



Reports of Cases

Case C-498/16

Maximilian Schrems
v
Facebook Ireland Limited

(Request for a preliminary ruling from the Oberster Gerichtshof)

(Reference for a preliminary ruling — Area of freedom, security and justice — Regulation (EC) No 44/2001 — Articles 15 and 16 — Jurisdiction in respect of consumer contracts — Definition of ‘consumer’ — Assignment between consumers of claims against the same trader or professional)

Summary — Judgment of the Court (Third Chamber), 25 January 2018

1. *Judicial cooperation in civil matters — Jurisdiction and the enforcement of judgments in civil and commercial matters — Regulation No 44/2001 — Jurisdiction over consumer contracts — Concept of consumer — Restrictive interpretation — Criteria*

(Council Regulation No 44/2001, Arts 15 to 17)

2. *Judicial cooperation in civil matters — Jurisdiction and the enforcement of judgments in civil and commercial matters — Regulation No 44/2001 — Jurisdiction over consumer contracts — Concept of consumer — Private Facebook account user publishing books, lecturing, operating websites, fundraising and being assigned the claims of numerous consumers for the purpose of their enforcement — Included*

(Council Regulation No 44/2001, Art. 15)

3. *Judicial cooperation in civil matters — Jurisdiction and the enforcement of judgments in civil and commercial matters — Regulation No 44/2001 — Jurisdiction over consumer contracts — Concept of consumer — Applicant not himself party to the consumer contract in question acting as assignee of the claims of other consumers — Not included*

(Council Regulation No 44/2001, Arts 15 to 17)

4. *Judicial cooperation in civil matters — Jurisdiction and the enforcement of judgments in civil and commercial matters — Regulation No 44/2001 — Jurisdiction over consumer contracts — Article 16(1) of the regulation — Scope — Proceedings brought by a consumer for the purpose of asserting, in the courts of the place of his domicile, in addition to his own claims, claims assigned by other consumers domiciled in the same Member State, in other Member States or in non-member countries — Not included*

(Council Regulation No 44/2001, Art. 16(1))

1. See the text of the decision.

(see paras 28-32, 39, 40)

2. Article 15 of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters must be interpreted as meaning that the activities of publishing books, lecturing, operating websites, fundraising and being assigned the claims of numerous consumers for the purpose of their enforcement do not entail the loss of a private Facebook account user's status as a 'consumer' within the meaning of that article.

(see para. 41, operative part 1)

3. Next, the Court has already held that, since the special system established in Article 15 et seq. of Regulation No 44/2001 is inspired by the concern to protect the consumer as the party deemed to be economically weaker and less experienced in legal matters than the other party to the contract, the consumer is protected only in so far as he is, in his personal capacity, the plaintiff or defendant in proceedings. Consequently, an applicant who is not himself a party to the consumer contract in question cannot enjoy the benefit of the jurisdiction relating to consumer contracts (see, to that effect, judgment of 19 January 1993, *Shearson Lehman Hutton*, C-89/91, EU:C:1993:15, paragraphs 18, 23 and 24). The same considerations must also apply to a consumer to whom the claims of other consumers have been assigned. The rules on jurisdiction laid down, as regards consumer contracts, in Article 16(1) of the regulation apply, in accordance with the wording of that provision, only to an action brought by a consumer against the other party to the contract, which necessarily implies that a contract has been concluded by the consumer with the trader or professional concerned (judgment of 28 January 2015, *Kolassa*, C-375/13, EU:C:2015:37, paragraph 32).

(see paras 44, 45)

4. Article 16(1) of Regulation No 44/2001 must be interpreted as meaning that it does not apply to the proceedings brought by a consumer for the purpose of asserting, in the courts of the place where he is domiciled, not only his own claims, but also claims assigned by other consumers domiciled in the same Member State, in other Member States or in non-member countries.

As the Court has held in a different context, the assignment of claims cannot, in itself, have an impact on the determination of the court having jurisdiction (judgments of 18 July 2013, *ÖFAB*, C-147/12, EU:C:2013:490, paragraph 58, and of 21 May 2015, *CDC Hydrogen Peroxide*, C-352/13, EU:C:2015:335, paragraph 35). It follows that the jurisdiction of courts other than those expressly referred to by Regulation No 44/2001 cannot be established through the concentration of several claims in the person of a single applicant.

(see paras 48, 49, operative part 2)