



Reports of Cases

JUDGMENT OF THE COURT (Fourth Chamber)

21 January 2016*

(Reference for a preliminary ruling — Judicial cooperation in civil matters — Regulation (EC) No 44/2001– Article 6(2) — Jurisdiction — Action on a warranty or guarantee or other third party proceedings brought by a third party against a party to judicial proceedings before the court seised of the original proceedings)

In Case C-521/14,

REQUEST for a preliminary ruling under Article 267 TFEU from the Korkein oikeus (Supreme Court, Finland), made by decision of 14 November 2014, received at the Court on 18 November 2014, in the proceedings

SOVAG — Schwarzmeer und Ostsee Versicherungs-Aktiengesellschaft

v

If Vahinkovakuutusyhtiö Oy,

THE COURT (Fourth Chamber),

composed of L. Bay Larsen, President of the Third Chamber, acting as President of the Fourth Chamber, J. Malenovský, M. Safjan (Rapporteur), A. Prechal and K. Jürimäe, Judges,

Advocate General: Y. Bot,

Registrar: I. Illéssy, Administrator,

having regard to the written procedure and further to the hearing on 24 September 2015,

after considering the observations submitted on behalf of:

- SOVAG — Schwarzmeer und Ostsee Versicherungs-Aktiengesellschaft, by R. Heß, Rechtsanwalt, E. Salonen, asianajaja, and A. Staudinger,
- If Vahinkovakuutusyhtiö Oy, by J. Tanhuanpää,
- the Finnish Government, by J. Heliskoski, acting as Agent,
- the European Commission, by M. Wilderspin and E. Paasivirta, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

* Language of the case: Finnish.

gives the following

Judgment

- 1 This request for a preliminary ruling concerns the interpretation of Article 6(2) 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).
- 2 This request has been made in proceedings between SOVAG — Schwarzmeer und Ostsee Versicherungs-Aktiengesellschaft ('SOVAG'), an insurance company established in Germany, and If Vahinkovakuutusyhtiö Oy ('If'), an insurance company established in Finland, concerning a claim for reimbursement of a sum of money paid as compensation to the victim of a traffic accident.

Legal context

EU Law

- 3 Recital 2 of Regulation No 44/2001 states that the regulation is intended, in the interests of the sound operation of the internal market, to implement 'provisions to unify the rules of conflict of jurisdiction in civil and commercial matters and to simplify the formalities with a view to rapid and simple recognition and enforcement of judgments from Member States bound by this Regulation'.
- 4 Recitals 11 to 13 and recital 15 of that regulation state:
 - '(11) The rules of jurisdiction must be highly predictable and founded on the principle that jurisdiction is generally based on the defendant's domicile and jurisdiction must always be available on this ground save in a few well-defined situations in which the subject-matter of the litigation or the autonomy of the parties warrants a different linking factor. The domicile of a legal person must be defined autonomously so as to make the common rules more transparent and avoid conflicts of jurisdiction.
 - (12) In addition to the defendant's domicile, there should be alternative grounds of jurisdiction based on a close link between the court and the action or in order to facilitate the sound administration of justice.
 - (13) In relation to insurance, consumer and employment contracts, the weaker party should be protected by rules of jurisdiction more favourable to his interests than the general rules....
- 5 The rules of jurisdiction are set out in Chapter II of that regulation.
- 6 Article 2(1) of Regulation No 44/2001, which comes under Section 1 of Chapter II, entitled 'General provisions', is worded as follows:

'Subject to this Regulation, persons domiciled in a Member State shall, whatever their nationality, be sued in the courts of that Member State.'

7 Article 3(1) of that regulation, which also comes under Section 1 of Chapter II, provides:

‘Persons domiciled in a Member State may be sued in the courts of another Member State only by virtue of the rules set out in Sections 2 to 7 of this Chapter.’

8 Article 4 of that regulation, which also features in Section 1 of Chapter II, states that:

‘1. If the defendant is not domiciled in a Member State, the jurisdiction of the courts of each Member State shall, subject to Articles 22 and 23, be determined by the law of that Member State.

2. As against such a defendant, any person domiciled in a Member State may, whatever his nationality, avail himself in that State of the rules of jurisdiction there in force, and in particular those specified in Annex I, in the same way as the nationals of that State.’

9 Under Article 5(5) of Regulation No 44/2001 which comes under Section 2 of Chapter II, entitled ‘Special jurisdiction’, a person domiciled in a Member State may, in another Member State, be sued as regards a dispute arising out of the operations of a branch, agency or other establishment, in the courts for the place in which the branch, agency or other establishment is situated.

