

Case C-51/97

Réunion Européenne SA and Others
v
Spliethoff's Bevrachtingskantoor BV and
The Master of the Vessel 'Alblasgracht V002'

(Reference for a preliminary ruling
from the French Cour de Cassation)

(Brussels Convention — Interpretation of Articles 5, points 1 and 3, and 6 —
Claim for compensation by the consignee or insurer of the goods on the
basis of the bill of lading against a defendant who did not issue the bill of
lading but is regarded by the plaintiff as the actual maritime carrier)

Opinion of Advocate General Cosmas delivered on 5 February 1998 I - 6513
Judgment of the Court (Third Chamber), 27 October 1998 I - 6534

Summary of the Judgment

1. *Convention on Jurisdiction and the Enforcement of Judgments — Special jurisdiction in 'matters relating to a contract' and 'matters relating to tort, delict or quasi delict' — Goods damaged on completion of a voyage by sea then by land — Action for compensation by the consignee against the actual maritime carrier who did not issue the bill of lading — Action concerning a matter relating to tort, delict or quasi delict — Place where the harmful event occurred — Determination — Place where the damage arose — Place of delivery of the goods by the maritime carrier*

(Convention of 27 September 1968, Art. 5, points 1 and 3)

2. *Convention on Jurisdiction and the Enforcement of Judgments — Special jurisdiction — More than one defendant — Jurisdiction of the courts for the place where any one of the co-defendants is domiciled — Condition — Co-defendant domiciled in a Contracting State (Convention of 27 September 1968, Art. 6, point 1)*

1. An action by which the consignee of goods found to be damaged on completion of a transport operation by sea and then by land, or by which his insurer who has been subrogated to his rights after compensating him, seeks redress for the damage suffered, relying on the bill of lading covering the maritime transport, not against the person who issued that document on his headed paper but against the person whom the plaintiff considers to be the actual maritime carrier, does not fall within the scope of matters relating to a contract within the meaning of Article 5, point 1, of the Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters, as amended by the Convention of 9 October 1978 on the Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, by the Convention of 25 October 1982 on the Accession of the Hellenic Republic and by the Convention of 26 May 1989 on the Accession of the Kingdom of Spain and the Portuguese Republic, since the bill of lading in question does not disclose any contractual relationship freely entered into between the consignee and the defendant.

Such an action is, however, a matter relating to tort, delict or quasi-delict within the meaning of Article 5, point 3, of that Convention, since that concept covers all actions which seek to establish the liability of a defendant and are not related to matters of contract within the meaning of

Article 5, point 1. As regards determining the 'place where the harmful event occurred' within the meaning of Article 5, point 3, the place where the consignee, on completion of a transport operation by sea and then by land, merely discovered the existence of the damage to the goods delivered to him cannot serve to determine that place. Whilst it is true that the abovementioned concept may cover both the place where the damage occurred and the place of the event giving rise to it, the place where the damage arose can, in the circumstances described, only be the place where the maritime carrier was to deliver the goods.

2. Article 6, point 1, of the Convention of 27 September 1968 must be interpreted as meaning that a defendant domiciled in a Contracting State cannot, on the basis of that provision, be sued in another Contracting State before a court seised of an action against a co-defendant not domiciled in a Contracting State on the ground that the dispute is indivisible rather than merely displaying a connection. The objective of legal certainty pursued by the Convention would not be attained if the fact that a court in a Contracting State had accepted jurisdiction as regards one of the defendants not domiciled in a Contracting State made it possible to bring another defendant, domiciled in a Contracting State, before that same court in cases other than those envisaged by the Convention, thereby depriving him of the benefit of the protective rules laid down by it.