Reports of Cases

JUDGMENT OF THE COURT (First Chamber)

21 March 2024*

(Reference for a preliminary ruling – Judicial cooperation in civil matters – Jurisdiction and the recognition and enforcement of judgments in civil and commercial matters – Regulation (EU) No 1215/2012 – Article 45 – Refusal to recognise a judgment – Article 71 – Relationship between that regulation and conventions governing particular matters – Convention on the Contract for the International Carriage of Goods by Road (CMR) – Article 31(3) – *Lis pendens* – Agreement conferring jurisdiction – Concept of 'public policy')

In Case C-90/22,

REQUEST for a preliminary ruling under Article 267 TFEU from the Lietuvos Aukščiausiasis Teismas (Supreme Court of Lithuania, Lithuania), made by decision of 10 February 2022, received at the Court on 10 February 2022, in the proceedings

'Gjensidige' ADB

other parties

'Rhenus Logistics' UAB,

'ACC Distribution' UAB,

THE COURT (First Chamber),

composed of A. Arabadjiev, President of the Chamber, T. von Danwitz, P.G. Xuereb, A. Kumin (Rapporteur) and I. Ziemele, Judges,

Advocate General: N. Emiliou,

Registrar: R. Stefanova-Kamisheva, Administrator,

having regard to the written procedure and further to the hearing on 23 March 2023,

after considering the observations submitted on behalf of:

– 'Gjensidige' ADB, by G. Raišutienė, advokatė,

– 'Rhenus Logistics' UAB, by V. Jurkevičius and E. Sinkevičius, advokatai,

* Language of the case: Lithuanian.

– the Lithuanian Government, by V. Kazlauskaitė-Švenčionienė and E. Kurelaitytė, acting as Agents,

– the European Commission, by P. Messina, S. Noë and A. Steiblytė, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 14 December 2023,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 45(1)(a) and (e)(ii) of 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 (OJ 2012 L 351, p. 1) and of Article 71 of that regulation, read, first, in conjunction with Articles 25, 29 and 31 of that regulation and, secondly, in the light of recitals 21 and 22 thereof.

2 The request has been made in proceedings between 'Gjensidige' ADB, an insurance company, and 'Rhenus Logistics' UAB, a transport company, concerning reimbursement of the indemnity paid by Gjensidige to 'ACC Distribution' UAB by way of compensation for damage suffered by the latter in connection with performance of a contract for international carriage concluded with Rhenus Logistics.

Legal context

Regulation No 1215/2012

3 According to recitals 3, 4, 21, 22, 30 and 34 of Regulation No 1215/2012:

'(3) The Union has set itself the objective of maintaining and developing an area of freedom, security and justice, inter alia, by facilitating access to justice, in particular through the principle of mutual recognition of judicial and extra-judicial decisions in civil matters. …

(4) … Provisions to unify the rules of conflict of jurisdiction in civil and commercial matters, and to ensure rapid and simple recognition and enforcement of judgments given in a Member State, are essential.

…

(21) In the interests of the harmonious administration of justice it is necessary to minimise the possibility of concurrent proceedings and to ensure that irreconcilable judgments will not be given in different Member States. There should be a clear and effective mechanism for resolving cases of *lis pendens* and related actions, and for obviating problems flowing from national differences as to the determination of the time when a case is regarded as pending. For the purposes of this Regulation, that time should be defined autonomously.

(22) However, in order to enhance the effectiveness of exclusive choice-of-court agreements and to avoid abusive litigation tactics, it is necessary to provide for an exception to the general *lis pendens* rule in order to deal satisfactorily with a particular situation in which concurrent proceedings may arise. This is the situation where a court not designated in an exclusive choice-of-court agreement has been seised of proceedings and the designated court is seised subsequently of proceedings involving the same cause of action and between the same parties. In such a case, the court first seised should be required to stay its proceedings as soon as the designated court has been seised and until such time as the latter court declares that it has no jurisdiction under the exclusive choice-of-court agreement. This is to ensure that, in such a situation, the designated court has priority to decide on the validity of the agreement and on the extent to which the agreement applies to the dispute pending before it. The designated court should be able to proceed irrespective of whether the non-designated court has already decided on the stay of proceedings.

…

…

(30) A party challenging the enforcement of a judgment given in another Member State should, to the extent possible and in accordance with the legal system of the Member State addressed, be able to invoke, in the same procedure, in addition to the grounds for refusal provided for in this Regulation, the grounds for refusal available under national law and within the time limits laid down in that law.

