

Case C-111/09

Česká podnikatelská pojišťovna as, Vienna Insurance Group

v

Michal Bilas

(Reference for a preliminary ruling from
the Okresní soud v Chebu (Czech Republic))

(Regulation (EC) No 44/2001 — Action brought by an insurer before the court of its place of domicile seeking the payment of an insurance premium by the policyholder, domiciled in a different Member State — Appearance of the defendant entered before the court seised — Jurisdiction not contested and defence as to substance — Entering an appearance conferring jurisdiction)

Judgment of the Court (Fourth Chamber), 20 May 2010 I - 4547

Summary of the Judgment

1. *Judicial cooperation in civil matters — Jurisdiction and the enforcement of judgments in civil and commercial matters — Regulation No 44/2001 — Prorogation of jurisdiction — Appearance of the defendant entered without the jurisdiction of the court seised being contested*
(Council Regulation No 44/2001, Art. 24)
2. *Judicial cooperation in civil matters — Jurisdiction and the enforcement of judgments in civil and commercial matters — Regulation No 44/2001 — Recognition and enforcement of judgments — Grounds for refusal — Conflict with the rules on special jurisdiction under Article 35 — Scope*
(Council Regulation No 44/2001, Arts 24 and 35)

1. Article 24 of Regulation No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters must be interpreted as meaning that the court seised, where the provisions in Section 3 of Chapter II of that regulation on rules of special jurisdiction in matters relating to insurance were not complied with, must declare itself to have jurisdiction where the defendant enters an appearance and does not contest that court's jurisdiction, since entering an appearance in that way amounts to a tacit prorogation of jurisdiction.
2. The provisions of Article 35 of Regulation No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, which provide that a basis for non-recognition is conflict with the rules on special jurisdiction, concern non-recognition of judgments given by a court without jurisdiction which has not been seised in accordance with those rules. They are therefore not applicable where the judgment is given by a court with jurisdiction. That is true, *inter alia*, of a court seised, even though those rules on special jurisdiction are not complied with, before which the defendant enters an appearance and does not contest that court's jurisdiction. Such a court in fact has jurisdiction on the basis of Article 24 of Regulation No 44/2001. Therefore, Article 35 of that regulation does not prevent the recognition of the judgment given by that court.

The second sentence of Article 24 of Regulation No 44/2001 delimits the scope of the general rule and, consequently, since it sets out the exceptions to the general rule on the tacit prorogation of jurisdiction, must be interpreted restrictively. It follows that that second sentence cannot be understood as enabling the application of the general rule set out in the first sentence of that article to be excluded in respect of disputes other than those to which it expressly refers, namely those which are subject to the rules on exclusive jurisdiction.

(see paras 22, 24, 26, 33, operative part)

(see paras 28, 29)