In general, the jurisdiction of the Irish courts in civil and commercial matters is not split according to case type (though special procedural rules or arrangements apply, for example, in family law cases), and courts at every level may deal with any kind of civil matter provided the claim is within the maximum monetary limit which the court may award. In the case of the Circuit and Regional Courts, the case must be commenced at the correct venue. The High Court, which ordinarily sits only in Dublin, is the Irish court of unlimited original jurisdiction. The Supreme Court (which also sits in Dublin) is the Irish court of final appeal.

The Circuit Court and Regional Court are courts of limited local jurisdiction. The subject-matter jurisdiction of each is prescribed by statute, but includes what would be regarded as civil or commercial claims in each case. The Circuit Court sits permanently in Dublin and Cork and outside these cities, there are scheduled or special sittings at approximately 55 large towns. The Circuit Court's monetary jurisdiction is limited to €38,092 in contract and tort claims. The Regional Court sits permanently in Dublin and Cork, and periodically in about 180 towns throughout Ireland. Its jurisdiction in contract and tort cases is limited to claims of up to €6,350. A less formal small claims procedure for consumer claims of up to €2,000 also operates in the Regional Court.

The procedures operated in each court are set out in secondary legislation known as rules of court. The current rules of court are the Rules of the Superior Courts 1986 (“RSC”), Circuit Court Rules 2001 (“CCR”) and Regional Court Rules 1997 (“DCR”), though each set is frequently amended to take account of changes to applicable primary legislation and other developments and requirements.

Detailed annual statistics on the number of cases begun and concluded in the Irish Courts are published each year by the Courts Service (the body responsible for managing court support services) in its Annual Report. The annual reports for 2003 and 2004 are available on the Courts Service’s website www.courts.ie.

New cases are broken down by case type, but the statistical data does not indicate the number of cases which involve non-Irish parties as plaintiff or defendant. There are long-established rules in the Irish courts which permit service of Irish proceedings on non-Irish defendants with the permission of the court (currently in Order 11, RSC and corresponding provisions of the CCR and DCR). Since 1988, these have been supplemented by rules prescribing the procedures which apply where the court’s jurisdiction arises under the Brussels Convention 1968 and, more recently, those rules have been amended to prescribe the procedures which apply where the court’s jurisdiction arises under Regulation 44/2001 (currently in Order 11A, RSC and corresponding provisions of the CCR and DCR). In practice, the Order 11 procedure is largely confined in civil and commercial cases to those where one or more of the defendants is in a state which is neither a Member State of the European Union or a Contracting Party to the Lugano Convention.

It is not possible to tell precisely what number or proportion of cases involve the Order 11 or Order 11A procedure. However, our impression is that probably fewer than 3% of cases before the Irish courts involve foreign
defendants and the total number of cases commenced in reliance on a jurisdiction conferred by Regulation 44/2001 is at present probably no more than a few hundred from among the total number of cases begun at each court level each year.

The total number of cases begun at each court level in Ireland in 2003 and 2004 was approximately as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>High Court</th>
<th>Circuit Court</th>
<th>Regional Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003</td>
<td>21,000</td>
<td>41,000</td>
<td>87,000</td>
</tr>
<tr>
<td>2004</td>
<td>25,500</td>
<td>40,000</td>
<td>71,000</td>
</tr>
</tbody>
</table>

As to cases which proceed to a final determination by the court, it is extremely common in the High Court and Supreme Court for written judgments to issue, especially where complex issues of law or fact require to be decided. Accordingly, most cases decided by those courts which involved an issue arising under Regulation 44/2001 lead to a written judgment, of which several hundred are produced each year. On average, there are no more than four or five written Supreme and High Court judgments each year (less than 1% of the total) which consider issues in relation to Regulation 44/2001 in a substantive way. However, it is important to note that there are many other decided cases involving a non-Irish party or parties, including cases where the jurisdiction conferred by Regulation 44/2001 has been invoked, but no dispute has arisen about how Regulation 44/2001 operates in the particular case.

