



THE IMPACT OF JURISDICTION RULES CONCERNING ACTIONS AGAINST MULTI-NATIONAL CORPORATIONS FOR ENVIRONMENTAL DAMAGE ON ACCESS TO JUSTICE

The author discusses some recent cases concerning actions against multi-national corporations for environmental damage, revealing the shortcomings inherent in the European system of allocation of jurisdiction in civil and commercial matters, as currently embodied in Regulation (EU) No. 1215/2012 (Brussels I-*bis* Regulation), as generally based on the prerequisite of the domicile of the defendant being located in a Member State. It is accordingly regrettable that the initial proposals put forward in 2020 by the Legal Affairs Committee of the European Parliament for amending, on the one side, the Brussels I-*bis* Regulation in terms of jurisdiction, and, on the other side, the Rome II Regulation in terms of applicable law, as concerns actions for human rights violations committed within the value chain of the enterprises addressed in the proposed EU Directive on Corporate sustainability due diligence, have not followed course. The author finally discusses the compromise solution retained in the latter Directive proposal as tabled by the European Commission in February 2022, whereby Member States shall treat as overridingly mandatory rules (*lois de police*) the national rules of liability implementing the said Directive in case the law applicable is that of a third country, noting that the said solution would prove of little avail in case no court in a Member State subject to the proposed Directive would have jurisdiction in respect of a dispute raising the sort of issues under consideration.