The recognition of a judgment should, however, be refused only if one or more of the grounds for refusal provided for in this Regulation are present.

…

(34) Continuity between the [Convention of 27 September 1968 on jurisdiction and enforcement of judgments in civil and commercial matters (OJ 1978 L 304, p. 36; "the Brussels Convention")], [Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1)] and this Regulation should be ensured, and transitional provisions should be laid down to that end. The same need for continuity applies as regards the interpretation by the Court of Justice of the European Union of the 1968 Brussels Convention and of the Regulations replacing it.'

4 Chapter II of Regulation No 1215/2012 contains a Section 6, entitled 'Exclusive jurisdiction', comprising solely Article 24 of that regulation. That article indicates which courts have exclusive jurisdiction to hear proceedings relating to the matters it lists, regardless of the domicile of the parties.

5 Chapter II of that regulation also contains a Section 7, entitled 'Prorogation of jurisdiction'. Article 25 of that regulation, which is in that section, provides as follows in paragraph 1:

'If the parties, regardless of their domicile, have agreed that a court or the courts of a Member State are to have jurisdiction to settle any disputes which have arisen or which may arise in connection with a particular legal relationship, that court or those courts shall have jurisdiction, unless the agreement is

null and void as to its substantive validity under the law of that Member State. Such jurisdiction shall be exclusive unless the parties have agreed otherwise. …'

6 Article 29 of Regulation No 1215/2012 provides:

'1. Without prejudice to Article 31(2), where proceedings involving the same cause of action and between the same parties are brought in the courts of different Member States, any court other than the court first seised shall of its own motion stay its proceedings until such time as the jurisdiction of the court first seised is established.

2. In cases referred to in paragraph 1, upon request by a court seised of the dispute, any other court seised shall without delay inform the former court of the date when it was seised in accordance with Article 32.

3. Where the jurisdiction of the court first seised is established, any court other than the court first seised shall decline jurisdiction in favour of that court.'

7 Article 31 of that regulation provides:

'1. Where actions come within the exclusive jurisdiction of several courts, any court other than the court first seised shall decline jurisdiction in favour of that court.

2. Without prejudice to Article 26, where a court of a Member State on which an agreement as referred to in Article 25 confers exclusive jurisdiction is seised, any court of another Member State shall stay the proceedings until such time as the court seised on the basis of the agreement declares that it has no jurisdiction under the agreement.

3. Where the court designated in the agreement has established jurisdiction in accordance with the agreement, any court of another Member State shall decline jurisdiction in favour of that court.

…'

8 Article 36(1) of that regulation is worded as follows:

'A judgment given in a Member State shall be recognised in the other Member States without any special procedure being required.'

9 Article 45 of that regulation provides:

'1. On the application of any interested party, the recognition of a judgment shall be refused:

(a) if such recognition is manifestly contrary to public policy (ordre public) in the Member State addressed;

…

(e) if the judgment conflicts with:
   (i) Sections 3, 4 or 5 of Chapter II where the policyholder, the insured, a beneficiary of the insurance contract, the injured party, the consumer or the employee was the defendant; or

(ii) Section 6 of Chapter II.

…

3. Without prejudice to point (e) of paragraph 1, the jurisdiction of the court of origin may not be reviewed. The test of public policy referred to in point (a) of paragraph 1 may not be applied to the rules relating to jurisdiction.

…’

10 Article 71 of Regulation No 1215/2012 provides:

‘1. This Regulation shall not affect any conventions to which the Member States are parties and which, in relation to particular matters, govern jurisdiction or the recognition or enforcement of judgments.

2. With a view to its uniform interpretation, paragraph 1 shall be applied in the following manner:

…

(b) judgments given in a Member State by a court in the exercise of jurisdiction provided for in a convention on a particular matter shall be recognised and enforced in the other Member States in accordance with this Regulation.

Where a convention on a particular matter to which both the Member State of origin and the Member State addressed are parties lays down conditions for the recognition or enforcement of judgments, those conditions shall apply. In any event, the provisions of this Regulation on recognition and enforcement of judgments may be applied.’

