of intra-EU cross-border litigation and complexity in terms of having an internal market.

The Brussels I Regulation contained several key provisions, including Rules on Jurisdiction. It established the general rule that defendants should be sued in their country of domicile, but with certain important exceptions that allowed for choice of court agreements and jurisdiction based on the nature of a particular type of disputes (e.g. contracts, torts or real property) (Van Calster, 2013, p. 25).

Recognition and Enforcement: The regulation laid down to a system of automatic recognition of judgments in other Member States, without the need for exequatur (a formal process for recognizing a foreign judgment), thereby facilitating enforcement (European Union, 2012, art. 46).

Lis Pendens and Related Actions: These rules ensured there is no parallel proceedings or conflicting judgments when the same action or related actions are before the courts of different member states (Dickinson & Lein, 2015, pp. 240-241).

Regulation (EU) No 1215/2012 of the European Parliament and Council on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters with Effect from 10 January replaces the Brussels I Regulation underwent significant reform. The Recast Regulation built upon these milestones however made a number of significant changes to streamline enforcement of judgments across the EU, including by abolishing the exequatur procedure entirely and reforming rules on jurisdiction - particularly regarding consumer and employment contracts (Dickinson & Lein, 2015, pp. 168-169).

3.2. Jurisdiction

The main and primary aim of the Regulation is to provide clear rules for determining which countries' courts have jurisdiction in cross-border civil and commercial disputes, thereby creating legal certainty on this matter and free movement of judgments.

3.2.1. General Jurisdiction

According to the Brussels 1 Regulation, the basic rule is that persons domiciled in a Member State are sued in that State regardless of nationality (art. 2). The domicile provision is essential in that it protects the accused from being hauled away to faraway legal forums where he has no prior history, thus making him susceptible to a pro-plaintiff jurisdiction that would otherwise be exluded from the court and denied a proper forum (Dickinson & Lein, 2015, p. 136).

3.2.2. Special Jurisdiction

With respect and in accordance to the special jurisdiction grounds pursuant of art. 5 and 6 apart from the general rule, allowing for alternative venues based on the nature of the dispute. For instance, in matters relating to a contract, a person may be sued in the place of performance of the obligation in question (art. 5(1)). For torts, a person may be sued in the place where the harmful event occurred or may occur (art. 5(3)). These provisions aim to align jurisdiction with the most relevant location concerning the legal dispute (Case 21/76 Mines de Potasse d'Alsace, 1976).

3.2.3. Exclusive Jurisdiction

Certain cases have exclusive jurisdiction under art. 22, regardless of the domicile of the parties. This includes, for example, matters related to rights in rem in real property or the validity of patents, trademarks, and designs registered in a Member State. These rules ensure that only the courts of the Member State concerned can decide on these matters, given their particular expertise and the localized nature of the legal issues (Case 166/73 Tessili v. Dunlop, 1976).

3.2.4. Prorogation of Jurisdiction

Parties to a contract may agree to confer jurisdiction on a court or courts of a Member State, even if neither party is domiciled in a Member State, through what is known as a jurisdiction clause (art. 23). This allows parties significant autonomy in determining the forum for their disputes, promoting legal certainty and the efficiency of commercial transactions (Case 34/82 Martin Peters, 1983).

3.2.5. Recognition and Enforcement

Under the Brussels I Regulation, judgments issued in a member state were to be recognized in all other member states without any special procedure being required (art. 33). A party seeking recognition of a judgment was not required to apply for a declaration of enforceability. Instead, the Regulation stipulated that a judgment given in one-member state should be recognized in others without the need for any procedure, thereby greatly facilitating cross-border litigation within the EU (Garvey, 2015, pp. 4-5).

For enforcement, however, a declaration of enforceability was needed in the member state where enforcement was sought (art. 38). This process, known as the "exequatur" procedure, involved a relatively simple and fast procedure where the judgment creditor applied to a court in the member state where enforcement was sought (Regulation 44/2001, 2001, art. 38(1)). The grounds for refusing recognition or enforcement were strictly limited and included public policy violation in the state where recognition was sought, cases where the judgment was given in default of appearance, or conflicts with earlier judgments (Case C-352/13 Cartel Damage Claims, 2015).

The Brussels I Regulation attempted to simplify and bring clarity to the recognition and enforcement of foreign judgments within the EU (Jenard, 1979). This provided for greater legal clarity and predictability, was conducive to the functioning of world trade on an international level and helped to advance further toward the creation of a free area of strength and justice (Case 145/86 Hoffmann v. Krieg, 1988).

The Brussels I Recast Regulation further refined the system by abolishing the exequatur procedure altogether, thus allowing judgments to circulate freely without any intermediate steps (Case 24/76 Estasis Salotti, 1976). It also introduced changes to the rules on jurisdiction, particularly in relation to consumer contracts and employment contracts, aiming to strengthen the protection of the weaker party (Alavi & Khamichonak, 2015, pp. 178-179).

