HUNGARY 2.

Fourth working session – arbitration

Mostly agreeing with the Duch submissions, in our point of view the scope of the Brussels I Regulation does not have to be extended to the field of arbitration. This way very different legal institutions could be mixed up, which would reduce the impact of the Regulation itself.

In our opinion the main problem is the definition of „arbitration" with regard to Art. 1. (2) d) of the Regulation. Although this word seems to have an obvious meaning, practice shows that situation is not so clear as it looks. According to the decisions of ECJ (*Marc Rich Case, Van Uden Case, West Tankers Case*) it clearly shows, that there are many ways to interprete the phrase. As a result of the different interpretations, it is difficult to decide, whether an issue falls under the scope of Brussels I Regulation, or the exclusion applies to it. As to the ECJ, the main point is the nature of the right which is to be protected by the provisional measures. In *Marc Rich Case* ECJ stated, that ancillary proceedings – whose main issue or subject matter is arbitration – are excluded from the scope of the Regulation. On the other hand, court proceedings which are parallel to arbitration fall within the scope of the Brusssels I. The problem is that it is not completely clear what is the difference between ancillary and parallel proceedings.