

Adjudicate with Matter of Justice

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Editor Note

Various factors that affect the decision of where to file a case: One is convenience whereas a convenience may be more likely to file suit in a jurisdiction that will afford his procedure and other increments and where the opponent has assets with when to satisfy an ultimate judgment. However, the place of suit is not entirely up to the plaintiff. The jurisdictional grant will usually be defined by statute. In addition, the exercise of jurisdiction may also be limited by constitutional provisions or pervasive principles of law. In the United States this is the function of the due process clause of the Fourteenth Amendment of the Constitution, which limits the exercise of the jurisdiction of state courts to protect defendants against unreasonable burdens.

The Fifth Amendment similarly limits federal courts in asserting jurisdiction in cases not based on state law. In addition, in common law countries, provisional of law or court decision taking practice may limit the exercise of jurisdiction to adjudicate for any number of reasons, including the need to prevent local courts from becoming clogged with litigation with which they have no concern especially when it seems likely that the courts of the forum state were chosen only as a means of gaining procedural- or substantive law advantages not available to the plaintiff in his home country's courts. Especially in the United States, courts may consider themselves to be a forum non conveyance in these circumstances and dismiss the action. This occurred in Piper Aircraft against Reyna, a suit filed in the United States on behalf of Scottish parties whose relatives were killed in an airplane crash. The flight originated in Scotland and was scheduled to end there; the aircraft was owned by a British entity, the pilot was Scottish and all of the relatives were Scottish. Only the defendants the airplane manufacturer and the propeller manufacturer had a connection to the United States. Because

the plaintiffs sought remedies that were not available at least not to the extent desired under Scottish law, they decided to bring suit in the United States, making this a clear case of forum shopping. American courts may dismiss for forum non conveyance when the exercise of jurisdiction would be unduly burdensome for the defendant. In many cases, dismissal protects the foreign defendant as much as it protects the local court from unfair burdens of foreign litigation. Courts likewise will not entertain actions concerning title to real property located in another country; while their judgment would bind the parties before them, the power to deal with the property itself belongs solely to the country of location.

Conclusion

Civil law countries generally do not dismiss actions for reasons of forum non conveyance. The European Court of Justice has held expressly that the allocation of jurisdiction by EUROPEAN law is binding on national courts. As an exception, the Brussels II Regulation permits dismissal or transfer for forum non conveyance reasons in child custody cases.

Biography

Georgios A. Antonopoulos is Professor of Criminology at the School of Social Sciences and Law, Teesside University in the UK. He has conducted research for the local authorities in Britain, the British Police, the British Ministry of Justice and the European Commission. His articles have appeared in the British Journal of Criminology, European Journal of Criminology, Trends in Organised Crime, Global Crime, and Crime, Law & Social Change. He is an associate of the Cross-Border Crime Colloquium, and member of the editorial boards of the journals International Journal of Criminal Justice Sciences, Trends in Organised Crime and Global Crime. In 2009 he received the European Society of Criminology 'Young Criminologist'.

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