



C/2024/2727

29.4.2024

Request for a preliminary ruling from the Rechtbank Amsterdam (Netherlands) lodged on 18 January 2024 – Stichting Right to Consumer Justice, Stichting App Stores Claims v Apple Distribution International Ltd, Apple Inc.

(Case C-34/24, Stichting Right to Consumer Justice en Stichting App Stores Claims)

(C/2024/2727)

Language of the case: Dutch

Referring court

Rechtbank Amsterdam

Parties to the main proceedings

Applicants: Stichting Right to Consumer Justice, Stichting App Stores Claims

Defendants: Apple Distribution International Ltd, Apple Inc.

Questions referred

Question 1 (Handlungsort)

- (a) In a case such as that at issue in these proceedings, where the alleged abuse of a dominant position within the meaning of Article 102 TFEU took place in a Member State by means of sales through an online platform operated by Apple and aimed at the entire Member State, with Apple Ireland acting as exclusive distributor and commission agent of the developer and deducting commission from the purchase price, what should be considered to be the place where the harmful act occurred within the meaning of Article 7(2) of the Brussels Ia Regulation ⁽¹⁾? Is it relevant in this regard that the online platform is in principle accessible worldwide?
- (b) Does it matter in this context that these proceedings concern claims brought under Article 3:305a BW (the Netherlands Civil Code) by a legal person whose purpose, by virtue of its own right, is to represent the collective interests of multiple users having their registered offices in different jurisdictions (in the Netherlands: 'arrondissementen': districts) within one Member State?
- (c) If, on the basis of question 1(a) (and/or 1(b)), not only one but several internal territorially competent courts are designated in the Member State concerned, does Article 7(2) of the Brussels Ia Regulation preclude the application of national (procedural) law that allows referral to a single court within that Member State?

Question 2 (Erfolgsort)

- (a) Is it possible that, in a case such as that at issue in these proceedings, where the alleged damage occurred as a result of purchases of apps and digital in-app products through an online platform operated by Apple (the App Store), with Apple Ireland acting as exclusive distributor and commission agent for the developers and deducting commission from the purchase price (and where there has been both an alleged abuse of a dominant position within the meaning of Article 102 TFEU and an alleged infringement of the prohibition on restrictive agreements within the meaning of Article 101 TFEU) and where the place where those purchases took place cannot be determined, only the registered office of the user can serve as the connecting factor for the place where the damage occurred within the meaning of Article 7(2) of the Brussels Ia Regulation? Or are there also other connecting factors in this situation which could be applied to identify a competent court?

⁽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).

- (b) Does it matter in this context that these proceedings concern claims brought under Article 3:305a BW by a legal person whose purpose, by virtue of its own right, is to represent the collective interests of multiple users having their registered offices in different jurisdictions (in the Netherlands: 'arrondissementen': districts) within a Member State?
 - (c) If, on the basis of question 2(a) (and/or 2(b)), an internal territorially competent court in the Member State concerned is designated which has jurisdiction only over the claims of some of the users in that Member State, while other territorially competent courts in the same Member State have jurisdiction over the claims of other users, does Article 7(2) of the Brussels Ia Regulation preclude the application of national (procedural) law which allows referral to a single court within that Member State?
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