

In the event that the first question is answered in the negative

5. Is Article 7(1) of Regulation (EU) No 1215/2012 applicable to an employment relationship in which, although an employment contract was entered into in Austria for the performance of work in Germany, the female employee, who remained in Austria and was prepared for several months to work, did not perform any work, if it is possible to apply a national provision which enables an employee to bring an action in the place where she was resident during the employment relationship or at the time when the employment relationship ended (thus facilitating the process of bringing an action), as is the case with Paragraph 4(1)(a) of the ASGG, or if it is possible to apply a national provision which enables an employee to bring an action in the place where the remuneration is to be paid or was to be paid upon termination of the employment relationship (thus facilitating the process of bringing an action), as is the case with Paragraph 4(1)(d) of the ASGG?

(¹) Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2012 L 351, p. 1).

Request for a preliminary ruling from the Landgericht of Gera (Germany) lodged on 4 November 2019 — DS v Volkswagen AG

(Case C-808/19)

(2020/C 45/19)

Language of the case: German

Referring court

Landgericht of Gera

Parties to the main proceedings

Applicant: DS

Defendant: Volkswagen AG

Questions referred

1. Are Paragraphs 6(1) and 27(1) of the EG-Fahrzeuggenehmigungsverordnung (EC Vehicle Approval Regulation; EG-FGV) (¹) and/or Articles 18(1) and 26(1) of Directive 2007/46/EC (²) to be interpreted as meaning that the manufacturer is in breach of its obligation to issue a valid certificate pursuant to Paragraph 6(1) of the EG-FGV (and/or of its obligation to deliver a certificate of conformity pursuant to Article 18(1) of Directive 2007/46/EC), if it has installed in the vehicle an impermissible defeat device within the meaning of Articles 5(2) and 3.10 of Regulation (EC) No 715/2007, (³) and that the placing of such a vehicle on the market is in breach of the prohibition on placing a vehicle on the market without a valid certificate of conformity pursuant to Paragraph 27(1) of the EG-FGV (and/or of the prohibition of sale without a valid certificate of conformity pursuant to Article 26(1) of Directive 2007/46/EC)?

If that question is to be answered in the affirmative:

- 1 a. Are Paragraphs 6 and 27 of the EG-FGV and/or Articles 18(1), 26(1) and 46 of Directive 2007/46/EC also aimed at protecting the end customer and — in the case of resale on the second-hand market — in particular the subsequent car buyer, including in relation to his freedom of disposal and his assets? Does a car buyer's acquisition of a used vehicle that has been placed on the market without a valid certificate of conformity come within the area of the risks for the prevention of which these standards were adopted?

2. Is Article 5(2) of Regulation (EC) No 715/2007 also aimed at protecting the end customer and — in the case of resale on the second-hand market — in particular the subsequent car buyer, including in relation to his freedom of disposal and his assets? Does a car buyer's acquisition of a used vehicle in which an inadmissible defeat device has been installed come within the area of the risks for the prevention of which this standard was adopted?
3. Are Paragraphs 6 and 27 of the EG-FGV, and/or Articles 18(1), 26(1) and 46 of Directive 2007/46/EC and Article 5(2) of Regulation (EC) No 715/2007, to be interpreted as meaning that, in the event of a breach thereof, the offsetting of compensation for the actual use made of the vehicle against the damage incurred by the end customer is wholly or partially inapplicable (as appropriate: in what manner and to what extent?), if the end customer may demand, and does demand, the rescission of the vehicle purchase contract as a result of that breach? Would that interpretation be different if the breach also involves the deception of the approval authorities and of end customers into believing that all the conditions for approval have been met and that the use of the vehicle on the roads is permissible without restriction, and that there has been a breach and deception for the purpose of reducing costs and maximising profits through high sales figures with the simultaneous creation of a competitive advantage at the expense of unsuspecting customers?

(¹) EG-Fahrzeuggenehmigungsverordnung of 3 February 2011 (BGBl. I, p. 126), last amended by Article 7 of the Regulation of 23 March 2017 (BGBl. I, p. 522).

(²) Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (OJ 2007 L 263, p. 1).

(³) Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information (OJ 2007 L 171, p. 1).

Request for a preliminary ruling from the Landgericht Gera (Deutschland) lodged on 4 November 2019 — ER v Volkswagen AG

(Case C-809/19)

(2020/C 45/20)

Language of the case: German

Referring court

Landgericht Gera

Parties to the main proceedings

Applicant: ER

Defendant: Volkswagen AG

Questions referred

1. Are Paragraphs 6(1) and 27(1) of the EG-FGV (¹) and/or Articles 18(1) and 26(1) of Directive 2007/46/EC (²) to be interpreted as meaning that the manufacturer is in breach of its obligation to issue a valid certificate pursuant to Paragraph 6(1) of the EG-FGV (and/or of its obligation to deliver a certificate of conformity pursuant to Article 18(1) of Directive 2007/46/EC), if it has installed in the vehicle an impermissible defeat device within the meaning of Articles 5(2) and 3.10 of Regulation (EC) No 715/2007, (³) and that the placing of such a vehicle on the market is in breach of the prohibition on placing a vehicle on the market without a valid certificate of conformity pursuant to Paragraph 27(1) of the EG-FGV (and/or of the prohibition of sale without a valid certificate of conformity pursuant to Article 26(1) of Directive 2007/46/EC)?

If the answer to (1) is in the affirmative:

- 1 a. Are Paragraphs 6 and 27 of the EG-FGV and/or Articles 18(1), 26(1) and 46 of Directive 2007/46/EC also aimed at protecting the end customer, including in relation to his freedom of disposal and his assets? Does a car buyer's acquisition of a used vehicle that has been placed on the market without a valid certificate of conformity come within the area of the risks for the prevention of which these standards were adopted?