Written judgments are uncommon in the Circuit Court and are almost never given in the Regional Court, but we estimate that the proportion of decisions in those courts dealing substantively with issues involving Regulation 44/2001 is similar.

Poland

(Weitz)

In General:

The following national report includes some data and information regarding practical application of the European Civil Procedure on the field of jurisdiction, _lis pendens_, recognition and enforcement of judgments, authentic instruments and court settlements, by Polish courts of general jurisdiction.

Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (hereinafter ‘the Regulation 44/01’) is in force since May 1, 2004, this means since the Polish accession to the European Union. Before the Regulation 44/01, Convention on jurisdiction and the enforcement of judgments in civil and commercial matters done at Lugano on 16 September 1988 (88/592/EEC) came into force since February 1, 2000 (hereinafter ‘the Lugano Convention’). Considering the fact that, this report concerns years 2003-2004, it is quite short period of application of the Regulation 44/01 in Poland. Consequently, it was necessary – looking from our point of view – to take into consideration in this report also case law reached under the Lugano Convention. This remark relates especially to the statistical part of the report (Questionnaire No 1), but is also significant for issues touched in the empirical part (Questionnaire No 2) as well as for the legal questions (Questionnaire No 3).

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1 Polish courts of general jurisdiction examine civil cases including commercial cases, penal cases and cases prosecuted as petty offences. Apart from the courts of general jurisdiction, the administrative courts and special courts – military courts are also presented at the Polish judicial system.


3 O.J. P. of 2000, No. 10, Item. 132.
Any statistical or empirical research on practical application of provisions of the Regulation 44/01 and the Lugano Convention has not been conducted in Poland until now. Thus, there is not any official statistical data referring to application above-mentioned legislative instruments and any practical problems in this sphere have never been analyzed.

It is important to observe that only judgments of the Supreme Court and - exceptionally also some judgments of the appellate courts are announced. The judgments of district and regional courts are not announced almost at all. However, we used not only judgments of the Supreme Court (including judgments which were not announced) but also, principal decisions of district, regional and appellate courts preparing this report. The study was conducted with cooperation of Department of International Cooperation and European Law in the Polish Ministry of Justice by network of courts of general jurisdiction. The data was collected principally by system of inquiry forms distributed among all-level courts of general jurisdiction. The additional information was gathered by interviews with practicing lawyers specialized in European civil procedure especially from the biggest polish law firms and judges who are involved in cross-border proceedings.

There are no special regulations in Poland implementing or even referring to provisions of the Regulation 44/01 and the Lugano Convention. Therefore, it is necessary to use, mutatis mutandis, Polish internal regulations designed mainly for national litigations, applying above provisions of the European civil procedure. It makes many troubles with practical application of the Regulation 44/01 and the Lugano Convention. This is the result of incoherence between the Polish national regulations and those, which were established by European Law.

The authors of this report have decided to translate into English only main thesis of judgments, which appear in the text as footnotes. However the complete versions of given judgments are attached to this report exclusively in Polish language. If the provisions of Polish statutes are quoted in the text, English translation will be also given in the footnotes.

For the sake of quite short period of application the Regulation 44/01 and the Lugano Convention in Poland, the issues of the European civil procedure, especially concerning jurisdiction, lis pendens, recognition and

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4 Regional Courts, regional courts and appellate courts belong to Polish courts of general jurisdiction. District and regional courts - depending on their subject-matter jurisdiction – examine cases as the first instance courts. Regional courts review also the appellate measures filed against judgments rendered by the Regional Court s. Appellate courts are only second instance courts reviewing appellate measures against judgments rendered by the regional courts as first instance jurisdiction. The Supreme Court, not belonging to courts of general jurisdiction, examine extraordinary appellate measures, e.g. cassation complaints filed against judgments rendered by second-instance courts (either regional or appellate courts).

