



Reports of Cases

Case C-102/15

Gazdasági Versenyhivatal

v

Siemens Aktiengesellschaft Österreich

(Request for a preliminary ruling from the Fővárosi Ítéltábla)

(Reference for a preliminary ruling — Judicial cooperation in civil matters — Regulation (EC) No 44/2001 — Jurisdiction and the recognition and enforcement of judgments in civil and commercial matters — Scope *ratione materiae* — Recovery of sum not due — Unjust enrichment — Debt arising from the unjustified repayment of a fine for infringement of competition law)

Summary — Judgment of the Court (Second Chamber), 28 July 2016

1. *Judicial cooperation in civil matters — Jurisdiction and the enforcement of judgments in civil and commercial matters — Regulation No 44/2001 — Provisions of that regulation treated as equivalent to those of the Brussels Convention — Interpretation of those provisions in accordance with the case-law of the Court relating to the Convention*

(Convention of 27 September 1968; Council Regulation No 44/2001)

2. *Judicial cooperation in civil matters — Jurisdiction and the enforcement of judgments in civil and commercial matters — Regulation No 44/2001 — Scope — Civil and commercial matters — Concept — Action for recovery of sums not due on the ground of unjust enrichment having its origin in the repayment of a fine imposed in competition law proceedings — Not included*

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

1. See the text of the decision.

(see para. 28)

2. An action for recovery of sums not due on the ground of unjust enrichment, which has its origin in the repayment of a fine imposed in competition law proceedings, is not covered by ‘civil and commercial matters’ within the meaning of Article 1 of Regulation No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

Although certain actions between a public authority and a person governed by private law may come within the scope of Regulation No 44/2001, the same does not hold true where the public authority is acting in the exercise of its public powers. To determine whether that is the case, it is necessary to identify the legal relationship between the parties to the dispute and to examine the basis and the detailed rules governing the bringing of the action.

As regards the legal relationship between the parties in the main proceedings, it must be observed that, while private actions brought to ensure compliance with competition law fall within the scope of Regulation No 44/2001, it is evident, however, that a penalty imposed by an administrative authority in the exercise of the regulatory powers conferred upon it under national legislation comes within the concept of ‘administrative matters’, excluded from the scope of Regulation No 44/2001 in accordance with Article 1(1) thereof. That applies, in particular, to a penalty imposed by reason of an infringement of provisions of national law prohibiting restrictions on competition. It follows that a dispute in which the competition authority seeks the payment of a debt by an undertaking which arises from a fine which it imposed on that undertaking, is an administrative matter.

As regards the detailed rules applicable to the action brought, the fact that the competition authority brought an action before the civil courts does not alter that situation. Whatever the nature of the proceedings afforded by national law, the fact that in recovering those costs the applicant acts pursuant to a debt which arises from an act of public authority is sufficient for its action to be treated as being outside the ambit of Regulation No 44/2001.

(see paras 32-34, 38-40, 43, operative part)