

## **Guidelines on the enlargement of the Brussels I Regulation to judgments given in third countries**

At its meeting in Padua on 20 September 2009, the European Group for Private International Law, following on from the text adopted in Bergen in 2008 on the possibility of direct jurisdictional rules of Union law for the proceedings at present referred to in Article 4 of Regulation 44/2001 of the Council of 22 December on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, has studied the possibility of the Union legal order's adopting a regime for the recognition and enforcement of judgments given in non-Member States in civil and commercial matters, to complement Chapter III of the above Regulation, without, however, taking a position on the desirability of such a regime.

The Group considers that such a regime should be based on a policy of encouraging the engagement of the European Union in treaty relations on a worldwide scale, especially within the framework of the Hague Conference on Private International Law.

While leaving to the meeting in Copenhagen in 2010 the drawing up of provisions to this effect, it considers that such a regime could be based on the following guidelines:

- 1) The rules should be based on the regime laid down by the Brussels Convention of 27 September 1968, as amended, while adapting the grounds on which recognition and enforcement may be refused on the basis of public policy and indirect jurisdiction.
- 2) The application of rules should not depend on reciprocity – the application of which could give rise to problems and could harm the interests of litigants who have obtained a judgment in a foreign country – but this should not rule out the possibility of the Union's adopting safeguard measures.
- 3) The rules should ensure the effectiveness of overriding mandatory provisions of national and Union law, without denying the court addressed some element of discretion based on the particular facts of the case.
- 4) A provision intended to facilitate the free movement, in the whole of the Union, of a ruling given in one Member State on the recognition or enforcement of a judgment given in a non-Member State might be envisaged, after consideration, in particular, of the effect of such a provision on the ability of Member States to maintain or adopt a more favourable regime with regard to judgments given in non-Member States.