10 Article 6 of that regulation, which also features in Section 2 of Chapter II, provides:

‘A person domiciled in a Member State may also be sued:

1. where he is one of a number of defendants, in the courts for the place where any one of them is domiciled, provided the claims are so closely connected that it is expedient to hear and determine them together to avoid the risk of irreconcilable judgments resulting from separate proceedings;

2. as a third party in an action on a warranty or guarantee or in any other third party proceedings, in the court seised of the original proceedings, unless these were instituted solely with the object of removing him from the jurisdiction of the court which would be competent in his case;

...’

11 Article 8 of Regulation No 44/2001, which comes under Section 3 of Chapter II, entitled ‘Jurisdiction in matters relating to insurance’, is worded as follows:

‘In matters relating to insurance, jurisdiction shall be determined by this Section, without prejudice to Article 4 and point 5 of Article 5.’

12 Article 11 of that regulation, which also features in Section 3 of Chapter II, provides:

‘1. In respect of liability insurance, the insurer may also, if the law of the court permits it, be joined in proceedings which the injured party has brought against the insured.

2. Articles 8, 9 and 10 shall apply to actions brought by the injured party directly against the insurer, where such direct actions are permitted.

3. If the law governing such direct actions provides that the policyholder or the insured may be joined as a party to the action, the same court shall have jurisdiction over them.’

Finnish law

- 13 Paragraph 5 of Chapter 18 of the Finnish Code of Judicial Procedure (Suomen oikeudenkäymiskaari) provides:

‘Where, in case his main action should fail, a party to judicial proceedings wishes to present a claim on a guarantee, a claim for damages or another comparable claim against a third party, he may bring such a claim in the course of those same proceedings.

Any person who, in view of the eventual outcome of an action between the parties to judicial proceedings, wishes to bring an action relating to a claim referred to in the first subparagraph against the parties, or against one of them, may bring such an action in the course of those same proceedings.’

- 14 Paragraph 61 of the Law on accident insurance (Tapaturmavakuutuslaki (1948/608)), of 20 August 1948 (‘Law on accident insurance’), reads as follows:

‘A person who has received compensation in accordance with this law retains the right to compensation, under other laws for the consequences of an injury, by the person who caused the injury or other person liable to compensate for it. However, the compensation payment thus awarded may not be greater than the amount by which full compensation exceeds the compensation awarded under this law.

An insurance institution which has had to pay compensation for damage under this law is entitled to reclaim the amount paid from the party liable to pay compensation under the first subparagraph, save from a party who has already discharged his liability in good faith, or from persons liable to pay compensation under the Law on Product Liability.

However, compensation ordered to be repaid to the insurance institution may not exceed the amount which the injured person or his dependants would have been entitled to receive.’

The dispute in the main proceedings and the question referred for a preliminary ruling

- 15 It is apparent from the order for reference that A, the victim of a traffic accident that took place in Germany, brought an action against SOVAG, with which the vehicle responsible for the damage was insured, before the Länsi-Uudenmaan käräjäoikeus (Länsi-Uusimaa District Court). A sought, inter alia, a ruling that he had suffered a serious brain and cervical spine injury and that, as a result of that accident, he was permanently incapable of work.
- 16 That traffic accident also constituting a work accident under the Law on accident insurance, If, which is established in Finland, paid A compensation for the accident in accordance with that law.
- 17 After A had brought the action against SOVAG, If itself sued SOVAG before the same court of first instance. If sought a ruling that, in addition to other injuries, A had suffered a serious brain and cervical spine injury and had become permanently unfit for work as a result of that injury. If also sought a ruling, on the basis of Article 61(2) of the Law on accident insurance, that SOVAG is obliged to reimburse it, together with the corresponding interest, all compensation paid to A in the past and all compensation to be paid to A in the future by If itself on account of the traffic accident.
- 18 If also claimed that the court should give a ruling on its action in the course of the proceedings brought by A against SOVAG. SOVAG, however, contended that the Finnish court lacked jurisdiction to hear and determine the action brought by If.