The CMR

11 The Convention on the Contract for the International Carriage of Goods by Road, signed in Geneva on 19 May 1956, as amended by the Protocol signed in Geneva on 5 July 1978 (‘the CMR’) applies, according to Article 1(1) thereof, ‘to every contract for the carriage of goods by road in vehicles for reward, when the place of taking over of the goods and the place designated for delivery … are situated in two different countries, of which at least one is a contracting country, irrespective of the place of residence and the nationality of the parties.’

12 The CMR was negotiated under the auspices of the United Nations Economic Commission for Europe. More than 50 States, including all the Member States of the European Union, have acceded to the CMR.

13 According to Article 31 of the CMR:

‘1. In legal proceedings arising out of carriage under this [c]onvention, the plaintiff may bring an action in any court or tribunal of a contracting country designated by agreement between the parties and, in addition, in the courts or tribunals of a country within whose territory:

(a) The defendant is ordinarily resident, or has his principal place of business, or the branch or agency through which the contract of carriage was made, or

(b) The place where the goods were taken over by the carrier or the place designated for delivery is situated,

and in no other courts or tribunals.

…

3. When a judgement entered by a court or tribunal of a contracting country in any such action as is referred to in paragraph 1 of this article has become enforceable in that country, it shall also become enforceable in each of the other contracting States, as soon as the formalities required in the country concerned have been complied with. These formalities shall not permit the merits of the case to be re-opened.

…’

14 Article 41(1) of the CMR stipulates:

‘Subject to the provisions of [A]rticle 40, any stipulation which would directly or indirectly derogate from the provisions of this [c]onvention shall be null and void. The nullity of such a stipulation shall not involve the nullity of the other provisions of the contract.’

The dispute in the main proceedings and the questions referred for a preliminary ruling

15 ACC Distribution had concluded a contract with Rhenus Logistics for the carriage by Rhenus Logistics of a cargo of computer equipment from the Netherlands to Lithuania (‘the contract of international carriage at issue’).

16 Some of the goods having been stolen during carriage, Gjensidige paid ACC Distribution EUR 205 108.89 by way of the indemnity under an insurance policy.

17 On 3 February 2017, Rhenus Logistics brought an action before the rechtbank Zeeland-West-Brabant (District Court, Zeeland-West-Brabant, Netherlands), seeking a declaration that its liability was limited.

18 ACC Distribution and Gjensidige applied to that court to declare that it had no jurisdiction to hear that action or to stay the proceedings, on the ground that ACC Distribution and Rhenus Logistics had agreed that the Lithuanian courts would have jurisdiction to rule on disputes arising from performance of the contract of international carriage at issue.

19 By decision of 23 August 2017, that court dismissed the application made by ACC Distribution and Gjensidige. It held that, under Article 41(1) of the CMR, the agreement conferring jurisdiction concluded between ACC Distribution and Rhenus Logistics was null and void because it had the effect of limiting the ability to choose among the courts that had jurisdiction by virtue of Article 31 of the CMR.

20 On 19 September 2017, Gjensidige brought an action for damages before the Kauno apygardos teismas (Regional Court, Kaunas, Lithuania), seeking an order that Rhenus Logistics reimburse the indemnity of EUR 205 108.89 that it had paid to ACC Distribution.

21 By order of 12 March 2018, the Kauno apygardos teismas (Regional Court, Kaunas) stayed the proceedings until the rechtbank Zeeland-West-Brabant (District Court, Zeeland-West-Brabant) had delivered a final judgment.

22 By judgment of 25 September 2019, the rechtbank Zeeland-West-Brabant (District Court, Zeeland-West-Brabant) declared that the liability of Rhenus Logistics to ACC Distribution and Gjensidige was limited and could not exceed the amount of the compensation pursuant to Article 23(3) of the CMR. No appeal was lodged against that judgment and it therefore has the authority of a judgment that has become final.

23 In compliance with that judgment, Rhenus Logistics paid Gjensidige EUR 40 854.20, plus interest, by way of its liability, thus limited, for the damage suffered by ACC Distribution. Gjensidige accordingly withdrew the corresponding amount of its claim for damages against Rhenus Logistics.

24 By judgment of 22 May 2020, the Kauno apygardos teismas (Regional Court, Kaunas) dismissed the action for damages brought by Gjensidige, on the ground that the authority of a final judgment attaching to the judgment of 25 September 2019 of the rechtbank Zeeland-West-Brabant (District Court, Zeeland-West-Brabant) was binding on it in the case before it.

