

Legal Interpretation Report

Brussels I (Recast) Regulation

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Article 7 Article 7

Case C-526/23

62023CJ0526

VariusSystems digital solutions GmbH v GR Inhaberin B & G

CJEU 28 November 2024

OPERATIVE PART

OP 1

place of performance

provision of services

software contracts

jurisdiction

Regulation 1215/2012

For contracts to develop and operate software for a customer in another EU Member State, the place of performance is where the customer accesses and uses the software.

COURT REASONING

Regulation 1215/2012 aims for predictable jurisdiction rules to ensure legal certainty and protection for parties in the EU.

(15)

Special jurisdiction for contracts is based on proximity and a connecting factor between the contract and the court.

(16)

The contract in question is for the provision of services, including design, programming, maintenance, and adaptation of software.

(17)

The place of performance is autonomously defined as where the services were provided or should have been provided, to ensure unification and foreseeability.

(18)

Jurisdiction is with the court of the Member State where the main provision of services occurs, based on the contract or actual performance.

(19)

If there are multiple obligations, the obligation characterizing the contract must be identified.

(20)

For software contracts, the obligation characterizing the contract is making the software available to the customer, not its design or programming.

(21)

The place of performance is where the customer accesses, consults, and uses the software.

(22)

If the software is used in multiple places, the place of performance is the customer's domicile or registered office, as this is definite and identifiable.

(23)

The place of performance cannot depend on criteria specific to substantive examination, such as compliance with national specifications.

(24)

Case C-425/22

62022CJ0425

MOL Magyar Olaj- és Gázipari Nyrt. v Mercedes-Benz Group AG

CJEU 4 July 2024

OPERATIVE PART

OP 1

special jurisdiction

place where the damage occurred

economic unit

cartel damages

parent-subsidiary relationship

The place where the harmful event occurred, for the purposes of Article 7(2) of Regulation 1215/2012, does not include the registered office of a parent company seeking damages for harm suffered only by its subsidiaries due to a third party's anticompetitive conduct, even if the parent and subsidiaries are part of the same economic unit.

COURT REASONING

The wording of Article 7(2) covers the place where the damage occurred or the event giving rise to it, not any location where financial consequences are felt.

(25, 26, 28)

Only the subsidiaries directly suffered the damage (overpayment for trucks); MOL did not directly acquire trucks or suffer direct harm.

(30, 32)

The economic unit concept in competition law is used to establish liability for infringements, not to determine the place where damage occurred for jurisdictional purposes.

(33, 34, 36)

Applying the economic unit concept to jurisdiction would undermine the objectives of proximity, predictability, and consistency between forum and applicable law.

(37, 38, 39, 40)

Victims can always sue in the defendant's domicile; the rules do not prevent access to compensation.

(41, 42)

Legal certainty requires that jurisdiction can be determined without examining the substance of the case.

(45)

MA v FCA Italy SpA and FPT Industrial SpA

CJEU 22 February 2024

OPERATIVE PART

OP 1

special jurisdiction

place where damage occurred

defeat device

cross-border tort

Regulation 1215/2012

If a vehicle with an unlawful defeat device is sold under a contract in one Member State and delivered in another, the place where the damage occurred is the Member State where the vehicle was delivered.

COURT REASONING

The special jurisdiction rule of Article 7(2) must be interpreted autonomously and strictly, based on a close connection between the dispute and the court.

(23, 24)

The place where the harmful event occurred covers both the place of the event giving rise to the damage and the place where the damage occurred; the applicant may choose either.

(26)

The damage in question is initial, material damage (loss in value of the vehicle due to the defect), not purely financial or indirect.

(30, 31, 32)

The place where the damage occurs is where the defective vehicle is purchased, i.e., where the defect manifests and produces its effects for the final purchaser.

(33, 39, 40)

Where contract conclusion and delivery occur in different Member States, the relevant place is where the vehicle was delivered to the final purchaser.

(40)

This interpretation ensures predictability and aligns with the manufacturer's reasonable expectations.

(41)

The place of normal use of the vehicle is not relevant for determining the place where the damage occurred.

(42)

EXTÉRIA s.r.o. v Spravíme s. r. o.

CJEU 14 September 2023

OPERATIVE PART

OP 1

provision of services

jurisdiction

contractual penalty

pactum de contrahendo

Brussels I bis Regulation

A contract to enter into a future contract for a franchise, which includes a penalty for non-performance, is not a 'contract for the provision of services' under Article 7(1)(b) of Regulation 1215/2012. Instead, jurisdiction for claims based on such a contract is determined by Article 7(1)(a), which refers to the place where the obligation should be performed.

COURT REASONING

The concept of 'provision of services' in Article 7(1)(b) requires a specific activity performed for remuneration.

(34, 35, 36)

A contract to enter into a future contract does not involve any actual activity or remuneration; it only creates an obligation to conclude a future contract.