- 19 By order of 20 December 2012, the Länsi-Uudenmaan käräjäoikeus dismissed the action brought by If against SOVAG as inadmissible, under the provisions of Section 3 of Chapter II of Regulation No 44/2001, because the Finnish courts lacked jurisdiction.
- 20 The Länsi-Uudenmaan käräjäoikeus held that, in accordance with Article 8 of Regulation No 44/2001, in matters relating to insurance jurisdiction may be determined by the provisions of Section 3 of Chapter II of that regulation alone, without prejudice to Article 4 and Article 5(5) of that regulation.
- 21 On appeal by If, the Turun hovioikeus (Court of Appeal, Turku) set aside that order by judgment of 24 April 2013.
- 22 The Turun hovioikeus took the view that Article 6(2) of Regulation No 44/2001, and not the provisions of Section 3 of Chapter II of that regulation, was applicable to the main proceedings, because the action brought by If against SOVAG was directly linked to the proceedings between A and SOVAG.
- 23 SOVAG brought an appeal against that judgment before the Korkein oikeus (Supreme Court).
- 24 According to the referring court, the question arises whether Article 6(2) of Regulation No 44/2001 applies to a situation such as that in the main proceedings, in which a third party brings an action against a person who is party to original judicial proceedings.
- 25 In those circumstances, the Korkein oikeus (Supreme Court) decided to stay proceedings and to refer the following question to the Court for a preliminary ruling:

‘Is Article 6(2) of Regulation No 44/2001 to be interpreted as covering an action on a warranty or guarantee or another equivalent claim closely linked to the original action, which is brought by a third party, as permitted by national law, against one of the parties with a view to its being heard in the same court proceedings?’

The question referred for a preliminary ruling

- 26 By its question, the national court seeks to ascertain, in essence, whether Article 6(2) of Regulation No 44/2001 must be interpreted as covering an action brought by a third party, in accordance with national law, against the defendant in the original proceedings, where that action is closely linked to those original proceedings and seeks reimbursement of the compensation paid by that third party to the applicant in the original proceedings.
- 27 As a preliminary point, it should be noted that Article 8 of Regulation No 44/2001, which provides that jurisdiction in matters relating to insurance is to be determined by the provisions of Article 8 to Article 14 of that regulation, without prejudice to Articles 4 and 5(5), does not mention Article 6(2).
- 28 According to SOVAG, Article 6(2) of Regulation No 44/2001 is not applicable because Section 3 of Chapter II of Regulation No 44/2001 establishes an autonomous system for the conferring of jurisdiction in matters of insurance.
- 29 Nevertheless, it must be pointed out that, according to recital 13 of Regulation No 44/2001, the objective of that section is to protect the weaker party, namely, the insured party, beneficiary or policyholder, by means of rules on jurisdiction more favourable to his interests than the general rules.
- 30 The action at issue in the main proceedings concerns relations between professionals in the insurance sector and will not affect the procedural situation of a party deemed to be weaker. The objective of protecting a party deemed to be weaker being fulfilled once jurisdiction is established on the basis of

Section 3 of Chapter II of Regulation No 44/2001, subsequent procedural developments concerning only relations between professionals cannot fall within the ambit of that section (see, to that effect, judgments in *GIE Réunion européenne and Others*, C-77/04, EU:C:2005:327, paragraphs 20 and 23 and *Vorarlberger Gebietskrankenkasse*, C-347/08, EU:C:2009:561, paragraph 42).

- 31 Thus, given that an action brought by an insurer against another insurer, such as that at issue in the main proceedings, does not come within the scope of Section 3 of Chapter II of Regulation No 44/2001, Article 6(2) of that regulation will apply to such an action provided that the latter falls within the situation described in that provision.
- 32 First of all, in that regard, account should be taken of the terms of Article 6(2) of Regulation No 44/2001.
- 33 The wording of several of the language versions of that provision, in particular the German, French, Finnish and Swedish versions, does not prevent the court before which the original proceedings are pending from having jurisdiction to hear and determine an action brought by a third party against one of the parties to the original proceedings.
- 34 However, other language versions of that provision, particularly the English language version, appear to restrict its scope to actions brought against third parties ('a person domiciled in a Member State may also be sued: ... as a third party').
- 35 According to the settled case-law of the Court, where there is divergence between the various language versions of an EU legislative text, the provision in question must be interpreted by reference to the purpose and general scheme of the rules of which it forms part (judgment in *Jakutis and Kretingalės kooperatinė ŽŪB*, C-103/14, EU:C:2015:752, paragraph 103).
- 36 Secondly, therefore, the purpose and general scheme of Regulation No 44/2001 must be taken into consideration.
- 37 In that regard, it should be noted that, even though the rules of special jurisdiction must be strictly interpreted and cannot be given an interpretation going beyond the cases expressly envisaged by Regulation No 44/2001 (see, to that effect, judgment in *CDC Hydrogen Peroxide*, C-352/13, EU:C:2015:335, paragraph 18), several of the objectives of that regulation support the interpretation that an action brought by a third party against one of the parties to the original proceedings is also to be regarded as falling within the scope of Article 6(2) of Regulation No 44/2001.
- 38 Recital 15 of that regulation states that, in the interests of the harmonious administration of justice, it is necessary to minimise the possibility of concurrent proceedings and to ensure that irreconcilable judgments will not be given in two Member States, while recital 12 of the regulation points out that, in addition to the defendant's domicile, there should be alternative grounds of jurisdiction based on a close link between the court and the action or in order to facilitate the sound administration of justice.
- 39 The hearing, in the course of the same proceedings, of both the original action and an action brought by a third party against one of the parties to the original action and closely linked to the original action, is such as to further the abovementioned objectives in a situation in which an action has been brought by the injured party against the insurer of the person liable for the damage and another insurer, which has already paid the injured party some compensation for his injuries, seeks reimbursement of that compensation from the first-mentioned insurer.
- 40 If that were not permissible, there would be a risk of two courts, in the same case, arriving at different solutions, whose recognition and enforcement would therefore be uncertain.

