

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (First Chamber) of 14 May 2009 (reference for a preliminary ruling from the Oberlandesgericht Wien (Austria)) — Renate Ilsinger v Martin Dreschers, acting as administrator in the insolvency of Schlank & Schick GmbH

(Case C-180/06) ⁽¹⁾

(Jurisdiction in civil and commercial matters — Regulation (EC) No 44/2001 — Jurisdiction over consumer contracts — Entitlement of a consumer to whom misleading advertising has been sent to seek payment, in judicial proceedings, of the prize which he has apparently won — Classification — Action of a contractual nature covered by Article 15(1)(c) of that regulation — Conditions)

(2009/C 153/05)

Language of the case: German

Referring court

Oberlandesgericht Wien

Parties to the main proceedings

Applicant: Renate Ilsinger

Defendant: Martin Dreschers, acting as administrator in the insolvency of Schlank & Schick GmbH

Re:

Reference for a preliminary ruling — Oberlandesgericht Wien — Interpretation of Article 15(1)(c) 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 (OJ 2001 L 12, p. 1) — National consumer protection law providing for a right to the prize allegedly won by the addressee of the misleading advertisement

Operative part of the judgment

In a situation such as that at issue in the main proceedings, in which a consumer seeks, in accordance with the legislation of the Member State in which he is domiciled and before the court for the place in which he resides, an order requiring a mail-order company established in another Member State to pay a prize which that consumer has apparently won, and

— where that company, with the aim of encouraging that consumer to conclude a contract, sent a letter addressed to him personally of such a kind as to give him the impression that he would be awarded a prize if he requested payment by returning the 'prize claim certificate' attached to that letter,

— but without the award of that prize depending on an order for goods offered for sale by that company or on a trial order,

the rules on jurisdiction laid down by 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 follows:

— such legal proceedings brought by the consumer are covered by Article 15(1)(c) of that regulation, on condition that the professional vendor has undertaken in law to pay that prize to the consumer;

— where that condition has not been fulfilled, such proceedings are covered by Article 15(1)(c) of Regulation No 44/2001 only if the consumer has in fact placed an order with that professional vendor.

⁽¹⁾ OJ C 165, 15.7.2006.