3.3. Recognition of Kosovan Judgments in EU States

As Kosovo is not at the moment an EU member state, the enforcement of Kosovan judgments in various EU jurisdictions is not automatically governed by Brussels I Recast (European Commission, n.d). Rather, enforcement is generally based on Bilateral Treaties or the national laws of each EU Member State. Where states give

full recognition to Kosovo's legal persona, enforcing such agreements may be relatively simple if local rules of private international law allow for a reciprocal approach. But in contexts in which the recognition of Kosovo's sovereignty is disputed, even greater challenges come into play that may serve to dilute the near-automatic recognition Brussels I hopes to engender across Member States (Qerimi, 2019, pp. 85-86). The case highlights the need for continued diplomatic and legal efforts to ensure Kosovan judgments circulate in the EU with minimum friction.

4. Jurisdiction

4.1. Jurisdictional Rules Based on the Domicile or Habitual Residence of the Defendant

4.1.1. Kosovo Private International Law

The legislation, namely art. 111 of Kosovo Private International Law, covers the court's territorial competence of the dispute. It involves the criteria under which a dispute is competently cognizable before the courts of the Republic of Kosovo. Article enshrines within the Kosovo courts' territorial competence, provided that the defendant is a natural person or a legal entity with its registered office or main place of business within the Republic of Kosovo. The article excludes matters emanating with the inheritance.

This provision aims to ensure that legal disputes involving private investments in Kosovo involving local entities or individuals can be adjudicated within the national legal system. These local jurisdiction over disputes gives investors and parties who conclude legal contracts and transactions in Kosovo, a legal certainty and predictability. By defining the jurisdiction based on domicile, habitual residence, or the location of the headquarters, PIL aims to streamline the resolution of legal disputes by ensuring they are handled within the local legal framework, thereby facilitating a more efficient legal process for private investment disputes.

4.1.2. Brussels I Regulation

For the Brussels I Regulation, the relevant article concerning jurisdiction over natural persons domiciled or habitually resident in a member state emphasizes that persons domiciled in a member state shall, whatever their nationality, be sued in the courts of that member state. The Regulation aims to provide clarity and predictability concerning jurisdictional matters within the EU, ensuring that defendants know where they may be sued and plaintiffs understand where they can bring a case (Case

C-261/90 Reichert v Dresdner Bank, 1992). This regulation facilitates judicial cooperation among EU member states and ensures the free movement of judgments within the internal market (Case C-372/07 Hassett, 2008, pp. 26-29).

4.1.3. Synthesis

Comparing the Kosovo Private International Law with the Brussels I Regulation reveals that both legal instruments aim to provide clear jurisdictional rules based on the domicile or habitual residence of the defendant or, in the case of legal entities, their headquarters. This similarity ensures that disputes are adjudicated in a location that is logically connected to the defendant, providing a degree of fairness and predictability in legal proceedings.

4.2 Joint Defendants, Related Claims, Counterclaims, Jurisdiction Based on the Defendant's Assets, General Jurisdiction in Non-Contentious Proceedings, and the Authority to Order Provisional Measures

4.2.1. Kosovo Private International Law

Art. 112 to 117 relate to these matters:

Jurisdiction over Joint Defendants: Kosovo courts are granted jurisdiction over disputes involving multiple defendants acting as joint litigants. This jurisdiction is applicable even if the court has general jurisdiction over one of the defendants according to the law (Kosovo, 2022, art. 112).

Related Claims: If a Kosovo court is competent to decide on one of several claims, it is also competent to decide on the other claims, provided they are related to the claim over which the court has jurisdiction. Claims are considered related if they are closely connected in such a manner that it is reasonable for them to be adjudicated together, to avoid the possibility of contradictory rulings in separate proceedings (Kosovo, 2022, art. 113).

Counterclaims: The law allows for jurisdiction over counterclaims if the counterclaim is related to the original claim.

Jurisdiction Based on the Defendant's Assets: Kosovo courts have international jurisdiction if the defendant has assets within the territory of Kosovo under certain conditions, i.e. both parties enter into an agreement to submit a dispute arising or independent of such agreement is essentially connected to Kosovo, and it is

proportionate that value of asset in question was sold by claiming civil claim (Kosovo, 2022, art. 115).

General Jurisdiction in Non-Contentious Proceedings: For non-contentious proceedings, Kosovo courts are competent if the person against whom the request is made is a resident or has a habitual residence (in the case of individuals) or is headquartered (in the case of legal entities) in Kosovo (Kosovo, 2022, art. 116).

Jurisdiction to Order Provisional Measures: Kosovo courts have the authority to order temporary and security measures concerning persons or properties located in Kosovo at the time the lawsuit is filed, even if the court may not have jurisdiction over the main issue according to the law (Kosovo, 2022, art. 116).

