

Case C-167/08

Draka NK Cables Ltd and Others

v

Omnipol Ltd

(Reference for a preliminary ruling
from the Hof van Cassatie)

(Judicial cooperation in civil matters — Regulation (EC) No 44/2001 — Article 43(1) —
Jurisdiction and enforcement of judgments — Notion of ‘party’)

Judgment of the Court (First Chamber), 23 April 2009 I - 3479

Summary of the Judgment

*Judicial cooperation in civil matters — Jurisdiction and the enforcement of judgments in civil and
commercial matters — Regulation No 44/2001*

(Council Regulation No 44/2001, Art. 43(1))

Like the first paragraph of Article 36 and that of Article 40 of the Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters, Article 43(1) of Regulation No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters must be interpreted as meaning that a creditor of a debtor cannot lodge an appeal against a decision on a request for a declaration of enforceability if he has not formally appeared as a party in the proceedings in which another creditor of that debtor applied for that declaration of enforceability.

In both cases, the enforcement procedure provided for constitutes an autonomous and complete system, independent of the national legal systems, including the matter of appeals. The rules relating to it must be interpreted strictly. The case-law on Articles 36 and 40 of the Convention is applicable to Article 43 of Regulation No 44/2001.

(see paras 23, 24, 27, 30, 31, operative part)