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Judgment of the Court in Case C-34/24 | Stichting Right to Consumer Justice and Stichting App Stores Claims

The Netherlands courts have jurisdiction to hear a representative action concerning the alleged anticompetitive conduct of Apple in relation to its App Store aimed at the Netherlands market

Apple retains commission from the sale price of third-party apps sold in its App Store. According to two foundations in the Netherlands, which defend the collective interests of multiple unidentified but identifiable users of Apple devices, that commission is excessive and those users suffer damage. Those two foundations argue that Apple's conduct is anticompetitive and brought actions before the Netherlands courts. Apple, however, contends that the Netherlands court does not have jurisdiction because the alleged harmful event did not, in Apple's view, occur in the Netherlands and, in particular, in Amsterdam. Having received questions in that context, the Court of Justice states that the App Store in question is designed specially for the Netherlands market. The damage allegedly suffered when purchases are made in that virtual space can therefore occur in that territory, irrespective of the place where the users concerned were situated at the time of the purchase. The Netherlands court therefore has international and territorial jurisdiction.

Apple iPhones and iPads run on the iOS operating system, which is pre-installed on those devices. The applications ('apps') for those devices can be purchased on the App Store, which is an online platform operated by Apple and is systematically installed on those devices. The App Store offers apps free of charge or in return for payment, which may vary from country to country and which are developed by Apple or by third parties (the latter referred to hereinafter as 'developers'). In order to sell their apps on the App Store, developers must enter into an agreement with Apple. The sale price for those apps is determined on the basis of a scale established by Apple. In addition, Apple retains, depending on the case, 15 or 30% of that price by way of commission.

To access the App Store, users of Apple devices must first create a profile. Where users have an Apple ID indicating the Netherlands as the country or region and they access the App Store, they are directed by default to the 'online shop' designed specifically for that country. Although users in theory have the possibility of changing the country associated with their profile, in order to do so, they must accept new terms and conditions and have a valid payment method in that country.

Stichting Right to Consumer Justice and Stichting App Stores are foundations governed by Netherlands law whose object is to defend the interests of victims of unlawful conduct on the part of the Apple Group. Those foundations brought two representative actions before the District Court of Amsterdam in order to defend the collective interests of a 'strictly defined group' which brings together unidentified but identifiable persons, namely users, whether they are consumers or professionals, who have purchased apps created by the developers on the App Store NL. The applicants argue, *inter alia*, that Apple abuses its dominant position on the market for the distribution of apps for its devices. That anticompetitive conduct has, in the applicants' view, caused damage to the users of

those apps.

Apple contends that the Netherlands court does not have jurisdiction to hear this case because the alleged harmful event did not, in Apple's view, occur in the Netherlands, in particular in Amsterdam. In the alternative, Apple submits that that court can have jurisdiction only in respect of claims concerning users who have made purchases in Amsterdam, in the App Store NL. The Netherlands court decided to refer questions to the Court of Justice regarding the Regulation on jurisdiction.¹

In today's judgment, the Court recalls its settled case-law, according to which the rule of special jurisdiction laid down in that regulation, which allows the claimant to bring an action before the court for the place where the harmful event occurred or is likely to occur, must be interpreted independently and strictly. This is a derogation from the general rule that the courts where the defendant is domiciled have jurisdiction.

In the present case, the App Store in question is designed specially for the Netherlands market and uses Dutch to offer apps for sale to users who have an Apple ID associated with the Netherlands, some of those apps being created specifically for that market. Consequently, in order to determine the place where the damage occurred, the virtual space constituted by the App Store NL, in which the purchases were made, is the entire territory of that State. The damage suffered when those purchases are made can therefore occur in that territory, irrespective of the place where the users concerned were situated at the time of the purchase.

In that context, the Court finds that that identification of the place where the damage occurred, in order to determine the court having jurisdiction, meets the objectives of proximity, predictability of the rules governing jurisdiction, and the sound administration of justice. In particular, since the App Store NL targets the Netherlands market specifically, it is predictable that an action for damages in respect of purchases made on that platform will be brought before any Netherlands court that has substantive jurisdiction to hear such an action in respect of all the users who have purchases digital products on that platform.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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¹ [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.