4.2.2. Brussels I Regulation

Key aspects of the Regulation relevant to the Kosovo Private International Law are:

Jurisdiction Based on the Defendant's Assets: The Regulation lays down clear rules regarding the grounds of jurisdiction, different from traditional focus on the defendant's domicile. But it does have exception for controversy concerning property, and some aspects related to the performance of judgments due to the fact that a presentation of data location links specific evidence with a place (Case C-144/86 Gubisch Maschinenfabrik, 1987).

Non-Contentious Proceedings: The Regulation firstly deals with contentious civil and commercial matters does not expressly apply to non-contentious matters. But however, it does define the areas of jurisdiction for registry matters, wills and evidence taking (Van Calster, 2013, p. 112).

Ordering Provisional Measures: Under Brussels I Regulation, courts in EU member states have the authority to grant provisional and protective measures, even if the courts of another member state have jurisdiction over the substantive matter (Case C-115/88 Reichert et al. v Dresdner Bank, 1990).

4.2.3. Synthesis

The similarities between the Kosovo Private International Law and the Brussels I Regulation include provisions for handling multi-party disputes, related claims, and the authority to order provisional measures. Both legal frameworks aim to provide clarity and predictability regarding jurisdictional issues and to prevent contradictory rulings by allowing related claims to be heard together. Notwithstanding this, there are three specific and key differences between these two regulations which we will

explain below - namely, jurisdiction over joint defendants, related claims, and provisional measures.

4.2.4. Jurisdiction Over Joint Defendants

According to art. 112, the underlying law provides for a single jurisdiction regarding joint defendants under the Kosovo Private International Law. This includes an approach to harmonise litigation in matters where they could involve more than one defendant materially connected to a case within the territory of Kosovo. Conversely, the Brussels I Regulation, and in particular art. 6, allows proceedings to be commenced against a person domiciled in a Member State wherever any one of the defendants is domiciled although those claims are closely related. This is to prevent contact in opposite decisions between member states for defendants (Briggs, 2021, p. 294).

Of increasing importance in this regard is what may be the larger significance of this contrast when applied to international litigation involving multiple defendants from different countries. One the one hand, the type of model applied in Kosovo allows to a greater role of central case management when defendants come solely from one bed space. Indeed, case law under the Brussels I Regulation will ensure that jurisdictional-pan-European decisions may apply in the event of defendants resident in different Member States. This is how they can be compared and, in this way emphasized difference of national legal sovereignty and the necessary uniformity for cross-border EU litigation.

4.2.5. Related Claims

Art. 113 of the Kosovo Private International Law and art. 28 of the Brussels I Regulation both address the issue of related claims. In Kosovo, if claims are sufficiently interconnected, they can be heard together to avoid contradictory rulings. The Brussels I Regulation, through art. 28, allows for the stay of proceedings in cases where related actions are pending in the courts of different Member States, with a view to preventing conflicting judgments and promoting judicial harmony.

The various ways of dealing with related claims have important effects on judicial economy and the consistency and the uniformity of legal decisions. That approach could make life easier for litigants appearing in the jurisdiction of Kosovo by fostering a simpler process that is less expensive and speedier. Similarly aiming to prevent conflicting judgments and working towards a common legal culture, the Brussels I Regulation contends attention on cooperation between courts in various Member States which mirrors the EU’s aim for a unified legal system. This

discrepancy exemplifies the ambition and difficulty of matching legal procedures in jurisdictions with distinct traditions and legal systems (Dickinson & Lein, 2015, p. 210).

4.2.6. Provisional Measures

The Kosovo Private International Law, under art. 117, grants jurisdiction to order provisional measures in support of the main proceedings, regardless of the main case's jurisdiction. The Brussels I Regulation, through art. 35, also allows for the granting of provisional measures, provided such measures are available under the law of the Member State where the measures are sought. Furthermore, the fact that both regulations make the provision for provisional measures indicates the necessity of immediate legal opportunities to help the plaintiff to avoid the actual harm or enforce a possible judgment. However, while the provisions of the scope and determination of the cases in which such measures are applicable between the EU member states exist, the Regulations' provision applies only to the national-level matters in Kosovo. In other words, the regulation of the offer of provisional measures enables the EU to facilitate the mentioned measures when they apply across member states. Autonomously, Kosovo's legal system cannot provide for such measure's effects on residents in other countries (Gaillard, 2006, pp. 2-3).

5. Protection of Weaker Parties

5.1. Consumer Contracts

5.1.1. Kosovo Private International Law

The law, specifically art. 80 and 147, focuses on the protection of consumers in contractual agreements. These articles delineate the jurisdiction and applicable law for consumer contracts, emphasizing the protection of the consumer by favoring the law of the consumer's habitual residence.

