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Press and Information

PRESS RELEASE No 92/07

13 December 2007

Judgment of the Court of Justice in Case C-463/06

FBTO Schadeverzekeringen N.V. v Jack Odenbreit

THE INJURED PARTY IN A ROAD TRAFFIC ACCIDENT MAY BRING AN ACTION DIRECTLY AGAINST THE INSURER OF THE PERSON RESPONSIBLE BEFORE THE COURTS FOR THE PLACE WHERE THAT INJURED PARTY IS DOMICILED

Under Community law that right is subject only to the conditions that the insurer must be domiciled in a Member State of the European Union and that such a direct action must be permitted under national law

Mr Odenbreit, who is domiciled in Germany, was injured in a road traffic accident which occurred in the Netherlands. He brought an action directly against the insurance company for the person responsible, FBTO Schadeverzekeringen N.V., before a German court. However, that court ruled that it did not have jurisdiction over a case involving an insurer domiciled in the Netherlands, and therefore dismissed the action as inadmissible.

The insurer appealed on a point of law to the Bundesgerichtshof against the decision on appeal in favour of the injured party. The Bundesgerichtshof referred a question for a preliminary ruling to the Court of Justice on whether the Community Regulation on jurisdiction¹ allows an injured party to bring an action directly against the insurer in the courts for the place where that injured party is domiciled.

The Court has replied in the affirmative, by interpreting the regulation as giving parties injured in road traffic accidents the option of suing the insurer before the courts for the place of their own domicile.

It points out that the more favourable protection afforded to those parties regarded as weak, in disputes in matters relating to insurance, by the provisions of the regulation must be extended to parties injured in road traffic accidents. Moreover, the regulation strengthened that protection as compared with the protection provided for in the application of the Brussels Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters.

¹ 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, 16.01.2001, p. 1-23.

Such an interpretation is supported by the wording of the Directive on matters relating to insurance against civil liability in respect of the use of motor vehicles ² which, in its recitals, refers to the right of injured parties to bring proceedings against the insurer in the courts for the place where they are domiciled.

Consequently, the Court has held that an injured party may bring an action directly against the insurer before the courts for the place in a Member State where that injured party is domiciled, provided that such a direct action is permitted and the insurer is domiciled in a Member State.

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Languages available: ES CS DE EL EN FR HU IT NL PT SK

The full text of the judgment may be found on the Court's internet site

<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=C-463/06>

It can usually be consulted after midday (CET) on the day judgment is delivered.

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² Directive 2000/26/EC of the European Parliament and of the Council of 16 May 2000 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles, OJ L 181 of 20.07.2000, p. 65, as amended by Directive 2005/14/EC of the European Parliament and of the Council of 11 May 2005, OJ 2005 L 149, of 11.06.2001, p. 14-21.