



## Reports of Cases

**Case C-45/13**

**Andreas Kainz**

**v**

**Pantherwerke AG**

(Request for a preliminary ruling from the Oberster Gerichtshof)

(Reference for a preliminary ruling — Jurisdiction in civil and commercial matters — Regulation (EC) No 44/2001 — Liability for a defective product — Product manufactured in one Member State and sold in another Member State — Interpretation of the concept of ‘the place where the harmful event occurred or may occur’ — Place of the event giving rise to the damage)

Summary — Judgment of the Court (Fourth Chamber), 16 January 2014

*Judicial cooperation in civil matters — Jurisdiction and the enforcement of judgments in civil and commercial matters — Regulation No 44/2001 — Special jurisdiction — Jurisdiction in tort, delict or quasi-delict — Claim of liability brought against the manufacturer for a defective product — Place where the harmful event occurred — Place of the event giving rise to the damage — Concept — Place where the product was manufactured*

*(Council Regulation No 44/2001, Art. 5(3))*

Article 5(3) 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, in the case where a manufacturer faces a claim of liability for a defective product, the place of the event giving rise to the damage is the place where the product in question was manufactured.

The place of the event giving rise to the damage, with regard to product liability, is the place where the event which damaged the product itself occurred. This is, in principle, the place where the product in question was manufactured.

In so far as proximity to the place where the event which damaged the product itself occurred facilitates, on the grounds of, inter alia, the possibility of gathering evidence in order to establish the defect in question, the efficacious conduct of proceedings and, therefore, the sound administration of justice, the attribution of jurisdiction to the courts in that place is consistent with the rationale of the special jurisdiction conferred by Article 5(3) of Regulation No 44/2001, that is to say, the existence of a particularly close connecting factor between the dispute and the courts for the place where the harmful event occurred.

Attribution of jurisdiction to the courts for the place where the product in question was manufactured addresses, moreover, the requirement that rules governing jurisdiction should be predictable, in so far as both the manufacturer, as defendant, and the victim, as applicant, may reasonably foresee that those courts will be in the best position to rule on a case concerning, *inter alia*, the finding that the product in question is defective.

In that regard, Article 5(3) of Regulation No 44/2001 is specifically not designed to offer the weaker party stronger protection.

In any event, the fact that it may not be possible to establish, pursuant to the objective criteria for the interpretation of Article 5(3) of Regulation No 44/2001, the jurisdiction of the courts of the Member State in which the applicant is domiciled is consistent with the general rule that jurisdiction is vested in the courts for the defendant's place of domicile.

(see paras 26-28, 31-33, operative part)