Art. 80 clarifies that a contract between a consumer (a person acting outside of their trade, business, or profession) and a trader (a person acting within their trade, business, or profession) is considered a consumer contract. Importantly, it states that regardless of other provisions within the law, the competent law for these contracts is the law of the state where the consumer has their habitual residence, under two conditions: (a) the trader conducts business or professional activities in the state of the consumer's habitual residence, or (b) the trader directs their activities towards that state (or several states, including it) and the contract falls within the scope of

such activities. It also allows parties to choose a different applicable law, provided it does not deprive the consumer of the protection afforded by the mandatory provisions of the law of their habitual residence. Exceptions to these provisions include contracts for services provided exclusively outside the consumer's residence state, transport contracts (with specific exceptions), and contracts concerning real estate or rental properties, with certain exceptions for timeshare agreements (Craig & de Búrca, 2020, pp. 818-819).

Art. 147 specifies the jurisdiction for disputes arising from consumer contracts. The Kosovan courts are competent to hear disputes where the consumer sues the trader, provided the consumer is domiciled in Kosovo. This jurisdiction is exclusive when the trader is the plaintiff and the consumer the defendant, emphasizing consumer protection within the legal framework of Kosovo. Exceptions to this rule are allowed under specific conditions, such as agreements on jurisdiction made after the dispute has arisen, or agreements that enable a non-resident consumer to sue in Kosovo, or if both parties were residents or had their habitual residence in the same country at the time of contract conclusion, provided such agreement does not contradict the law of that country. The law specifically applies to contracts for the sale of goods on instalment payment terms, loan agreements repayable in instalments or other forms of credit for financing goods sales, and other cases where the contract is with a person conducting commercial or professional activities in or towards Kosovo.

5.1.2. Brussels I Regulation

The Brussels I Regulation (EU) No 1218/2012 deals with jurisdiction and the recognition and enforcement of civil and commercial judgments between European Union member states. One of the major corner stones and most important parts of this regulation is its dedication to consumer contracts, allowing consumers to sue in their own country (Craig & de Búrca, 2020, p. 1002).

The rules provide for the possibility for consumers to take legal action against traders in the courts of their country without having thus, opt-in approach has a protective character as it reduces barriers such as geographical and legal complexity that consumer might face in attempting to seek redress. The rule safeguards against consumers being placed at a disadvantage by problems regarding the competent jurisdiction, specifically in cross-national disputes within the EU (Dickinson, 2011, p. 256).

This includes capping the jurisdiction in which contracts can be enforced for consumers, so that any contract terms seeking to deprive consumers of these

protections are not enforceable. On the other hand, a consumer can sue in the domicile of his/her trader, which allows for flexibility within this protective framework.

5.1.3. Synthesis

The important aim of protecting the consumers in contractual disputes is a common objective between The Brussels I Regulation and The Kosovo Private International Law. Both provide that the consumer's residence is a critical factor in determining jurisdiction so as to protect the consumer by permitting suits where he lives and in what may be less intimidating legal settings. Plus, they limit traders from skirting that defence using contractual relationships.

These laws protect the consumer by acknowledging that in a consumer-trader relationship, power is loaded on one side and make available to the wronged customer a remedy that is significantly friendlier for the consumer. They also help promote a more transparent and clear market, which in turn encourages businesses to act fairly because their consumers have an accessible way to contest bad contract terms. These laws are relevant to businesses as they require companies to cross-reference the legal systems of their customers' jurisdictions with those of their own when engaging in transnational trade—particularly in the way that contracts are written, and disputes arbitrated.

To sum up, it is clear that the basic idea of consumer safety exists in both, Kosovo and in Brussels I Regulation as a norm. Even though they function in starkly divergent legal environments, their mission to protect consumer rights and provide equitable resolution for contract disputes echo broader global and regional movement toward the protection of consumers by lawmakers.

5.2. Employment Contracts

5.2.1. Kosovo Private International Law

The Kosovo Private International Law's specifically in art. 81 addresses the jurisdiction and applicable law for individual employment contracts. It outlines a framework ensuring that workers' protections are not undermined by the choice of law in international employment contracts. Several aspects stand out:

Choice of Law by Parties: The first point allows contracting parties to choose the applicable law for their employment contract as per art. 75 of the same law.

However, this choice cannot deprive the worker of the protection afforded by mandatory norms of the law that would have been applicable in the absence of choice. This ensures that workers retain certain inalienable rights and protections regardless of the chosen jurisdiction (Briggs, 2021, p. 325).

Absence of Choice: The domestic law concerned of the country from or in which the employee habitually performs his work. As the law most closely connected with the employment relationship, this provision is designed to promote fairness and predictability. Temporary work in another country is also not relevant to the habitual place of work (Craig & de Búrca, 2020, p. 886).

Fallback Provision: If the above criteria do not make it possible to determine the applicable law, the law of the country in which an employer who engaged a worker through business is located shall be applied. This is used as a failover to pick up cases where the generic place of work cannot be readily established (Craig & de Búrca, 2020, p. 888).

