

Judgment of the Court (First Chamber) of 6 October 2021 (request for a preliminary ruling from the Varhoven kasatsionen sad (Bulgaria) — Bulgaria) — Skarb Państwa Rzeczypospolitej Polskiej reprezentowany przez Generalnego Dyrektora Dróg Krajowych i Autostrad v TOTO SpA — Costruzioni Generali, Vianini Lavori SpA

(Case C-581/20) ⁽¹⁾

(Request for a preliminary ruling — Judicial cooperation in civil matters — Regulation (EU) No 1215/2012 — Article 1(1) — Civil and commercial matters — Article 35 — Provisional, including protective, measures — Action based on a contract for the construction of a public expressway concluded between a public authority and two private law companies — Application for interim relief relating to penalties and guarantees arising from that contract — Decision on interim relief already given by a court having jurisdiction as to the substance)

(2021/C 490/13)

Language of the case: Bulgarian

Referring court

Varhoven kasatsionen sad (Bulgaria)

Parties to the main proceedings

Applicant: Skarb Państwa Rzeczypospolitej Polskiej reprezentowany przez Generalnego Dyrektora Dróg Krajowych i Autostrad

Defendants: TOTO SpA — Costruzioni Generali, Vianini Lavori SpA

Operative part of the judgment

1. Article 1(1) 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 an action for interim relief brought and pursued, in accordance with the rules of ordinary law, before a court of a Member State relating to penalties in respect of the performance of a contract for the construction of a public expressway concluded at the end of a procurement procedure where the contracting authority is a public authority falls within the concept of ‘civil and commercial matters’ within the meaning of that provision.
2. Article 35 of Regulation No 1215/2012 must be interpreted as meaning that a court of a Member State hearing an application for provisional, including protective, measures under that provision is not required to declare that it has no jurisdiction where the court of another Member State, which has jurisdiction as to the substance of the matter, has already given judgment in respect of proceedings involving the same cause of action and between the same parties.
3. Article 35 of Regulation No 1215/2012 must be interpreted as meaning that an application for provisional, including protective, measures must be examined in the light of the law of the Member State of the court seised and does not preclude national legislation which does not authorise an action for interim relief in respect of a pecuniary claim against the State or a public authority.

⁽¹⁾ OJ C 28, 25.1.2021.