(37, 38)

The contractual penalty is not remuneration for a service, but a consequence of non-performance.

(37, 38)

Extending 'provision of services' to such contracts would undermine the Regulation's objectives of legal certainty and strict interpretation of special jurisdiction rules.

(39, 40, 43)

If Article 7(1)(b) does not apply, jurisdiction is determined by Article 7(1)(a) based on the place of performance.

(41, 42, 44)

ZK v BMA Braunschweigische Maschinenbauanstalt AG

CJEU 10 March 2022

OPERATIVE PARTS

OP 1

special jurisdiction

collective action

liquidator

duty of care

tort jurisdiction

The court where the bankrupt company is established has jurisdiction to hear a collective damages action brought by the liquidator against the grandparent company for breach of duty of care to creditors.

COURT REASONING

The special jurisdiction rule in Article 7(2) must be interpreted autonomously and strictly, based on a close connection between the dispute and the court.

(28, 29)

The place where the harmful event occurred is where the bankrupt company is established, as this is where the financial situation and activities are connected.

(31, 32, 33)

This location is predictable and ensures sound administration of justice.

(34)

The indirect damage to individual creditors is irrelevant for jurisdiction under Article 7(2); what matters is the direct damage to the company.

(35)

The nature of the collective action and the inability of the defendant to raise all defences against individual creditors does not affect the jurisdictional analysis.

(37, 38, 39)

OP 2

collective interests foundation jurisdiction creditors intervention

It makes no difference to jurisdiction if a foundation acts to defend the collective interests of creditors and the action does not consider individual creditor circumstances.

COURT REASONING

The position and procedural rights of the foundation as intervenor do not affect the court's jurisdiction over the liquidator's action.

(42)

OP 3

third-party proceedings jurisdiction intervention
concurrent proceedings Regulation 1215/2012

If a court decides it does not have jurisdiction over the main case, it also loses jurisdiction over claims by intervening third parties.

COURT REASONING

Article 8(2) links jurisdiction for third-party proceedings to the court's jurisdiction over the original proceedings.

(45)

Allowing jurisdiction to remain for the third party would undermine the objectives of avoiding concurrent proceedings and irreconcilable judgments.

(46, 47)

OP 4 Rome II applicable law duty of care manifestly closer connection

non-contractual obligations

The law of the country where the bankrupt company is established generally applies to compensation claims for breach of duty of care by the grandparent company, unless a prior contract shows a much closer connection to another country.

COURT REASONING

The Rome II Regulation applies unless the liability is specific to company law structural matters.

(50, 51, 52, 53, 54, 55)

The direct damage is to the bankrupt company's assets, so the place of establishment is the relevant connecting factor for applicable law.

(56, 57, 58, 59, 60, 61)

Who brings the action and the type of action do not affect the determination of the place where the damage occurs.

(62)

A pre-existing contract with a choice of law/court may indicate a manifestly closer connection to another country, but this is for the court to assess.

(63, 64, 65)

Case C-20/21

62021CJ0020

JW and Others v LOT Polish Airlines

CJEU 3 February 2022

OPERATIVE PART

OP 1

jurisdiction place of performance air passenger rights

connecting flights Regulation 1215/2012

If a passenger claims compensation for a delay on the first leg

of a multi-leg flight (booked as a single journey, operated by different airlines) and sues the airline operating that first leg, the arrival airport of that first leg cannot be considered the 'place of performance' for jurisdiction under Article 7(1)(b) of Regulation 1215/2012.

COURT REASONING

The case concerns 'matters relating to a contract' under Article 7(1)(a) of Regulation 1215/2012, as established by prior case law.

(15)

Article 7(1)(b) specifies the place of performance for service contracts as where the services were provided or should have been provided.

(16)

Where services are provided in several places, the main place of provision (usually departure or final destination) is the connecting factor for jurisdiction.

(17, 18)

For connecting flights under a single booking, both the place of departure of the first leg and the place of arrival of the last leg can be 'places of performance', but not intermediate stops unless justified by the contract.

(19, 22, 23)

The referring court did not provide contractual elements justifying the arrival of the first leg (Frankfurt) as a main place of provision; thus, only the departure of the first leg qualifies.

(24)

This interpretation ensures proximity, sound administration of justice, and predictability for both parties.

(25, 26)

Case C-251/20

62020CJ0251

Gtflix Tv v DR

OPERATIVE PART

OP 1

special jurisdiction

internet defamation

partial compensation

place where damage occurred

accessibility of online content

A person harmed by disparaging online comments can claim compensation for damage suffered in a Member State before the courts of that State if the comments were accessible there, even if those courts cannot order rectification or removal of the content.

COURT REASONING

Article 7(2) provides for special jurisdiction in matters relating to tort, delict or quasi-delict, allowing a person to be sued in the courts where the harmful event occurred or may occur.