5.2.2. Brussels I Regulation

The Regulation stipulates that in matters relating to individual contracts of employment, employers can bring proceedings only in the courts of the member state in which the employee is domiciled. Conversely, employees can sue their employer in the courts of the member state where the employer is domiciled or where the employee habitually works. This element makes sure that employees are not obliged to take actions in jurisdictions that may be inconvenient or disadvantageous to them or that don't want to take, recognizing the inherent imbalance of power in employment relationships (Dickinson & Lein, 2015, pp. 240-241).

5.2.3. Synthesis

The Private International law of Kosovo implements the aims of the regulation Brussels 1, by trying to ward off certain risks that employees may face in a litigious cross-border context. Both legal frameworks admit (somewhat awkwardly) that there may be an imbalance of power at play when it comes to employment-related dispute resolution — so long as the balance is shifted in part through ensuring an employee will not be "at a severe disadvantage if deprived of his day in court."

On the other hand Brussels I Regulation provides solutions mainly as for jurisdiction over litigation of disputes, while Kosovo Law provides that generally applicable law to a contract. The content might look different as a result, but both frameworks share some common bottom lines in that they are meant to prevent employees from being

stuck litigating their rights across borders in places where it would be inconvenient for them to do so given the facts of the case.

In both cases, the laws provide safeguards for employees to thwart abuse and allow access to justice within their workplace of usual employment. When workers take employment abroad, they engage with a web of complex regulations that employers must stay on the right side of in order for their employment contracts to be legally enforceable and not trample upon worker rights. The law is in keeping with the growing trend to harmonize labour conditions around the world, safeguarding against devalued regulatory regimes that globalization can only compound and facilitate.

Finally, even though the legal system and its size differ significantly between the Kosovo Private International Law and the Brussels I Regulation, their objectives are same in protecting employees in international employment relations. Both recognizing the inequalities of power within employment relationships and provision for the protection of worker rights contribute to an increasingly just and fairer global labor market.

5.3. Insurance Contracts

5.3.1. Kosovo Private International Law

The Kosovo Law does not have any specific provisions relating to the protection of insured persons. The closest article is art. 81, which deals with individual employment contracts and provides protections for employees in disputes against employers arising from such contracts.

5.3.2. Brussels I Regulation

According to the Regulation, the weaker party means (a) a policyholder; (b) an insured; or a beneficiary of an insurance contract. In many cases, these are one or more people from a small business and not the massive insurance companies with all of their legal resources and negotiating power. Where the Brussels I Regulation protects weaker parties, one of its main tools in doing so is by establishing jurisdiction. Under art. 13 of the Regulation an insurer may be sued in the courts of Member State in which it is domiciled or, if the weaker party (policyholder, beneficially insured) is a claimant, member state where that party is domiciled. This represents a significant departure from the usual jurisdictional rule, which often makes the defendant's domicile the place where litigation may take place. This

provision guarantees that weaker parties do not have to file a lawsuit in a foreign jurisdiction, potentially far away from their home (Van Calster, 2013, p. 61).

The Regulation makes further special provisions for certain types of insurance contracts. For example, in matters relating to insurance contracts covering risks situated in the Member States or contracts of large risks, the parties have a degree of freedom to choose the applicable jurisdiction after the dispute has arisen. However, such agreements cannot have the effect of depriving the weaker party of the protection afforded to them under the Regulation (Zupan, 2016, pp. 134-137).

5.3.2.1. Significance of Insurance Contract Protections

A key aspect of the Brussels I Regulation is its acknowledgment of the vulnerability of policyholders, insured parties and beneficiaries as compared to large insurers. Consequently, Brussels I gives these weaker parties the right to sue in their domicile, instead of where the insurer resides (Van Calster, 2013, p. 61). This makes access to justice easier, as well as reduces both the monetary and logistical burdens of cross-border litigation.

In contrast, Kosovo's Private International Law provides no specific section addressing insurance contracts and leaves policyholders effectively reliant on the general jurisdictional provisions. In higher-value claims where insurers resist paying out — a vehicle accident straddling the border, for example, or a dispute over health coverage — the disconnect could compel Kosovo-domiciled claimants to pursue an insurer in a court abroad, escalating both cost and time taken to resolve the dispute. In the long run, an environment such as this may deter consumers or small businesses from purchasing cross-border insurance or from pursuing valid claims altogether, undermining consumer confidence and stifling the growth of Kosovo's insurance market (Zupan, 2016, pp. 134-137).

5.3.2.2. Potential Amendments to Kosovo's PIL

In line with the standards of Brussels I, Kosovo could enact special jurisdictional rules regarding insurance contracts that benefit the insured party. Thus, a new article could resemble art. 10-16 of Brussels I, explicitly granting policyholders, beneficiaries, or other insured persons the right to sue in Kosovo where the domicile or habitual residence of the policyholder is within Kosovo. Such an act would not only safeguard local insureds from litigating in foreign jurisdictions, but also improve consumer confidence in cross-border insurance products (Dickinson & Lein, 2015, pp. 178-179).