25 By order of 25 February 2021, the Lietuvos apeliacinis teismas (Court of Appeal of Lithuania, Lithuania) confirmed the judgment of 22 May 2020 of the Kauno apygardos teismas (Regional Court, Kaunas), on the ground that, in the circumstances at issue, the provisions of both Regulation No 1215/2012 and of the CMR were relevant to determining the question of jurisdiction. Indeed, by virtue of Article 31(1) of the CMR, even though the parties to the contract of international carriage at issue had concluded an agreement conferring jurisdiction, the dispute that had arisen between the parties could, at the claimant's election, be brought before the courts having jurisdiction under point (a) or point (b) of Article 31(1) of the CMR.

26 Gjensidige lodged an appeal against that order before the Lietuvos Aukščiausiasis Teismas (Supreme Court of Lithuania, Lithuania), the referring court. In support of that appeal, Gjensidige claims that, where the CMR and Regulation No 1215/2012 contain concurrent rules of jurisdiction, Article 25(1) of that regulation must prevail since, according to that provision, where the parties agree to confer jurisdiction on a particular Member State court, that jurisdiction is exclusive.

27 Referring, inter alia, to the judgments of 4 May 2010, *TNT Express Nederland* (C-533/08, EU:C:2010:243); of 19 December 2013, *Nipponkoa Insurance Co. (Europe)* (C-452/12, EU:C:2013:858); and of 4 September 2014, *Nickel & Goeldner Spedition* (C-157/13,

EU:C:2014:2145), the referring court considers that, as a rule, the provisions of the CMR, including Article 31, apply to the questions of international jurisdiction that arise in the context of disputes such as that at issue in the case before it. That being so, an agreement conferring jurisdiction does not give exclusive jurisdiction to the courts designated by the parties, and the claimant remains at liberty to bring proceedings before one of the courts that has jurisdiction pursuant to that Article 31. The referring court also finds that, in the present case, the actions brought in the Netherlands and in Lithuania respectively are identical, because they have the same cause of action.

28 The referring court is nevertheless uncertain whether Article 31 of the CMR is compatible with Regulation No 1215/2012, in so far as that article allows for agreements conferring jurisdiction to be disregarded.

29 According to that court, although Regulation No 1215/2012 sets out a general *lis pendens* rule premised on priority being given to the first court seised, Article 31(2) and (3) of that regulation provides for an exception to that rule where an agreement conferring jurisdiction has been concluded. It is in its view clear from recital 22 of that regulation that the exception in question is intended to enhance the effectiveness of exclusive choice-of-court agreements and to avoid litigation tactics.

30 The referring court observes that the CMR and Regulation No 1215/2012 treat agreements conferring jurisdiction in essentially opposite ways. According to that court, Article 25(1) of that regulation provides that a conferral of jurisdiction agreed by the parties to a contract is as a rule exclusive. In contrast, under Article 31 of the CMR, the court designated by the agreement conferring jurisdiction does not have exclusive jurisdiction. The jurisdiction arrangements provided for in Article 31 of the CMR therefore do not in the referring court's view stand in the way of litigation tactics but may indeed encourage them.

31 The referring court notes that Regulation No 1215/2012 does not directly address the legal consequences of a breach of the *lis pendens* rules where an agreement conferring jurisdiction has been concluded. Specifically, that regulation does not expressly lay down any grounds for refusing to recognise a judgment that has been issued in another Member State in breach of such an agreement.

32 The referring court nevertheless wonders, having regard in particular to the intention of the EU legislature to enhance the effectiveness of choice-of-court agreements, whether the provisions of Regulation No 1215/2012 should be interpreted as extending the protection given to such agreements to the recognition and enforcement of judgments.

33 The referring court also points out that, where a court not designated by an agreement conferring jurisdiction declares itself to have jurisdiction, a defendant is in danger of being caught unawares, both by the court seised and, as the case may be, by the law applicable to the merits of the dispute.

34 The referring court therefore wonders whether such a situation – in which, by application of the rules flowing from an international convention such as the CMR, it is permissible to disregard the agreement of the parties on both the court having jurisdiction and on the applicable law, in the same case – may be incompatible with the fundamental principles of a fair trial and with the objectives pursued by Regulation No 1215/2012, to such an extent that it gives rise to issues of conformity with public policy.

