

Case C-68/93

Fiona Shevill and Others

v

Presse Alliance SA

(Reference for a preliminary ruling
from the House of Lords)

(Brussels Convention — Article 5(3) —
Place where the harmful event occurred —
Libel by a newspaper article)

Opinion of Advocate General Darmon delivered on 14 July 1994	I - 417
Opinion of Advocate General Léger delivered on 10 January 1995	I - 440
Judgment of the Court, 7 March 1995	I - 450

Summary of the Judgment

1. *Convention on jurisdiction and the enforcement of judgments — Special jurisdiction — Jurisdiction ‘in matters relating to tort, delict or quasi-delict’ — Place where the harmful event occurred — Cross-border defamation by the press — Plaintiff’s right to choose — Court of the place where the publisher is established — Jurisdiction in respect of all the harm — Courts*

of the places where the publication was distributed in each Contracting State where the reputation of the person harmed is injured — Jurisdiction limited to the harm caused in the State of the court seised

(Brussels Convention of 27 September 1968, Art. 5(3))

2. *Convention on jurisdiction and the enforcement of judgments — Special jurisdiction — Jurisdiction 'in matters relating to tort, delict or quasi-delict' — Defamation — Assessment of the harmful character of the event in question and the evidence required of the alleged harm — Application of the conflict of laws rules of the forum — Limits*

(Brussels Convention of 27 September 1968, Art. 5(3))

1. On a proper construction of the expression 'place where the harmful event occurred' in Article 5(3) of the Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters as amended by the Convention of 9 October 1978 on the accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland and by the Convention of 25 October 1982 on the accession of the Hellenic Republic, the victim of a libel by a newspaper article distributed in several Contracting States may bring an action for damages against the publisher either before the courts of the Contracting State of the place where the publisher of the defamatory publication is established, which have jurisdiction to award damages for all the harm caused by the defamation, or before the courts of each Contracting State in which the publication was distributed and where the victim claims to have suffered injury to his reputation, which have jurisdiction to rule solely in respect of the harm caused in the State of the court seised.
2. The criteria for assessing whether the event in question is harmful and the evidence required of the existence and extent of the harm alleged by the plaintiff in an action in tort, delict or quasi-delict are not governed by the Convention but are determined in accordance with the substantive law designated by the national conflict of laws rules of the court seised on the basis of the Convention, provided that the effectiveness of the Convention is not thereby impaired. The fact that under the national law applicable to the main proceedings damage is presumed in libel actions, so that the plaintiff does not have to adduce evidence of the existence and extent of that damage, does not therefore preclude the application of Article 5(3) of the Convention.