Kosovo may take provisional measures in the meantime. For instance, in order to provide consumers with better access to justice, the Ministry of Justice could issue guidelines directing courts to treat individual policyholders similarly to consumers (Qerimi, 2019, pp. 83-85) (so, allowing claims to be brought where the individual policyholder resides and/or rendering any choice-of-court clause in insurance contracts that forces litigation to occur in a jurisdiction outside of the country potentially unenforceable on the basis that it prevents the weaker party access to justice) (Beaumont & Johnston, 2017). In the long run, these guidelines could provide the basis for a formal revision of the Private International Law, in which the protective spirit of Brussels I would be integrated.

5.3.3. Synthesis

There is a divergence between the Kosovo Private International Law and the Brussels I Regulation in terms of protecting insured persons. While the Brussels I Regulation embodies a consumer protection ethos, specifically addressing the power imbalances in insurance contracts and providing mechanisms to protect the weaker party, the Kosovo Private International Law only covers employment and consumer contracts, and not insurance contracts. This highlights the need for Kosovo to consider adopting or adapting legal measures that specifically protect weaker parties to ensure fair treatment and access to justice, drawing inspiration from frameworks like the Brussels I Regulation. In conclusion for this, the absence of explicit insurance contract protections in Kosovo's PIL underscores a critical gap that, if addressed, which is a necessity could significantly enhance weaker-party safeguards and align Kosovo more closely with Brussels I Recast norms. Such reforms would harmonize Kosovo's legal framework with EU best practices and fulfill the broader objective of protecting weaker parties—an essential requirement for integration into the European legal and economic space, especially as Kosovo pursues EU membership and it has as an objective of state foreign policy. There is thus a visible gap between the Private International Law of Kosovo and that of the Brussels I when it comes to insurance contracts. While Brussels I gives policyholders a cause of action in their domicile, Kosovo's law cannot yet avail specialized provisions for the insured. Sections 5.3.1 and 5.3.2 offer specific proposals to that end—rooted in art. 10-16 of Brussels I—to ensure that policyholders have access to local courts to hear their disputes, which are also subject to temporary guidance that casts policyholders in the same light as consumers. These steps would both correct existing imbalances, extend any weaker-party protections to cover insurance disputes, and shift Kosovo's legal framework closer to EU standards.

Finally, harmonizing insurance contracts by acknowledging policyholders as the weaker party would solidify Kosovo's commitment to strong consumer protection, enhancing alignment with the EU and laying the groundwork for greater confidence in cross border insurance markets.

6. Practical Hurdles to Implementing Brussels I Principles in Kosovo

6.1. Judicial Training Needs

At present, Kosovo's courts do not receive specialized training on cross-border litigation or EU private international law. By contrast, Croatia initiated a targeted program of judicial education long before its accession to the EU and ensured that its judges were fully trained in applying Brussels I Recast upon accession (art. 15: Croatian Judicial Academy Website, 2013). For this purpose, the Croatian Judicial Academy developed a series of workshops, online modules and simulation-based lessons in a Twinning project co-financed by the European Commission that sought to introduce judges to jurisdictional and enforcement rules (Ministry of Justice Croatia, 2014).

In the same vein, Kosovo could request any type of Twinning Partnership — or EU Instrument for Pre-Accession Assistance (IPA) — for building a systematic training program on Brussels I–type procedures. The Kosovo Academy of Justice could also borrow from that hands-on approach in Croatia: setting up mock cross-border disputes and scenario-based exercises to develop practical know-how. And just as Croatia did, enabling an e-learning platform would ensure that during office hours judges and court staff can refer to the updated modules whenever they wish (European Judicial Training Network, 2015). Such measures would allow Kosovo's judiciary to effectively deal with Brussels I Recast–style cases, and avoid the knowledge gaps that are forced by current hurdles to cross-border enforcement. Disputes, is relatively unacquainted with it when it comes to some of the central elements of Brussels I Recast. Many judges have little familiarity with cross-border litigation, in part because of the country's historical focus on domestic affairs. In order to guarantee the uniform and predictable application of Brussels I–type rules, training programmes directed at judges will equip judicial authorities with the tools necessary to interpret the content of foreign judgements and recognition procedures (Craig & de Búrca, 2020).

6.2. Administrative Constraints

Although there have been some advancements in technology recently, many of the basic courts in Kosovo are struggling with administrative bottlenecks such as case management backlogs, poor digital resources, and risk of underfunding (Qerimi, 2019, p. 92). These shortcomings could hinder the expedited recognition and enforcement that the Brussels I Recast sought, which presupposes effective cooperation between the relevant courts and near automatic registration of judgments (Butt, 2024a).

6.3. Cultural and Legal Practice Differences

Judges and practitioners in Kosovo often maintain a cautious approach to foreign judgments, preferring thorough procedural checks. Such legal culture, while aiming at due diligence, can conflict with the EU principle of mutual trust, where decisions from other Member States are enforced swiftly (Beaumont, 2013). Additionally, partial recognition of Kosovo's sovereignty by certain EU members could complicate reciprocal enforcement, thereby limiting the uniform circulation of judgments.