(21)

The rule is based on a close connection between the dispute and the courts of the place where the harmful event occurred, ensuring sound administration of justice and legal certainty.

(24, 25)

The place where the harmful event occurred includes both the place of the event giving rise to the damage and the place where the damage occurred.

(27)

For online content, courts in each Member State where the content is accessible have jurisdiction to rule on damage suffered in that State, but not on rectification/removal, which is indivisible and reserved for courts with jurisdiction over the whole claim.

(30, 32, 33)

There is no legal necessity for exclusive jurisdiction over both compensation and rectification/removal; claims for partial compensation can be brought before courts in any Member

State where damage occurred.

(35, 36)

The only condition for jurisdiction is that the harmful content was accessible in the Member State; no further conditions (such as targeting that State) are required.

(41)

Case C-30/20

62020CJ0030

RH v AB Volvo and Others

CJEU 15 July 2021

OPERATIVE PART

OP 1

international jurisdiction

territorial jurisdiction

cartel damages

place where damage occurred

Article 7(2) Regulation 1215/2012

If a company claims damages from a cartel that fixed prices, the court where it bought the goods or, if it bought them in several places, the court where its registered office is located, has both international and territorial jurisdiction to hear the case.

COURT REASONING

The concept of 'place where the harmful event occurred' in Article 7(2) covers both the place where the damage occurred and the place of the event giving rise to it, allowing the applicant to choose the court.

(29)

The damage from the cartel occurred in the entire EEA market, including Spain, where RH purchased the trucks.

(31)

Article 7(2) confers both international and territorial jurisdiction directly to the courts for the place where the damage occurred.

(33)

Member States may centralise jurisdiction in a specialised court, but in the absence of such, the competent court is determined by where the goods were purchased or, if in several places, the registered office of the harmed undertaking.

(34, 35, 37, 38, 39, 40, 41, 42)

This approach ensures predictability, proximity, and sound administration of justice, and is consistent with prior case-law.

(38, 42)

Case C-800/19

62019CJ0800

Mittelbayerischer Verlag KG v SM

CJEU 17 June 2021

OPERATIVE PART

Courts in the place where a person's centre of interests is located have jurisdiction to hear claims for damages for online infringement of personality rights only if the online content allows that person to be identified, directly or indirectly, through objective and verifiable elements.

COURT REASONING

Regulation 1215/2012 aims for predictable jurisdiction rules, enabling applicants to identify the competent court and defendants to foresee where they may be sued.

(25)

Special jurisdiction under Article 7(2) is a derogation from the general rule and must be interpreted restrictively.

(26)

Special jurisdiction is justified by a particularly close connection between the dispute and the court, ensuring sound administration of justice and legal certainty.

(27, 28)

In online personality rights cases, jurisdiction based on the centre of interests is justified only if the person is identifiable in the content.

(31, 34, 35)

If the person is not identified, attributing jurisdiction to their centre of interests would undermine predictability and legal certainty, as the publisher cannot foresee being sued in that court.

(37, 38, 39)

Jurisdiction must be based on objective and verifiable elements that allow identification of the individual, not solely on subjective factors or group membership.

(42, 43)

In this case, SM was not identified in the content, so there is no close connection justifying jurisdiction under Article 7(2).

(44, 45)

Case C-913/19

62019CJ0913

CNP spółka z ograniczoną odpowiedzialnością v Gefion Insurance A/S

CJEU 20 May 2021

OPERATIVE PARTS

OP 1

insurance jurisdiction

assignment of claims

weaker party protection

Article 7(2) tort jurisdiction

Article 7(5) branch jurisdiction

If a business acquires a claim from an injured party against a civil liability insurer, it cannot use the special insurance jurisdiction rules in Article 13(2) and Article 10 of Regulation 1215/2012, but may rely on Article 7(2) or 7(5) for jurisdiction if the conditions are met.

COURT REASONING

Section 3 of Chapter II of Regulation 1215/2012 provides an autonomous system for insurance jurisdiction, generally protecting weaker parties.

(32, 33, 39)

The special insurance jurisdiction rules are not to be extended to professionals in the insurance sector who are not in a weaker position.

(39, 40, 41, 42)

CNP is a professional assignee and not a weaker party, so cannot benefit from the special insurance jurisdiction rules.

(43)

Where Section 3 does not apply, Section 2 (including Article 7(2) and (5)) may apply if their conditions are met.

(44, 45, 46)

OP 2

branch agency establishment

loss adjustment

Article 7(5) jurisdiction

permanent presence

insurance operations

A company that adjusts losses for an insurer in another Member State, acting in the insurer's name and on its behalf, is considered a branch, agency, or other establishment under Article 7(5) if it has a permanent presence, its own management, and is equipped to negotiate with third parties.

COURT REASONING

Article 7(5) is a special jurisdiction rule and must be interpreted strictly and independently.

(49, 60)

The rule is justified by a close link between the dispute and the court's location.

