

OPINION OF ADVOCATE GENERAL
LÉGER

delivered on 18 May 1995 *

1. Since the oral procedure has been reopened I am once again as in Case C-68/93 *Shevill and Others v Presse Alliance*, called on to give an Opinion in the wake of one given by my predecessor.

2. As in that case, my observations will be very brief, endorsing the position taken by Mr Darmon on 21 September 1994. Once again, the provision to be examined is Article 5(3) of the Brussels Convention.

3. The facts are these: Mr Marinari, living in Italy, brought an action for damages before the Tribunale di Pisa against Lloyds Bank, whose employees' conduct had led to his arrest in England and the seizure of promissory notes that he had presented there. Lloyds Bank disputed the jurisdiction of the Italian Court on the ground that the harm had arisen in England: an application was therefore made to the Suprema Corte di Cassazione for a prior ruling on the issue of jurisdiction.

4. The latter court has therefore asked the Court of Justice to interpret Article 5(3) of the Brussels Convention, ¹ in order to clarify whether the expression 'place where the harmful event occurred' is to be construed as referring only to the place where physical damage was suffered by persons or things or as also referring to the place where the financial loss suffered by the plaintiff occurred.

5. Mr Darmon suggests ² that the place where the financial loss was suffered (Italy, in this case), a loss which is merely incidental to the initial loss suffered in another contracting State (England in the present case), cannot be regarded as conferring jurisdiction within the meaning of Article 5(3).

6. I share that view: as the Court has held, ³ only two bases of jurisdiction are available: the place where the harmful event occurred and the place where the causative event occurred, but not the place where a harmful

1 — As to whether the reference is properly made, see paragraphs 6 to 12 of Mr Darmon's Opinion.

2 — Paragraphs 27 to 49 of his Opinion.

3 — Cases cited in paragraphs 14 to 25 of Mr Darmon's Opinion.

* Original language: French.

event occurred which was *incidental* to the initial damage. And the judgment of 7 March 1995 in Case C-68/93 *Shevill and Others v Presse Alliance*,⁴ delivered after Mr Darmon gave his Opinion, certainly does not undermine that view, since it upholds that twofold

possibility, whilst at the same time making it clear that, in cases of defamation by the press, the courts of each contracting State have jurisdiction to deal only with the initial damage caused in the State of the court seised.

7. I thus concur with the terms of the operative part of the Opinion delivered on 21 September 1994.

⁴ — [1995] ECR I-415.