6.3.1. Practical Dilemma: Divorce and Child Custody Conflicts

An issue that may raise dilemmas during the practical implementation of the Law on Private International Law, Law No. 08/L-028, are cases of divorce and custody of children, when the spouses have their last common residence in Kosovo, while their minor children have their place of residence in a foreign country. The Family Law of Kosovo No. 2004/38, which regulates the procedures for divorce and custody of children in the Republic of Kosovo, has determined that in all cases when the court decides on divorce, it must also decide on the custody of children if the spouses have minor children in common (Family Law of Kosovo, 2004, art. 140). Accordingly, art. 140 of the Family Law states that "When the competent court in a matrimonial dispute issues a judgment by which the marriage is dissolved or annulled, with that judgment the court shall decide on the custody and education of minor children." On the other hand, the Law on Private International Law, Law No. 08/L-028, in art. 41, paragraph 1, has determined that "For relations between parents and children, the competent law is the law of the state where they have their common habitual residence" and paragraph 2 "If parents and children have their habitual residence in different states, the competent law is the law of the state where the child has his habitual residence", while in art. 134, paragraph 1, of the aforementioned law it is

determined that "In disputes regarding the care, upbringing, and education of children who are under parental care, the competent court or other body of the Republic of Kosovo is if: 1. the child is a citizen of the Republic of Kosovo; 2. the child has his habitual residence in the Republic of Kosovo; or 3. the child, whose habitual residence cannot be ascertained, or is a refugee, or an internationally displaced person due to events in the country of his or her habitual residence, is in the territory of the Republic of Kosovo," so the LDNP has expressly determined that in cases where children and parents have habitual residence in different countries, then the competent law is the law of the country where the children have habitual residence. (Kosovo, 2022, art. 41-42)

In this case, we have identified a practical case that with the adoption of the law on private international law, we may have practical obstacles and a dilemma as to whether the court of our country is competent to decide on divorce in these cases, as well as another dilemma that arises as to whether the court can decide on divorce and not decide on the issue of the custody and education of children, taking into account that we already have in force a special law such as the Law on Private International Law which has precisely defined in art. 41 paragraph 2 "If parents and children have their habitual residence in different countries, the competent law is the law of the country where the child has his habitual residence."

In this case, we have reflected on an example of a practical obstacle that our local courts encountered during the implementation of the new law on Private International Law (art. 134).

As a recommendation for resolving this current dilemma that our local courts may face, during the implementation of the new law in practice, as in the above-mentioned cases, the courts should take into account that the law on private international law is a special law that determines jurisdiction in private legal relations with an international element, therefore in relations between parents and children who have different habitual residences, the competent court should be the court where the children have their habitual residence, whereas if we are presented with a request for divorce of spouses where the jurisdiction to resolve this issue is the court of our country, while the same have minor children together with a residence in a foreign country, there is no legal obstacle for our court to decide on divorce without deciding at all on the issue of the custody and education of the children, and if we are also presented with a request for the custody and education of the children along with the one for divorce, the court should dismiss the lawsuit for the custody and

education of the children as inadmissible and declare it incompetent in terms of the subject matter.

6.4. Comparative Insights from Newer EU Members

Croatia's move to Brussels I Recast shows how procedural and legislative reforms can lead to automatic recognition of foreign judgments. Before Accession, Croatia passed laws to abolish the exequatur requirement for EU judgements and established specialized units within each court to deal with cross-border enforcement request, reducing delays and providing uniform application of Brussels I rules (Ministry of Justice Croatia, 2016) Some of the administrative (unbiased) measures were also applied (standardization of forms and clarification of competences among judges, notaries and enforcement agents) which facilitated the process (European Judicial Training Network, 2015).

Kosovo applying Brussels I–style principles nationally in Kosovo is a first step. The second proposal is to anchor transparent regulations on cross-border jurisdiction and recognition into the Private International Law itself because this would facilitate any enforcement exercise that comes next. Finally, the appointment of a central coordinating authority in the Ministry of Justice would allow for the uniform processing of foreign judgments by local courts, similar to the system implemented in Croatia (European Commission, 2017). Finally, finding common ground for enforcement professionals through uniform procedures—most notably, Brussels I certificates would be much less administratively burdensome (Butt, 2024b). When combined with the noted judicial training strategies (Section 6.1) these practical reforms would establish the foundations of a faster and more predictable system of recognition and enforcement in Kosovo.

7. Actionable Recommendations

7.1. Capacity-Building

Judicial Training on Cross-Border Litigation: Develop short courses and workshops (potentially supported through IPA project or Twinning projects) to provide judges and legal staff with orientation on Brussels I–type rules. Judges' ability to apply jurisdictional and enforcement principles would benefit from hands-on modules (for example, mock cross-border disputes).