(50)

Two criteria: (1) the entity must have a permanent presence and management, and (2) the dispute must concern acts or commitments made by the entity on behalf of the parent.

(51, 52)

Crawford Polska appears to have management and authority to act for the insurer, but the referring court must confirm if it is materially equipped to negotiate with third parties.

(54, 55, 56, 57)

The dispute concerns commitments made by Crawford Polska on behalf of Gefion, not just its internal management.

(58, 59)

Case C-709/19

62019CJ0709

Vereniging van Effectenbezitters v BP plc

CJEU 12 May 2021

OPERATIVE PART

OP 1

international jurisdiction

purely financial loss

If an investor suffers purely financial loss in an investment account in a Member State due to misleading information from an international listed company, the courts of that Member State do not have international jurisdiction based solely on where the loss occurred, unless the company had statutory reporting obligations there.

COURT REASONING

The special jurisdiction rule in Article 7(2) must be interpreted strictly and independently, and is a derogation from the general rule of jurisdiction based on the defendant's domicile.

(24, 25)

The 'place where the harmful event occurred' covers both the place where the damage occurred and the place of the event giving rise to the damage, but cannot be interpreted so broadly as to include any place where adverse consequences are felt.

(26, 27)

The applicant's domicile or location of assets is not enough to establish jurisdiction if the actual damage arose elsewhere.

(28)

Jurisdiction may be justified if the applicant's domicile is where the events giving rise to the damage took place or the damage actually occurred.

(29)

The place where the damage occurred is where the alleged damage actually manifests itself, but the foreseeability objective of the Regulation is not met if the issuer is not subject to statutory reporting obligations in that Member State.

(31, 32, 33, 34)

Only in Member States where the company has complied with statutory reporting obligations for listing can it reasonably

foresee being sued, and thus jurisdiction can be established.

(35)

The collective nature of the action does not affect the determination of the place where the harmful event occurred.

(36)

Case C-804/19

62019CJ0804

BU v Markt24 GmbH

CJEU 25 February 2021

OPERATIVE PARTS

OP 1

employment contract

jurisdiction

non-performance

cross-border employment

Regulation 1215/2012

The special EU rules on jurisdiction for employment contracts apply even if the employee never performed any work, as long as the contract was made in one Member State and the work was to be performed in another, and the lack of performance was due to the employer.

COURT REASONING

The concept of an 'individual contract of employment' is autonomous and covers relationships of subordination, regardless of whether work was actually performed.

(24, 25, 26)

A contract that creates rights and obligations of employment is covered by Section 5 of Chapter II, even if not performed.

(27)

OP 2

exclusive jurisdiction

national rules precluded

employee protection

Regulation 1215/2012

uniformity

The EU rules on jurisdiction for employment contracts override any national rules, even if the national rules are more favorable to the employee.

COURT REASONING

Regulation 1215/2012 establishes uniform rules of international jurisdiction that take precedence over national rules.

(30, 31, 32)

Section 5 of Chapter II is specific and exhaustive, so national rules cannot apply even if more beneficial.

(33, 34)

OP 3

place of performance

habitual place of work

jurisdiction

employment disputes

Article 21(1)(b)(i)

The employee can sue in the court of the place where they were supposed to perform their main work duties under the contract, even if no work was actually done; this is subject to possible application of the rule for branch operations.

COURT REASONING

The habitual place of work is determined by where the employee was supposed to perform their essential duties, even if the contract was not performed.

(40, 41, 42)

The place specified in the contract is the relevant jurisdiction for non-performed contracts.

(41, 42, 43)

Jurisdiction may also be possible under Article 7(5) if the dispute concerns a branch or establishment.

(44, 45, 46, 47, 48)

Wikingerhof GmbH & Co. KG v Booking.com BV

CJEU 24 November 2020

OPERATIVE PART

OP 1

special jurisdiction

tort/delict

abuse of dominant position

competition law

contractual relationship

Article 7(2) of Regulation 1215/2012 applies to lawsuits seeking to stop practices within a contract if the claim is that the defendant abused a dominant market position in violation of competition law.

COURT REASONING

The Court distinguishes between 'matters relating to a contract' and 'matters relating to tort, delict or quasi-delict' under Article 7(1) and 7(2) of Regulation 1215/2012, emphasizing that these categories must be interpreted independently and not by reference to national law classifications.

(23, 24, 25)

The applicability of Article 7(2) depends on whether the claim is based on a legal obligation imposed by law (such as competition law) rather than on the contract itself; if so, it is a matter of tort/delict.

(31, 32, 33)

In this case, Wikingerhof's claim is based on an alleged breach of competition law (abuse of dominant position), which is a legal obligation independent of the contract, and does not require interpretation of the contract to determine lawfulness.

(34, 35, 36)

This interpretation aligns with the objectives of proximity and sound administration of justice, as the court of the affected market is best placed to assess such claims.