- 41 In addition, the Court has previously held, in the context of the convention on jurisdiction and the enforcement of judgments in civil and commercial matters, signed in Brussels on 27 September 1968 (OJ 1972 L 299, p. 32) ('the Brussels Convention'), that an action brought by the insured party against the insurer, seeking compensation for the consequences of an accident, and an action whereby that insurer seeks indemnification from another insurer considered to have provided cover for the same event, must be regarded, respectively, as original proceedings and an action on a warranty or guarantee within the meaning of Article 6(2) of that convention (see, to that effect, judgment in *GIE Réunion européenne and Others*, C-77/04, EU:C:2005:327, paragraph 27).
- 42 In that respect, the Court relied on the Jenard Report on the Brussels Convention (OJ 1979 C 59, p. 1, in particular, p. 27).
- 43 Since the interpretation given by the Court in respect of the provisions of that convention is also valid for those of Regulation No 44/2001 whenever the provisions of those instruments may be regarded as equivalent (judgment in *CDC Hydrogen Peroxide*, C-352/13, EU:C:2015:335, paragraph 60), it must be found that such is the case as regards Article 6(2) of the Brussels Convention and Article 6(2) of Regulation No 44/2001.
- 44 In the light of the interpretation set out in paragraph 41 above and the objectives referred to in paragraphs 38 and 39 of the present judgment, it must be held that Article 6(2) of Regulation No 44/2001 applies to an action such as that at issue in the main proceedings. Moreover, this confirms the finding, appearing in the Jenard Report, that third party proceedings may also cover situations in which a third party joins proceedings in order to protect his own interests.
- 45 Given that Article 6(2) of Regulation No 44/2001 requires a link between, on the one hand, the original proceedings and, on the other hand, the third party proceedings or the action on a warranty or guarantee to which it refers, it is for the national court seised of the original claim to ascertain whether such a connection exists, in the sense that it must satisfy itself that the third party proceedings or the action on a warranty or guarantee do not seek to remove the defendant from the jurisdiction of the court which would be competent in the case (see, to that effect, judgment in *GIE Réunion européenne and Others*, C-77/04, EU:C:2005:327, paragraphs 30 and 32).
- 46 The fact that a national provision, such as the second subparagraph of paragraph 5 of Chapter 18 of the Finnish Code of Judicial Procedure, makes the right of a third party to bring an action in connection with pending judicial proceedings contingent on that action being linked to the original proceedings, undoubtedly constitutes a mechanism to avoid circumvention of Article 6(2) of Regulation No 44/2001.
- 47 Accordingly, the answer to the question referred is that Article 6(2) of Regulation No 44/2001 must be interpreted to the effect that its scope includes an action brought by a third party, in accordance with national law, against the defendant in the original proceedings, and closely linked to those original proceedings, seeking reimbursement of compensation paid by that third party to the applicant in those original proceedings, provided that the action was not instituted solely with the object of removing that defendant from the jurisdiction of the court which would be competent in the case.

Costs

- 48 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Fourth Chamber) hereby rules:

Article 6(2) 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 to the effect that its scope includes an action brought by a third party, in accordance with national law, against the defendant in the original proceedings, and closely linked to those original proceedings, seeking reimbursement of compensation paid by that third party to the applicant in those original proceedings, provided that the action was not instituted solely with the object of removing that defendant from the jurisdiction of the court which would be competent in the case.

[Signatures]