35 In those circumstances, the Lietuvos Aukščiausiasis Teismas (Supreme Court of Lithuania) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) Can Article 71 of Regulation No 1215/2012, having regard to Articles 25, 29 and 31 and recitals 21 and 22 thereof, be interpreted as permitting the application of Article 31 of the [CMR] also in cases where a dispute falling within the scope of both those legal instruments is the subject of an agreement conferring jurisdiction?

(2) Having regard to the [EU] legislature's intention to strengthen the protection of agreements conferring jurisdiction in the European Union, can Article 45(1)(e)(ii) of Regulation No 1215/2012 be interpreted more broadly, as covering not only Section 6 of Chapter II of that regulation but also Section 7 thereof?

(3) After assessment of the specific features of the situation and the resulting legal consequences, can the term "public policy" used in Regulation No 1215/2012 be interpreted as covering the ground for deciding not to recognise a judgment of another Member State where the application of a specialised convention, such as the [CMR], creates a legal situation in which both the agreement conferring jurisdiction and the agreement on the applicable law are not observed in the same case?'

Consideration of the questions referred

Preliminary observations

36 By its first question the referring court asks, in essence, whether a Member State court may declare itself to have jurisdiction to rule on an action brought pursuant to a contract of international carriage, even though that contract contains an agreement conferring jurisdiction on the courts of a different Member State.

37 In addition, by its second and third questions the referring court asks, in essence, whether a Member State court may refuse to recognise the judgment of a court of a different Member State that declared itself to have jurisdiction notwithstanding the existence of such an agreement conferring jurisdiction.

38 In that regard, it is necessary to examine first of all whether a Member State court may effectively refuse to recognise the judgment of a court of a different Member State relating to an action brought pursuant to a contract of international carriage, on the ground that the latter court declared itself to have jurisdiction notwithstanding the existence of an agreement conferring jurisdiction on other courts, irrespective of whether or not the court of that different Member State was correct when it declared itself to have jurisdiction.

39 In that context it is necessary to determine whether that question must be assessed in the light of Regulation No 1215/2012 or of the CMR, given that, in the present case, it is common ground that the contract of international carriage at issue falls within the scope of application of both that regulation and that convention.

40 In so far as Regulation No 1215/2012 repealed and replaced Regulation No 44/2001, which itself replaced the Brussels Convention, the Court's interpretation of the provisions of one of those legal instruments also applies to those of the others, whenever those provisions can be regarded as equivalent (judgment of 16 November 2023, *Roompot Service*, C-497/22, EU:C:2023:873, paragraph 21 and the case-law cited).

41 As the Advocate General stated in point 78 of his Opinion, by application of Article 71 of Regulation No 1215/2012, a convention on a particular matter, such as the CMR, takes precedence over that regulation. Indeed, Article 71(1) of that regulation provides that the regulation is not to affect any conventions to which the Member States are parties and which, in relation to particular matters, govern jurisdiction or the recognition or enforcement of judgments. Moreover, the first sentence of the second subparagraph of Article 71(2) of that regulation provides that, if a convention on a particular matter to which both the Member State of origin and the Member State addressed are parties lays down conditions for the recognition or enforcement of judgments, those conditions are to apply. The EU legislature therefore provided that, in the event of concurrent rules, the conventions in question would apply (see, by analogy, judgment of 4 May 2010, *TNT Express Nederland*, C-533/08, EU:C:2010:243, paragraphs 46 and 47).

42 In the present case, it should be noted that, according to Article 31(3) of the CMR, when a judgment entered by a court or tribunal of a contracting country has become enforceable in that country, it also becomes enforceable in each of the other contracting States, as soon as the formalities required in the country concerned have been complied with, although those formalities may not permit the merits of the case to be re-opened.

43 Nevertheless, first, on the assumption that Article 31(3) of the CMR, which deals with enforceability, can also be classified as a rule relating to recognition that must be applied pursuant to Article 71(1) and (2) of Regulation No 1215/2012, it should be noted that that Article 31(3) merely provides that the enforcement of a 'judgement', within the meaning of that provision, is subject to compliance with the formalities required in the country concerned, and simply clarifies, in that context, that those formalities may not permit the merits of the case to be re-opened.

44 In that context, regard should be had to point (b) of the first subparagraph and to the second sentence of the second subparagraph of Article 71(2) of Regulation No 1215/2012, from which it is apparent that judgments given in a Member State by a court in the exercise of jurisdiction provided for in a convention on a particular matter must be recognised and enforced in the other Member States in accordance with that regulation, whose provisions may in any event be applied even where the convention in question lays down conditions for the recognition or enforcement of those judgments.