(37)

Case C-433/19

62019CJ0433

Ellmes Property Services Limited v SP

CJEU 11 November 2020

OPERATIVE PARTS

OP 1

rights in rem

exclusive jurisdiction

co-ownership

erga omnes

immovable property

An action by a co-owner to stop another co-owner from changing the agreed use of co-owned property is a matter of rights in rem (exclusive jurisdiction where the property is) if the agreed use can be enforced against everyone, not just the co-owners. The national court must check if this is the case.

COURT REASONING

Exclusive jurisdiction rules in Article 24 are derogations from the general rule and must be interpreted strictly.

(21, 22)

The phrase ‘rights in rem in immovable property’ must have an autonomous EU law meaning.

(23)

Jurisdiction under Article 24(1) only applies if the action seeks to determine or protect rights in rem, not just any action related to property.

(24, 25)

A right in rem has effect erga omnes, unlike a right in personam which is only enforceable against specific persons.

(26)

The national court must verify if the designated use in the co-ownership agreement is enforceable erga omnes.

(31, 32)

OP 2

contractual obligation special jurisdiction co-ownership agreement
place of performance immovable property

If the agreed use of co-owned property cannot be enforced against everyone, an action to stop a co-owner from changing that use is a contractual matter. The court where the property is located has jurisdiction, as that is where the obligation must be performed.

COURT REASONING

A contract is not required for Article 7(1)(a) to apply, but there must be a freely consented legal obligation.

(36, 37)

Co-ownership agreements create such obligations among co-owners, even for later co-owners.

(38, 39, 40)

The place of performance of the obligation is where the property is situated, as the obligation relates to use of the property.

(42, 43, 44)

This approach ensures predictability and sound administration of justice.

(45, 46)

Case C-343/19

62019CJ0343

Verein für Konsumenteninformation v Volkswagen AG

CJEU 9 July 2020

OPERATIVE PART

OP 1

jurisdiction place where damage occurred tort/delict
emissions manipulation consumer protection

If a manufacturer in one EU country installs illegal emissions software in vehicles, and those vehicles are later bought in

another EU country, the place where the damage occurs (for jurisdiction purposes) is the country where the vehicles were bought.

COURT REASONING

The concept of 'place where the harmful event occurred' covers both the place where the damage occurred and the place of the event giving rise to it; the claimant may choose either for jurisdiction.

(23)

The place of the event giving rise to the damage is Germany, where the vehicles were equipped with the software.

(24)

The damage (loss in value of the vehicles) occurred only when the vehicles were purchased in Austria, not at the time of the software installation.

(29, 30)

This loss is initial damage, not indirect or purely financial damage, because it is tied to the tangible asset (the vehicle) and arises at the time of purchase.

(31, 32, 33, 34)

Allowing jurisdiction in the place of purchase meets the objectives of predictability, proximity, and sound administration of justice, as the manufacturer could foresee being sued there and the courts there are best placed to assess the damage.

(36, 37, 38)

This interpretation is consistent with the Rome II Regulation, which also locates the place of damage where the product is purchased by consumers.

(39)

Case C-421/18

62018CJ0421

Ordre des avocats du barreau de Dinant v JN

CJEU 5 December 2019

OPERATIVE PARTS

OP 1

public powers

civil and commercial matters

jurisdiction

bar association

lawyer's fees

A dispute about a lawyer's obligation to pay annual fees to a bar association is covered by Regulation No 1215/2012 only if the bar association is not using public powers under national law, which the referring court must determine.

COURT REASONING

Regulation No 1215/2012 applies only to civil and commercial matters, not to actions involving the exercise of public powers.

(22)

If the bar association acts under public powers, the dispute is excluded from the Regulation's scope.

(23)

It is for the referring court to determine whether the bar association is acting in the exercise of public powers under national law.

(23)

OP 2

contractual obligation

special jurisdiction

freely consented services

insurance services

bar association fees

A bar association's action to recover annual fees is a 'matter relating to a contract' under Article 7(1)(a) of Regulation No 1215/2012 only if the fees are for services provided to the member and the member freely agreed to those services, which the referring court must decide.

COURT REASONING

The special jurisdiction rule in Article 7(1)(a) requires an obligation freely consented to by one person towards another.

(25, 26)

Membership in the bar association and payment of fees are legal requirements for practising law in Belgium, not typically contractual.

(27, 28, 31)

If the fees are for services that are freely consented to (e.g., optional insurance), the obligation may be contractual.

(33)

It is for the referring court to determine if the specific fees are for services freely agreed to by the member.

(33)

Case C-213/18

62018CJ0213

Adriano Guaitoli and Others v easyJet Airline Co. Ltd

CJEU 7 November 2019

OPERATIVE PARTS

OP 1

jurisdiction

air passenger rights

Regulation 261/2004

Montreal Convention

parallel claims

When a court hears a case seeking both standardised compensation under Regulation 261/2004 and further damages under the Montreal Convention, it must determine its jurisdiction for the Regulation 261/2004 claim using Article 7(1) of Regulation 1215/2012, and for the Montreal Convention claim using Article 33 of that Convention.