5 In the course of work on new regulations referring to international civil procedure (contained in Part IV of the Code of Civil Procedure – ‘the CCP’) the experts decided that separate provisions aimed implementation or completion of the European civil procedure would not be created. But this new regulations will be harmonized with European provisions, primarily with the Regulation 44/01 to serve as supplement, if necessary. The draft at present is being reviewed and discussed by the ministerial committee in The Council of Ministers.

6 The translation into English all presented judgments was impossible due to the very short period fixed to prepare this report.

7 The regional courts have also turned with these questions to the Regional Court s. In this way we have received the information coming from all levels of the jurisdiction.

8 As a result of our inquiries we have received also partial data from year 2005.

9 The Polish data bases of legal information are represented by ‘LEX’ (edited by Wolters Kluwer Polska) and ‘Maxima Polonica’ (edited by Lexis Nexis Polska Sp. z o.o.). We have also got an access to the internal data base of the Supreme Court – called ‘Supremus’. 
enforcement judgments, authentic instruments and court settlements has not appeared very frequently and has not given rise to a profound discussion in the Polish legal literature. A lot of problems, which were undertaken earlier in the literature of different member countries has not been considered yet in the Polish jurisprudence. Thus, very few of Polish studies and papers on given questions might be used for preparing this report.

Questionnaire No. 1:

As mentioned previously any official and statistical data on practical application of the Regulation 44/01 and the Lugano Convention is not collecting. Thus, there are not any official data bases, which might be helpful to answer on the questions of Questionnaire No 1. Trying to collect this data we have turned to all regional and appellate courts through the Department of International Cooperation and European Law in Polish Ministry of Justice - with the questionnaires concerning the application of the Regulation 44/01 and the Lugano Convention by courts of general jurisdiction within the time from 2003 to 2004. On this basis we have received the information, but its quality was very diverse, because part of the courts could not collect any valuable data on application of the Regulation 44/01 and the Lugano Convention in such restricted period of time. Moreover, we used official data bases with judgments of the Supreme Court and some judgments of appellate courts.

It should be noted, that it was not possible to evaluate the accurate number of decisions rendered under the Regulation 44/01 and the Lugano Convention. For this reason all data given below constitutes exclusively the estimation based on the accessible data and created by some necessary generalizations.

Questionnaire No. 3:

The observation of judicial practice of the Polish courts and the practice of the Polish enforcement authorities, as well as information got from professional lawyers dealing with problems of the national jurisdiction, litis pendetis and recognition and enforcement of judgments, authentic instruments and court settlements on the basis of the Regulation 44/2001 and the Lugano Convention shows that only few legal questions connected with applying these instruments were considered so far.

Certain problems relating to national jurisdiction, conditions of recognition or enforcement and the course of proceedings for recognition or declaration of enforceability have appeared just in few judgments. In the Polish legal literature only some problematical questions were presented until now. We may appreciate that the largest practical and theoretical meaning had problems concerning subsidiary application of national regulations within the proceedings for declaration of enforceability.

We should underline that the essential questions which were touched in the Questionnaire No 3 did not appear so far in the practice of the Polish courts and professionals involved in cross-border litigation. Besides, the legal literature pays generally attention on the problems which were noticed considerably earlier in the foreign literature.

On that reasons, the following remarks are mostly fragmentary, because they present only the hitherto existing modest practice in applying and analyzing of the Regulation 44/2001 and the Lugano Convention in Poland.

Scotland – draft – (Raulus/)

Questionnaire for law firms on the application of the Brussels I Regulation / Brussels I Convention in Scotland

The questionnaire was sent originally to roughly 60 law firms with a contact request.
Beaumont) | Out of these 60, only 6 responded that they very rarely deal with cases under the Regulation / Convention.  
In June another questionnaire was sent out 15 professionals in the field.  
5 responded that they deal very rarely with cases under the Regulation / Convention and therefore they do not have any comments.  
Furthermore, the questionnaire was sent to the Court of Session. They replied that they do not hold the data in question and have not answered further.