45 Secondly, it can in any event be seen from the case-law of the Court that, although, according to Article 71(1) of Regulation No 1215/2012, where a dispute falls within the scope of application of a special convention to which the Member States are parties, that convention should in principle be applied, the fact remains that the application of that convention cannot compromise the principles that underlie judicial cooperation in civil and commercial matters in the European Union, such as the principles of free movement of judgments in civil and commercial matters, predictability as to the courts having jurisdiction and therefore legal certainty for litigants, sound

administration of justice, minimisation of the risk of concurrent proceedings, and mutual trust in the administration of justice in the European Union (see, by analogy, judgment of 4 May 2010, *TNT Express Nederland*, C-533/08, EU:C:2010:243, paragraphs 45 and 49).

46 As regards specifically the principle of mutual trust, the court of the State addressed is never in a better position than the court of the State of origin to determine whether the latter has jurisdiction, and therefore, apart from a few limited exceptions, Regulation No 1215/2012 does not authorise a court in a Member State to review the jurisdiction of a court of another Member State (see, by analogy, judgment of 4 May 2010, *TNT Express Nederland*, C-533/08, EU:C:2010:243, paragraph 55 and the case-law cited).

47 In those circumstances, the question of whether a Member State court can refuse to recognise the judgment of a court of a different Member State relating to an action brought pursuant to a contract of international carriage on the ground that the latter court declared itself to have jurisdiction notwithstanding the existence of an agreement conferring jurisdiction on other courts is to be assessed in the light of Regulation No 1215/2012.

48 Regulation No 1215/2012, for its part, in Article 45, contains a specific provision on refusal to recognise judgments. That is the provision referred to in the second and third questions, which it is therefore appropriate to examine together and in the first place.

The second and third questions

49 By its second and third questions, the referring court asks, in essence, whether Article 45(1)(a) and (e)(ii) of Regulation No 1215/2012 must be interpreted as meaning that it allows a Member State court to refuse to recognise the judgment of a court of a different Member State on the ground that the latter court declared itself to have jurisdiction to rule on an action brought pursuant to a contract of international carriage, in disregard of an agreement conferring jurisdiction, within the meaning of Article 25 of that regulation, which forms part of that contract.

50 It should be borne in mind at the outset that the interpretation of a provision of EU law requires that account be taken not only of its wording, but also of its context and the objectives and purpose pursued by the act of which it forms part (judgment of 22 June 2023, *Pankki S*, C-579/21, EU:C:2023:501, paragraph 38 and the case-law cited).

51 As regards, first, Article 45(1)(a) of Regulation No 1215/2012, it is apparent from the wording of that provision that, on the application of any interested party, recognition of a judgment is to be refused if that recognition is manifestly contrary to public policy in the Member State addressed.

52 However, the second sentence of Article 45(3) of Regulation No 1215/2012 specifies, in that context, that the public policy test referred to in Article 45(1)(a) may not be applied to the rules relating to jurisdiction.

53 It therefore emerges from a combined reading of Article 45(1)(a) and the second sentence of Article 45(3) of Regulation No 1215/2012 that Article 45(1)(a) does not allow a Member State court to refuse to recognise the judgment of a court of a different Member State on the ground that the latter court declared itself to have jurisdiction notwithstanding the existence of an agreement conferring jurisdiction on the courts of a Member State other than that to which it belongs.

54 In so far as concerns, secondly, Article 45(1)(e)(ii) of Regulation No 1215/2012, according to that provision, on the application of any interested party, the recognition of a judgment is to be refused if it conflicts with Section 6 of Chapter II of that regulation, on exclusive jurisdiction.

55 Section 6 comprises solely Article 24 of Regulation No 1215/2012, which indicates which courts have exclusive jurisdiction to hear proceedings relating to the matters it lists, regardless of the domicile of the parties.

56 That is the context in which the referring court enquires whether Article 45(1)(e)(ii) of Regulation No 1215/2012 should be interpreted more broadly, as meaning that the recognition of a judgment may also be refused if the judgment conflicts with the provisions of Section 7 of Chapter II of that regulation, which includes, inter alia, Article 25 of the regulation, on the prorogation of jurisdiction by an agreement conferring jurisdiction.

57 The clear and unequivocal wording of Article 45(1)(e)(ii) of Regulation No 1215/2012 is of itself sufficient to conclude that no such broad interpretation of that provision is permissible, lest it lead to an interpretation *contra legem* of that provision.