COURT REASONING

The rights under Regulation 261/2004 and the Montreal Convention fall within distinct regulatory frameworks, so their jurisdictional rules apply separately.

(34, 35)

Regulation 1215/2012 applies to claims under Regulation 261/2004, while the Montreal Convention's jurisdictional rules apply to claims under that Convention.

(36, 37)

Article 7(1) of Regulation 1215/2012 allows jurisdiction at the place of performance of the contract (departure or arrival airport).

(38, 39, 40, 42)

For claims under the Montreal Convention, jurisdiction is determined by Article 33 of that Convention.

(43)

OP 2

territorial jurisdiction

Montreal Convention

international carriage by air

damages

court competence

Article 33(1) of the Montreal Convention decides both which country and which specific court within that country has jurisdiction for damages claims under the Convention.

COURT REASONING

The wording of Article 33(1) refers to both the territory of a State and the specific court within that territory.

(49, 50, 51)

This interpretation aligns with the Convention's purpose of harmonisation and consumer protection.

(52, 53)

Directly appointing the competent court increases predictability and legal certainty.

(54)

Case C-451/18

62018CJ0451

Tibor-Trans Fuvarozó és Kereskedelmi Kft. v DAF TRUCKS N.V.

CJEU 29 July 2019

OPERATIVE PART

OP 1

special jurisdiction

place where the harmful event occurred

cartel damages

affected market

Article 7(2) Regulation 1215/2012

For damages claims arising from a cartel that distorted prices, the courts of the country where the affected market is located (where prices were distorted and the victim suffered damage) have jurisdiction under Article 7(2) of Regulation 1215/2012, even if the victim did not have a direct contractual relationship with the defendant.

COURT REASONING

Regulation 1215/2012 applies to civil and commercial matters, including competition damages actions.

(24)

Article 7(2) allows jurisdiction at the place where the damage occurred or the event giving rise to it.

(25)

The place where the damage occurred refers to the location of the initial, direct damage, not merely where financial consequences are felt.

(27, 28, 29)

The damage suffered by Tibor-Trans (overpayment due to cartel prices) is direct, not merely financial or indirect.

(30, 31)

Where the affected market is in the Member State where the victim claims to have suffered damage, that State is the place where the damage occurred.

(32, 33)

This approach supports proximity, predictability, and consistency with other EU rules (e.g., Rome II Regulation).

(34, 35)

The lack of a direct contractual relationship and the fact that only one cartel participant is sued does not affect this jurisdictional rule.

(36)

Case C-25/18

62018CJ0025

Brian Andrew Kerr v Pavlo Postnov and Natalia Postnova

CJEU 8 May 2019

OPERATIVE PARTS

OP 1

special jurisdiction

contractual obligation

property owners' association

binding decisions

Article 7(1)(a) Regulation 1215/2012

A dispute about payment obligations from a decision of a general meeting of property owners (even if the association is not a legal entity and the decision binds all owners) is considered a 'matter relating to a contract' under Article 7(1)(a) of Regulation 1215/2012.

COURT REASONING

The general rule is that jurisdiction is based on the defendant's domicile, with special jurisdiction rules interpreted restrictively.

(21, 22)

For Article 7(1)(a) to apply, there must be an obligation freely assumed by one party towards another.

(24, 25)

Membership of an association creates links similar to those of a contract, and obligations arising from such membership are contractual.

(26)

Even if membership is prescribed by law, acquiring property and shares in communal areas is voluntary, so obligations to the association are freely consented to.

(27)

It does not matter if the obligation arises from the purchase act or from a decision of the general meeting, or if the owner did not participate in the decision; by owning property, the owner agrees to be bound by such decisions.

(28, 29)

OP 2

applicable law

provision of services

communal property maintenance

Article 4(1)(b) Regulation 593/2008

contractual character

A dispute about payment obligations for communal area maintenance, decided by a general meeting of property owners, is considered a contract for the provision of services under Article 4(1)(b) of Regulation 593/2008.

COURT REASONING

The exclusion for company law in Article 1(2)(f) of Regulation 593/2008 does not apply to payment obligations to an association of property owners; these fall under general contractual obligations.

(33, 34)

Regulation 593/2008 applies to such disputes.

(35)

Consistency with Regulation 1215/2012 is required.

(36)

Actions for payment of maintenance contributions do not concern rights in rem in immovable property, but rather contractual obligations.

(37, 38)

The concept of 'services' requires an activity performed for remuneration; maintenance of communal areas fits this definition.

