

Parties to the main proceedings

Applicant: Doris Reichel-Albert

Defendant: Deutsche Rentenversicherung Nordbayern

Questions referred

1. Is Article 44(2) of Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems ⁽¹⁾ to be interpreted as precluding an arrangement in one Member State whereby child-raising periods completed in another Member State of the European Union are to be recognised as such periods completed in the former Member State only if the child-raising parent was habitually resident abroad with the child and paid compulsory contributions during the raising or immediately before the birth of the child because of employment or self-employment there or, where spouses or partners were resident abroad together, if the spouse or partner of the child-raising parent paid such compulsory contributions or did not do so solely because he or she was a person as referred to in Paragraph 5(1) and (4) of Sozialgesetzbuch VI (Social Code VI; 'SGB VI') or was exempted from compulsory insurance pursuant to Paragraph 6 SGB VI (Paragraphs 56(3), second and third sentences; 57; 249 SGB VI)?
2. Is Article 44(2) of Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems to be interpreted, despite its wording, as meaning that, in exceptional cases, child-raising periods must be taken into account even where there has been no employment or self-employment if such a period would not otherwise be taken into account under the appropriate legislation either in the competent Member State or in another Member State in which the person was habitually resident while raising the children?

⁽¹⁾ OJ 2004 L 284, p. 1.

Reference for a preliminary ruling from the Oberster Gerichtshof (Austria) lodged on 10 November 2010 — Wintersteiger AG v Products 4U Sondermaschinenbau GmbH

(Case C-523/10)

(2011/C 30/32)

Language of the case: German

Referring court

Oberster Gerichtshof

Parties to the main proceedings

Applicant: Wintersteiger AG

Defendant: Products 4U Sondermaschinenbau GmbH

Questions referred

1. In the case of an alleged infringement by a person established in another Member State of a trade mark granted in the State of the court seised through the use of a keyword (AdWord) identical to that trade mark in an internet search engine which offers its services under various country-specific top-level domains, is the phrase 'place where the harmful event occurred or may occur' in Article 5(3) of Regulation (EC) 44/2001 ('Brussels I') ⁽¹⁾ to be interpreted as meaning that:
 - 1.1. jurisdiction is established only if the keyword is used on the search engine website the top-level domain of which is that of the State of the court seised;
 - 1.2. jurisdiction is established only if the search engine website on which the keyword is used can be accessed in the State of the court seised;
 - 1.3. jurisdiction is dependent on the satisfaction of other requirements additional to the accessibility of the website?
2. If Question 1.3 is answered in the affirmative:

Which criteria are to be used to determine whether jurisdiction under Article 5(3) of Brussels I is established where a trade mark granted in the State of the court seised is used as an AdWord on a search engine website with a country-specific top-level domain different from that of the State of the court seised?

⁽¹⁾ Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, OJ 2001, L 12, p. 1.