



Press and Information

Court of Justice of the European Union

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Judgment in Case C-218/12
Lokman Emrek v Vlado Sabranovic

The Court sets out the scope of consumer protection in cross-border sales

A consumer may sue a foreign trader with whom he has concluded a contract before the national courts where it is established that the trader has directed his activities to the consumer's State, even if the means thus employed to direct his activities were not the basis for the conclusion of the contract

Regulation No 44/2001¹ determines the jurisdiction of the courts in civil and commercial matters. The basic principle is that the courts having jurisdiction are those of the Member State in which the defendant is domiciled. However, in certain cases, the defendant may be sued before the courts of another Member State. Thus, as regards consumer contracts, a consumer also has the choice of bringing an action before the courts for the place of his domicile if two conditions are met. First, the trader must carry on his commercial or professional activities in the Member State where the consumer resides or must direct, by any means (for example, the internet), his activities to that Member State² and, second, the disputed contract must fall within the scope of those activities.

In Spicheren, a town close to the German border, Mr Sabranovic sells second-hand motor vehicles. He had an internet site on which French telephone numbers and a German mobile telephone number were mentioned, together with the respective international codes. Mr Emrek, who resides in Saarbrücken (Germany) and who learned through acquaintances (not via the internet) of Mr Sabranovic's business went there and purchased a second-hand motor vehicle.

Subsequently, Mr Emrek made claims against Mr Sabranovic under the warranty before the Amtsgericht (District Court) Saarbrücken. Mr Emrek took the view that, under Regulation No 44/2001, that court had jurisdiction to hear such an action. It was clear from the set-up of Mr Sabranovic's website that his commercial activity was also directed to Germany. The District Court, which did not share that view, dismissed the action as inadmissible.

The Landgericht (Regional Court) Saarbrücken, before which Mr Emrek brought an appeal, held that Mr Sabranovic's activity was directed to Germany. However, it is unsure whether, in the present case, there must be a causal link between the means employed to direct the commercial activity to the Member State of the consumer's domicile, namely the internet site, and the conclusion of the contract with the consumer.

In today's judgment, the Court observes, first of all, that the actual wording of the regulation does not expressly require the existence of a causal link. Moreover, the Court has already ruled that the essential condition for the application of the provision at issue³ is that related to commercial or professional activity directed to the State of the consumer's domicile, which the Landgericht considers to have been satisfied.

Second, the Court considers that the addition of a condition requiring a causal link, which is not provided for by the regulation, would be contrary to the aim that it pursues, which is to protect consumers who are regarded as the weaker parties to contracts concluded between them and a

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).

² Or to several States including the Member State of the consumer's domicile.

³ Article 15(1)(c).

professional. The requirement of prior consultation of a website by a consumer could give rise to problems of proof, in particular where, as in the present case, the contract was not concluded at a distance through that site. Difficulties related to proof of the existence of a causal link would tend to dissuade consumers from bringing actions before the courts of their domicile and would weaken the protection of consumers pursued by the regulation.

Thus, the Court replies that the regulation **does not require the existence of a causal link** between the means employed to direct the commercial or professional activity to the Member State of the consumer's domicile, namely an internet site, and the conclusion of the contract with that consumer.

However, **although the causal link is not a condition, it may nonetheless constitute strong evidence which may be taken into consideration by the national court** to determine whether the activity is in fact directed to the Member State in which the consumer is domiciled.

The Court notes that, in its earlier case law, it has already identified a non-exhaustive list of factors which may assist a national court in determining whether the essential condition of commercial activity directed to the Member State of the consumer's domicile has been satisfied. Among those factors are 'the establishment of contact at a distance' and 'the conclusion of a consumer contract at a distance', which are of such a nature as to establish that the contract relates to an activity directed to the Member State of the consumer's domicile.

The Court concludes that it is for the national court to make an overall assessment of the circumstances in which the consumer contract concerned was concluded, in order to decide whether, depending on the existence or absence of evidence mentioned on the non-exhaustive list of factors established by the Court, special jurisdiction, which is advantageous to consumers, is applicable.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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