(39, 40, 41)

Case C-464/18

62018CJ0464

ZX v Ryanair DAC

CJEU 11 April 2019

OPERATIVE PARTS

OP 1

branch jurisdiction

international jurisdiction

airline compensation

Regulation 1215/2012

branch involvement

A court cannot claim jurisdiction over a compensation dispute against an airline from another Member State just because the airline has a branch in its territory, unless that branch was involved in the relationship with the passenger.

COURT REASONING

The concept of 'branch' requires a permanent operation with management and the ability to negotiate business, and the dispute must relate to acts or commitments of the branch.

(33)

The ticket was purchased online, and there is no evidence the branch was involved in the contract.

(34)

No evidence links the branch to the legal relationship between Ryanair and the passenger.

(35)

Therefore, the court cannot have jurisdiction under Article 7(5) in these circumstances.

(36)

OP 2

implied prorogation

appearance

tacit acceptance

jurisdiction

Regulation 1215/2012

Article 26(1) does not apply if the defendant has not appeared or submitted any observations in the proceedings.

COURT REASONING

Article 26(1) requires the defendant to enter an appearance for tacit acceptance of jurisdiction.

(38)

Absence of observations is not considered entering an appearance.

(40)

Therefore, implied prorogation of jurisdiction does not apply in these circumstances.

(41)

Case C-64/17

62017CJ0064

Saey Home & Garden NV/SA v Lusavouga-Máquinas e Acessórios Industriais SA

CJEU 8 March 2018

OPERATIVE PARTS

OP 1

jurisdiction clause

general conditions

written evidence

consensus

Regulation 1215/2012

A jurisdiction clause only mentioned in the general terms of sale on invoices does not meet the requirements of Article 25(1) of Regulation 1215/2012, unless the referring court finds otherwise after further checks.

COURT REASONING

Article 25 must be strictly interpreted as it excludes general and special jurisdiction rules.

(24)

The court must examine if there was actual consensus on the jurisdiction clause, which must be clearly and precisely demonstrated.

(25)

A jurisdiction clause in general conditions is valid only if the contract signed by both parties expressly refers to those conditions.

(27)

In this case, the agreement was verbal and the general terms were only mentioned in invoices, so the requirements of Article 25(1)(a) are not met.

(28, 29)

The referring court must also check if the clause was agreed according to established practices or trade usages under Article 25(1)(b) and (c).

(31)

OP 2

commercial concession agreement

place of performance

provision of services

jurisdiction determination

Regulation 1215/2012

For claims about ending a commercial concession agreement between companies in different Member States for distribution in a third Member State, the competent court is in the Member State where the main supply of services happened, as shown by the contract or its actual performance, or if unclear, where the agent is domiciled.

COURT REASONING

Article 7(1)(b) applies if the agreement is a contract for sale of goods or provision of services; otherwise, Article 7(1)(a) applies.

(34)

A commercial concession agreement is generally classified as a contract for the supply of services.

(41)

The place of performance is the place of the main provision of services, determined by the contract, actual performance, or, if indeterminable, the agent's domicile.

(44, 45)

This approach respects the objectives of predictability and proximity in the Regulation.

(46)

Joined Cases C-274/16, C-447/16 and C-448/16

62016CJ0274

flightright GmbH v Air Nostrum, Líneas Aéreas del Mediterráneo SA, Roland Becker v Hainan Airlines Co. Ltd and Mohamed Barkan and Others v Air Nostrum, Líneas Aéreas del Mediterráneo SA

CJEU 7 March 2018

OPERATIVE PARTS

OP 1

special jurisdiction

third State defendant

international jurisdiction

Regulation 44/2001

domicile

The special jurisdiction rule in Article 5(1)(b) of Regulation 44/2001 does not apply to defendants based outside the EU.

COURT REASONING

Article 5 of Regulation 44/2001 applies only to persons domiciled in a Member State (Article 60).

(51)

Hainan Airlines is domiciled outside the EU and has no branch in Berlin or another Member State.

(52)

Therefore, Article 4(1) applies, making jurisdiction subject to national law.

(53)

OP 2

matters relating to a contract

operating air carrier

no direct contractual relationship

Regulation 261/2004

jurisdiction

Claims by air passengers for compensation under Regulation 261/2004 against an operating air carrier (even if there is no direct contract) are considered 'matters relating to a contract' under Article 5(1)(a) of Regulation 44/2001.

COURT REASONING

The concept of 'matters relating to a contract' must be interpreted independently and uniformly in the EU.

(58)

The rule of special jurisdiction is based on the cause of action, not the identity of the parties.

(61)

Regulation 261/2004 (Article 3(5)) treats the operating air carrier as acting on behalf of the contracting carrier.

(62)

Thus, obligations arise under the contract for carriage by air, even if the operating carrier is not the direct contracting partner.

(63, 64)

OP 3

place of performance

connecting flights

final destination

special jurisdiction

Regulation 1215/2012

For connecting flights, the 'place of performance' is the final destination (arrival of the second leg), even if the disruption occurred on the first leg operated by a different carrier.

