

Determination of International Jurisdiction of Courts over Disputes Arising from Electronic Consumer Contracts

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Abstract : As a result of the rapid development of information communication technology, especially the internet, consumers have become an active party in commerce and in law. Consequently, the protection of consumers in cross-border contracts has become increasingly important. This paper is confined to the international jurisdiction of courts over disputes arising from electronic consumer contracts according to the '5718 Turkish Act on Private International Law and Civil Procedure' and the '1215/2012 Council Regulation On Jurisdiction and The Recognition and Enforcement Of Judgments In Civil and Commercial Matters' (Hereafter 'Brussels I Regulation'). The international jurisdiction of courts for consumer contracts is recognized under both acts above-mentioned; however, there exist some differences between the said legal regulations. Firstly, while there is a specific provision for electronic consumer contracts in Brussels I Regulation, there is no specific provision in the Turkish Act. Secondly, under the Turkish Act, habitual residence, domicile, and workplace of the other party who is not a consumer are all accepted as jurisdiction elements; while domicile is the only jurisdiction element in Brussels I Regulation. Thirdly, the ability to make jurisdiction agreements in disputes arising from electronic consumer contracts is a controversial issue under the Turkish Act while it is explicitly regulated under Brussels I Regulation that such jurisdiction agreements can be concluded by complying with certain conditions.

Keywords : Brussels I Regulation, electronic consumer contracts, jurisdiction, jurisdiction agreement

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