58 According to the Court's case-law, an interpretation of a provision of EU law cannot have the result of depriving the clear and precise wording of that provision of all effectiveness. Thus, where the meaning of a provision of EU law is absolutely plain from its very wording, the Court cannot depart from that interpretation (judgment of 23 November 2023, *Ministarstvo financija*, C-682/22, EU:C:2023:920, paragraph 31 and the case-law cited).

59 In any event, a literal interpretation of Article 45(1)(a) and (e)(ii) of Regulation No 1215/2012, to the effect that those provisions do not allow a Member State court to refuse to recognise the judgment of a court of a different Member State on the ground that the latter court declared itself to have jurisdiction in disregard of an agreement conferring jurisdiction, is borne out by the context of those provisions and by the objectives and purpose pursued by that regulation.

60 Indeed, in accordance with the principle of mutual recognition of judicial and extrajudicial decisions in civil matters referred to in recital 3 of Regulation No 1215/2012, Article 36(1) of that regulation provides that a judgment given in a Member State is to be recognised in the other Member States without any special procedure being required. That regulation is therefore intended, as can be seen from recital 4 thereof, to ensure rapid and simple recognition and enforcement of judgments given in a Member State.

61 Moreover, as emphasised in recital 30 of Regulation No 1215/2012, the recognition of a judgment should be refused only if one or more of the grounds for refusal provided for in that regulation are present. In that context, Article 45(1) of that regulation exhaustively lists the grounds on which recognition of a judgment can be refused (see, to that effect, judgment of 7 April 2022, *H Limited*, C-568/20, EU:C:2022:264, paragraph 31).

62 As a result, first, the public policy exception, referred to in Article 45(1)(a) of Regulation No 1215/2012, must be interpreted strictly since it constitutes an obstacle to attainment of one of the fundamental objectives of that regulation, with the effect that a breach of the public policy of the Member State addressed may be relied upon as a ground for not recognising a judgment only in exceptional cases (see, by analogy, judgment of 7 September 2023, *Charles Taylor Adjusting*, C-590/21, EU:C:2023:633, paragraph 32 and the case-law cited).

63 While the Member States remain in principle free, by virtue of the proviso contained in Article 45(1)(a) of Regulation No 1215/2012, to determine, according to their own conceptions, what public policy requires, the limits of that concept are a matter of interpretation of that regulation (see, by analogy, judgment of 7 September 2023, *Charles Taylor Adjusting*, C-590/21, EU:C:2023:633, paragraph 33 and the case-law cited).

64 Consequently, while it is not for the Court to define the content of the public policy of a Member State, it is nonetheless required to review the limits within which the courts of a Member State may have recourse to that concept for the purpose of refusing to recognise a judgment emanating from another Member State (judgment of 7 September 2023, *Charles Taylor Adjusting*, C-590/21, EU:C:2023:633, paragraph 34 and the case-law cited).

65 In that regard, according to settled case-law the court of the Member State addressed is not authorised to refuse to recognise or enforce that judgment solely on the ground that there is a discrepancy between the legal rule applied by the court of the Member State of origin and that which would have been applied by the court of the Member State addressed had the dispute been brought before it. Similarly, the court of the Member State addressed may not review the accuracy of the findings of law or fact made by the court of the Member State of origin (judgment of 25 May 2016, *Meroni*, C-559/14, EU:C:2016:349, paragraph 41 and the case-law cited).

66 Consequently, recourse to the public policy exception provided for in Article 45(1)(a) of Regulation No 1215/2012 can be envisaged only where recognition of the judgment delivered in another Member State would be at variance to an unacceptable degree with the legal order of the Member State addressed inasmuch as it would breach a fundamental principle. In order for the prohibition of any review of the substance of a judgment given in the Member State of origin to be observed, the breach would have to constitute a manifest breach of a rule of law regarded as essential in the legal order of the Member State addressed or of a right recognised as being fundamental within that legal order (see, by analogy, judgment of 7 September 2023, *Charles Taylor Adjusting*, C-590/21, EU:C:2023:633, paragraph 35 and the case-law cited).

67 Secondly, as regards the rules of jurisdiction laid down by Regulation No 1215/2012, under Article 45 of that regulation recognition of a judgment may only be refused on the ground of infringement of those rules in the cases referred to in Article 45(1)(e).

