



Press and Information

Court of Justice of the European Union  
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Judgment in Case C-379/17  
Società Immobiliare Al Bosco Srl

**The Brussels I Regulation does not preclude legislation of a Member State which provides for the application of a time limit for the enforcement of a preventive attachment order from being applied in the case of such an order which has been adopted in another Member State and is enforceable in the Member State in which enforcement is sought**

On 19 November 2013, Al Bosco, a property company governed by Italian law, obtained an order from the Tribunale de Gorizia (District Court, Gorizia, Italy) authorising it to obtain preventive attachment in a maximum amount €1 million against Mr Gunter Hober's property.

On 22 August 2014, that order was declared enforceable in Germany by the Landgericht München (Regional Court, Munich) pursuant to the Brussels I Regulation.<sup>1</sup> That regulation seeks to ensure the free movement of judgments from Member States in civil and commercial matters by simplifying the formalities with a view to their rapid and simple recognition and enforcement.

On 23 April 2015, Al Bosco applied to the German Land Registry for the registration of a mortgage against the debtor's real property located in Germany, namely a residential apartment and two underground parking spaces.

The application was rejected as out of time. Under the German Civil Procedure Code, a preventive attachment order may no longer be enforced after the expiry of a time limit of one month from the date on which the order is issued or notified to the creditor. The purpose of that rule is to protect debtors so as to prevent decisions adopted further to summary proceedings for interim relief remaining enforceable for a relative long period of time, despite any changes in the situation at hand.

The Bundesgerichtshof (Federal Court of Justice, Germany), hearing the case, is unclear as to whether the Brussels I Regulation precludes that rule being applied to a preventive attachment order issued in another Member State which has been declared enforceable in Germany. It therefore referred to the Court of Justice for an interpretation of the Brussels I Regulation on that point.

**By today's judgment, the Court answers that the Brussels I Regulation does not preclude legislation of a Member State (Germany), such as that at issue, which provides for the application of a time limit for the enforcement of a preventive attachment order from being applied in the case of an order which has been adopted in another Member State (Italy) and is enforceable in the Member State in which enforcement is sought (Germany).**

The German rule in question does not concern the issuing of the declaration of enforceability of a decision given in another Member State (which declaration must, under the Brussels I Regulation,

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<sup>1</sup> 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 L12, p. 1). That regulation was repealed by Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) (OJ 2012 L351, p. 1; 'Brussels I bis Regulation'). However, the Brussels I Regulation continues to apply in the present case.

be issued almost automatically), but enforcement in the strict sense (which has not been harmonised by the Brussels I Regulation and, accordingly, remains subject, in principle, to the national law of the court hearing the matter, being German law in the present case).

Although recognition must have the effect, in principle, of conferring on judgments the authority and effectiveness accorded to them in the Member State in which they were delivered, there is, however, no reason for granting to a judgment, when it is enforced, effects that a similar judgment would not have if given directly in the Member State in which enforcement is sought. This applies to the application of the disputed time limit.

According to the Court, the time limit of one month for the enforcement of preventive attachment orders, including in the context of orders delivered by the courts of Member States other than the Member State in which enforcement is sought (which limit is, in this case, calculated from the date on which the declaration of enforceability was notified to the creditor), does not entail any real risk that the latter cannot enforce a preventive attachment order issued in another Member State and which is enforceable.

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**NOTE:** A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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