COURT REASONING

The 'place of performance' is the place with the closest link to the contract and the court with jurisdiction, generally the main place of provision of services.

(67)

For contracts covering a journey from point A to point C, point C (final destination) is a principal place of provision.

(71)

This applies even if the operating carrier only operates one leg and is not the direct contracting party.

(72)

The final destination ensures a close connection to the dispute and satisfies proximity and predictability requirements.

(74, 75)

Case C-194/16

62016CJ0194

Bolagsupplysningen OÜ and Ingrid Ilsjan v Svensk Handel AB

CJEU 17 October 2017

OPERATIVE PARTS

A legal person whose personality rights are allegedly infringed online can sue for rectification, removal of comments, and full compensation in the courts of the Member State where its centre of interests is located, even if that is not where its registered office is.

COURT REASONING

The special jurisdiction rule in Article 7(2) is based on a close connection between the dispute and the courts where the harmful event occurred, ensuring sound administration of justice.

(26, 27)

For online infringements, the centre of interests is where the damage is most keenly felt and where the court is best placed to assess the impact.

(33, 34)

The centre of interests for a legal person is where its commercial reputation is most established, typically where it carries out the main part of its activities, not necessarily its registered office.

(41, 42)

If the main activities are in a different Member State from the registered office, the courts of that other Member State have jurisdiction.

(42)

If the centre of interests cannot be identified, the legal person cannot benefit from this jurisdictional rule.

(43)

OP 2

rectification

removal of content

jurisdiction

internet publication

personality rights

A person cannot bring an action for rectification and removal of online information before the courts of every Member State where the information is accessible.

COURT REASONING

Although damages can be claimed in each Member State where online content is accessible, rectification and removal are indivisible remedies and can only be sought before a court with jurisdiction over the entire claim.

(47, 48)

Case C-249/16

62016CJ0249

Saale Kareda v Stefan Benkö

CJEU 15 June 2017

OPERATIVE PARTS

OP 1

recourse claim

joint and several liability

matters relating to a contract

jurisdiction

credit agreement

A recourse claim between jointly and severally liable debtors under a credit agreement is a 'matter relating to a contract' under Article 7(1) of Regulation 1215/2012.

COURT REASONING

The concept of 'matters relating to a contract' must be interpreted autonomously and uniformly across Member States.

(28)

A claim is contractual if it involves a legal obligation freely consented to by one person towards another.

(28)

All obligations arising under a contract, including recourse claims between jointly and severally liable debtors, fall within 'matters relating to a contract'.

(29, 30, 31)

Consistency with Rome I Regulation supports this interpretation.

(32, 33)

OP 2

credit agreement provision of services jurisdiction
contract classification Article 7(1)(b)

A credit agreement between a bank and two jointly and severally liable debtors is a 'contract for the provision of services' under Article 7(1)(b) of Regulation 1215/2012.

COURT REASONING

A 'service' under Article 7(1)(b) involves an activity performed for remuneration.

(35)

In a credit agreement, the bank provides a sum of money in return for interest, which qualifies as a service.

(36)

Therefore, such a credit agreement is a contract for the provision of services.

(37)

OP 3

place of performance

territorial jurisdiction

credit institution

recourse action

Article 7(1)(b)

For such credit agreements, the place of performance is the registered office of the credit institution, unless otherwise agreed; this determines which court has jurisdiction over recourse actions between joint debtors.

COURT REASONING

The characteristic obligation in a credit agreement is the granting of the loan by the credit institution.

(41)

The place of performance is where the credit institution has its registered office, unless otherwise agreed.

(42)

This place of performance also determines the territorial jurisdiction for recourse actions between joint debtors.

(43, 44)

Consumer contract jurisdiction rules do not apply between two consumers.

(45)

Case C-417/15

62015CJ0417

Wolfgang Schmidt v Christiane Schmidt

CJEU 16 November 2016

OPERATIVE PART

OP 1

exclusive jurisdiction

special jurisdiction

rights in rem

contract avoidance

capacity to contract

A lawsuit to void a gift of real estate because the donor lacked capacity does not fall under the exclusive jurisdiction of the courts where the property is located (Article 24(1)), but instead under the special jurisdiction for contract matters (Article 7(1) (a)).

COURT REASONING

The action concerns the legal validity of a gift contract, with the donor's capacity as a preliminary issue, not the main subject matter.

(25)

Exclusive jurisdiction under Article 24(1) applies only to actions based on a right in rem, not in personam; the avoidance of a contract is based on a right in personam.

(34, 35)

The fact that the contract concerns immovable property is irrelevant to its validity; the immovable nature is only marginally significant.

(36)

Jurisdiction for the avoidance action may be established under Article 7(1)(a) as a matter relating to a contract, in the courts of the place of performance.

(38, 39)

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