Bench Books and Online Platforms: Create accessible "bench books" type reference works summarizing jurisdiction tests, recognition procedures, and protective measures for weaker parties. City staff who receive requests for foreign judgments can turn to an online portal that hosts step-by-step checklists, FAQs, and relevant case law.

7.2. Technical Assistance

Digital case management and coordination: Pursue EU or international assistance to perform modernization of the court system. Such modernization smoothly integrates the adoption of electronic case-tracking of foreign judgments, and data exchange between courts, the Ministry of Justice, and future cooperation networks (such as the European Judicial Network) in benefit of citizens and businesses in cross-border cases.

Central Coordinating Body: (I) Establish (or strengthen) a dedicated unit within the Ministry of Justice to provide oversight for cross-border enforcement of judgments. This body would then issue practice guidelines, monitor timelines for recognition and liaise with foreign authorities to ensure uniformity of standards and demurral on the process.

7.3. Legislative Refinement

Automatic Recognition provisions: Amend Kosovo's Private International Law further to provide for near-automatic recognition asunder Brussels I Recast's abolition of exequatur (art. 45). Judgments from reciprocating states would follow a streamlined registration process rather than the full petition approach under this approach.

Insurance Contracts – The rules should specifically protect insured persons as the weaker party like art. 10-16 of Brussels I so that policyholders who are domiciled in Kosovo can sue the insurers locally avoiding the costs of litigating abroad whilst encouraging consumer confidence in cross-border insurance.

Enhance or Eliminate Reciprocity Requirement: Kosovo's existing law allows courts to reject recognition of foreign judgments where there is lack of reciprocity. Such a regime goes beyond the Brussels I Recast, for which there is no reciprocity test between Member States (Qerimi, 2019, pp. 85-86). Removing or narrowing the

reciprocity requirement would decrease refusals, especially in cases involving countries that do not recognize Kosovo, and promote an approach that matches EU standards.

7.4. Lesson from Newer EU Member

Countries like Croatia and Bulgaria — which aligned their legislation and administrative practices with EU norms before accession — offer a real-world example of keeping up with the process while also aligning with the bloc. Adopting harmonized proceedings helps to ease the transition to, for instance, Brussels I principles, which precludes the submission of binding documents during a trial.

These recommendations focusing on training judges, providing technical assistance, and improving the legislative landscape—are designed to further Kosovo's progress toward adherence to Brussels I–style norms in the realm of Private International Law. Such alignment will enhance legal certainty for cross-border disputes and further prepare Kosovo for future integration into the EU.

8. Conclusion

The compatibility between Kosovo's Private International Law and the Brussels I Regulation is a crucial factor in assessing Kosovo's readiness to ascend into the EU and also as a part of obligations which Kosovo accepted to fulfil when it signed the SAA agreement with EU. In particular, Kosovo's PIL is generally well-aligned as regards jurisdictional principles, although important divergences remain on the reciprocity requirement, exequatur procedures and protection of the weaker party, especially in respect of the specificity of insurance contracts.

The alignment of legal frameworks, particularly in the domain of jurisdiction and the recognition and enforcement of judgments, provides insight into how seamlessly Kosovo could integrate into the EU's legal and judicial system, where art. 74 of the SAA stipulates that Kosovo's laws progressively become compatible with the acquis communautaire.

The relationship between Kosovo's Private International Law and the Brussels I Regulation is comparable to a series in which basic principles converge while specific execution differs. Closing these gaps is vital for Kosovo preparing to join the EU. Alterations to Kosovo's legal framework could mean not only changing laws

but also re-adjusting judicial praxis and administrative procedures in ways compatible with EU standards. In terms of what practical measures are needed to ensure successful implementation, as with the creation of a dedicated administrative body for judicial cooperation, the establishment of specialized judicial training or the resolution of digital infrastructure limitations are equally crucial. On the one hand, the bottom-up orchestration of jurisdictional principles seems a good foundation to build integration around. On the other hand, the procedural and operational aspects require improvements as far as its recognition and enforcement of judgments are concerned. Thus, compliance of Kosovo would in turn depend on rapid implementation of legal and judicial reform to fill these gaps and other requirements for EU membership.

Ultimately, while the Kosovo PIL is compatible with Brussels I Regulation, full EU accession readiness also requires widescale reforms which extend to jurisdiction and judgment recognitions. Indeed, it will take not only legal reform, but a cultural change in aspects of judicial staff, an administrative adjustment, and somewhat pragmatically: a progressive mindset regarding international legal cooperation and mutual trust in the implementation of these reforms. Lessons learned from the EU's new members, particularly Croatia, whose EU membership dates from 2013 as the newest member since then, offer insights into dealing with the alignment of legal and institutional frameworks, but also outline concrete steps as an example, that Kosovo should undertake for a fast and effective harmonisation process. This alignment would lead Kosovo closer towards EU membership and ensure a better coherence with the acquis communautaire, a step welcomed by the local judicial authorities of Kosovo who see it as an easier integration within EU legal and judiciary system.

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