68 Accordingly, apart from the possibility, referred to in Article 45(1)(e)(ii) of Regulation No 1215/2012, that a judgment may be refused recognition if it conflicts with the provisions of Section 6 of Chapter II of that regulation, recognition of a judgment can only be refused, under Article 45(1)(e)(i) of that regulation, where there is a conflict with the provisions of Sections 3, 4 or 5 of Chapter II thereof and where the policyholder, the insured, a beneficiary of the insurance contract, the injured party, the consumer or the employee was the defendant. The foregoing is confirmed by Article 45(3) of Regulation No 1215/2012, which states that, without prejudice to Article 45(1)(e) of that regulation, the jurisdiction of the court of origin may not be reviewed as part of the examination of any refusal to recognise the judgment given by that court.

69 In the present case, the referring court notes, first, that Regulation No 1215/2012 is intended, as can be seen from recital 22 thereof, to enhance the effectiveness of choice-of-court agreements. It would therefore seem paradoxical that a breach of the *lis pendens* rule, where such an agreement has been concluded, should have no effect as regards recognition of the judgment handed down.

70 Secondly, the referring court states that disregard of an agreement conferring jurisdiction can have the effect that the applicable law is different from the law that would apply if the agreement was observed. In that way, where a court that has not been designated declares itself to have jurisdiction, the defendant is caught unawares both by the court seised and, as the case may be, by the law applicable to the merits of the dispute.

71 More specifically, in the present case, according to the referring court the fact that the rechtbank Zeeland-West-Brabant (District Court, Zeeland-West-Brabant) declared itself to have jurisdiction to rule on the action brought before it on 3 February 2017 meant that that action was heard under Netherlands law. That led to a less favourable outcome for Gjensidige, as the defendant in those proceedings, than would have resulted if the action had been heard under Lithuanian law, that is to say, under the law of the State whose courts were designated in the agreement conferring jurisdiction contained in the contract of international carriage at issue.

72 In that regard, it should nevertheless be recalled that, as noted in paragraphs 60 and 61 above, in the system established by Regulation No 1215/2012, mutual recognition is the rule, whereas Article 45(1) of that regulation lists exhaustively the grounds on which recognition of a judgment may be refused.

73 The EU legislature clearly chose not to include the fact that a judgment conflicts with the provisions of Section 7 of Chapter II of Regulation No 1215/2012, on prorogation of jurisdiction, as one of the grounds on which its recognition can be refused. The protection of agreements conferring jurisdiction, which is an aim of that regulation, therefore does not result in a breach of such an agreement being, in itself, a ground for refusing recognition.

74 Furthermore, as the Advocate General observed, in essence, in point 117 of his Opinion, in relation to the specific consequences of recognition of the judgment of 25 September 2019 of the rechtbank Zeeland-West-Brabant (District Court, Zeeland-West-Brabant), nothing in the documents before the Court suggests that that recognition would be at variance with the Lithuanian legal order to an unacceptable degree inasmuch as it would breach a fundamental principle, as required by the case-law referred to in paragraph 66 above.

75 In particular, the mere fact that an action is not heard by the court designated in an agreement conferring jurisdiction and that, as a result, it is not ruled upon under the law of the Member State to which that court belongs cannot be regarded as a sufficiently serious breach of the right to a fair trial to render recognition of the judgment in that action manifestly at odds with the public policy of the Member State addressed.

76 Having regard to all the foregoing considerations, the answer to the second and third questions is that Article 45(1)(a) and (e)(ii) of Regulation No 1215/2012 must be interpreted as meaning that it does not allow a Member State court to refuse to recognise the judgment of a court of a different Member State on the ground that the latter court declared itself to have jurisdiction to rule on an action brought pursuant to a contract of international carriage, in disregard of an agreement conferring jurisdiction, within the meaning of Article 25 of that regulation, that forms part of that contract.

The first question

77 In view of the answer to the second and third questions, there is no need to answer the first question.

Costs

78 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (First Chamber) hereby rules:

Article 45(1)(a) and (e)(ii) of 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

must be interpreted as meaning that it does not allow a Member State court to refuse to recognise the judgment of a court of a different Member State on the ground that the latter court declared itself to have jurisdiction to rule on an action brought pursuant to a contract of international carriage, in disregard of an agreement conferring jurisdiction, within the meaning of Article 25 of that regulation, that forms part of that contract.

[Signatures]