

2. orders the Republic of Poland to pay the costs.

⁽¹⁾ OJ C 85, 22.3.2014.

Judgment of the Court (Grand Chamber) of 8 September 2015 — Kingdom of Spain v European Parliament, Council of the European Union

(Case C-44/14) ⁽¹⁾

(Actions for annulment — Regulation (EU) No 1052/2013 — Crossing of the external borders — Eurosur system — Development of the provisions of the Schengen acquis — Participation — Cooperation with Ireland and the United Kingdom — Validity)

(2015/C 363/09)

Language of the case: Spanish

Parties

Applicant: Kingdom of Spain (represented by: A. Rubio González, acting as Agent)

Defendants: European Parliament (represented by: D. Moore, S. Alonso de Leon and A. Pospíšilová Padowska, acting as Agents), Council of the European Union (represented by: M. Chavier, F. Florindo Gijón, M.-M. Joséphidès and P. Plaza García, acting as Agents)

Interveners in support of the defendants: Ireland (represented by: E. Creedon, G. Hodge and A. Joyce, acting as Agents, and G. Gilmore, Barrister), United Kingdom of Great Britain and Northern Ireland (represented by: L. Christie, acting as Agent, and J. Holmes, Barrister), European Commission (represented by: J. Baquero Cruz and G. Wils, acting as Agents)

Operative part of the judgment

The Court:

- 1) Dismisses the action;
- 2) Orders the Kingdom of Spain to pay the costs;
- 3) Orders Ireland, the United Kingdom of Great Britain and Northern Ireland, and the European Commission to bear their own costs.

⁽¹⁾ OJ C 71, 8.3.2014.

Judgment of the Court (Third Chamber) of 10 September 2015 (request for a preliminary ruling from the Hoge Raad der Nederlanden — Netherlands) — Holterman Ferho Exploitatie BV, Ferho Bewehrungsstahl GmbH, Ferho Vechta GmbH, Ferho Frankfurt GmbH v Friedrich Leopold Freiherr Spies von Büllenheim

(Case C-47/14) ⁽¹⁾

(Reference for a preliminary ruling — Judicial cooperation in civil matters — Jurisdiction and the enforcement of judgments in civil and commercial matters — Regulation (EC) No 44/2001 — Article 5 (1) — Jurisdiction in matters relating to a contract — Article 5(3) — Jurisdiction in matters relating to tort or delict — Articles 18 to 21 — Individual employment contract — Company director's contract — Termination of the contract — Grounds — Poor performance and wrongful conduct — Action for a declaratory judgment and for damages — Definition of 'individual contract of employment')

(2015/C 363/10)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Applicants: Holterman Ferho Exploitatie BV, Ferho Bewehrungsstahl GmbH, Ferho Vechta GmbH, Ferho Frankfurt GmbH

Defendant: Friedrich Leopold Freiherr Spies von Büllenheim

Operative part of the judgment

- 1) *The provisions of Chapter II, Section 5 (Articles 18 to 21) of Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, in a situation such as that at issue in the main proceedings in which a company sues a person, who performed the duties of director and manager of that company in order to establish misconduct on the part of that person in the performance of his duties and to obtain redress from him, must be interpreted as meaning that they preclude the application of Article 5(1) and (3) of that regulation, provided that that person, in his capacity as director and manager, for a certain period of time performed services for and under the direction of that company in return for which he received remuneration, that being a matter for the referring court to determine.*
- 2) *Article 5(1) of Regulation No 44/2001 must be interpreted as meaning that an action brought by a company against its former manager on the basis of an alleged breach of his obligations under company law comes within the concept of 'matters relating to a contract'. In the absence of any derogating stipulation in the articles of association of the company, or in any other document, it is for the referring court to determine the place where the manager in fact, for the most part, carried out his activities in the performance of the contract, provided that the provision of services in that place is not contrary to the parties' intentions as indicated by what was agreed.*
- 3) *In circumstances such as those at issue in the main proceedings in which a company is suing its former manager on the basis of allegedly wrongful conduct, Article 5(3) of Regulation No 44/2001 must be interpreted as meaning that that action is a matter relating to tort or delict where the conduct complained of may not be considered to be a breach of the manager's obligations under company law, that being a matter for the referring court to verify. It is for the referring court to identify, on the basis of the facts of the case, the closest linking factor between the place of the event giving rise to the damage and the place where the damage occurred.*

⁽¹⁾ OJ C 102, 7.4.2014.

Judgment of the Court (Second Chamber) of 9 September 2015 (requests for a preliminary ruling from the Gerechtshof te 's-Hertogenbosch and the Hoge Raad der Nederlanden — Netherlands) — X v Inspecteur van Rijksbelastingdienst (C-72/14) and T. A. van Dijk v Staatssecretaris van Financiën (C-197/14)

(Joined Cases C-72/14 and C-197/14) ⁽¹⁾

(References for a preliminary ruling — Migrant workers — Social security — Applicable legislation — Rhine boatmen — E 101 certificate — Probative value — Reference to the Court — Obligation to make a reference for a preliminary ruling)

(2015/C 363/11)

Language of the case: Dutch

Referring courts

Gerechtshof te 's-Hertogenbosch and the Hoge Raad der Nederlanden