

СЪД НА ЕВРОПЕЙСКИТЕ ОБЩНОСТИ
TRIBUNAL DE JUSTICIA DE LAS COMUNIDADES EUROPEAS
SOUDNÍ DVŮR EVROPSKÝCH SPOLEČENSTVÍ
DE EUROPÆISKE FÆLLESSKABERS DOMSTOL
GERICHTSHOF DER EUROPÄISCHEN GEMEINSCHAFTEN
EUROOPA ÜHENDUSTE KOHUS
ΔΙΚΑΣΤΗΡΙΟ ΤΩΝ ΕΥΡΩΠΑΪΚΩΝ ΚΟΙΝΟΤΗΤΩΝ
COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES
COUR DE JUSTICE DES COMMUNAUTÉS EUROPÉENNES
CÚIRT BHREITHIÚNAIS NA gCÓMHPHOBAL EORPACH
CORTE DI GIUSTIZIA DELLE COMUNITÀ EUROPEE
EIROPAS KOPIENU TIESA



EUROPOS BENDRIJŲ TEISINGUMO TEISMAS
AZ EURÓPAI KÖZÖSSÉGEK BÍRÓSÁGA
IL-QORTI TAL-GUSTIZZJA TAL-KOMUNITAJIET EWROPEJ
HOF VAN JUSTITIE VAN DE EUROPESE GEMEENSCHAPPEN
TRYBUNAŁ SPRAWIEDLIWOŚCI WSPÓLNOT EUROPEJSKICH
TRIBUNAL DE JUSTIÇA DAS COMUNIDADES EUROPEIAS
CURTEA DE JUSTIȚIE A COMUNITĂȚILOR EUROPENE
SÚDNY DVOR EURÓPSKÝCH SPOLOČENSTEV
SODIŠČE EVROPSKIH SKUPNOSTI
EUROOPAN YHTEISÖJEN TUOMIOISTUIN
EUROPEISKA GEMENSKAPERNAS DOMSTOL

Press and Information

PRESS RELEASE No 15/07

15 February 2007

Judgment of the Court of Justice in Case C-292/05

Irini Lechouritou and Others v Federal Republic of Germany

**THE COURT RULES ON COMPENSATION FOR VICTIMS OF ACTS
PERPETRATED BY ARMED FORCES IN THE COURSE OF WARFARE**

A legal action brought to obtain such compensation is not covered by ‘civil matters’ within the meaning of the Brussels Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters

The main proceedings have their origins in the massacre of civilians by soldiers in the German armed forces which was perpetrated on 13 December 1943 and of which 676 inhabitants of the municipality of Kalavrita (Greece) were victims. In 1995 Ms Lechouritou and other descendants of the victims brought an action – before the Greek courts – for compensation from the German State in respect of the financial loss, non-material damage and mental anguish caused to them by the acts perpetrated by the German armed forces.

The Greek courts dismissed the action, stating that they lacked jurisdiction to hear it because the defendant country, which was a sovereign State, enjoyed the privilege of immunity.

Before the Efetio Patron (Court of Appeal, Patras), the plaintiffs relied on the Brussels Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters,¹ referring to a provision of the Convention which, in their view, creates an exception to the rule that States are entitled to immunity in respect of all acts which have been perpetrated during an armed conflict but have affected persons not involved in the fighting.

The Greek court asked the Court of Justice of the European Communities whether or not a legal action seeking compensation for loss and damage caused by such acts falls within the Brussels Convention.

In its judgment, the Court of Justice points out first of all that while the Convention applies to ‘civil and commercial matters’, it does not define the meaning or the scope of that concept. It is clear, however, from the Court’s settled case-law that ‘civil and commercial matters’ must be regarded as an independent concept (vis-à-vis States’ national law) and that it is to be interpreted by referring, first, to the objectives and scheme of the Convention itself and, second, to the general principles which stem from the corpus of the national legal systems. Thus, certain legal

¹ Convention of 27 September 1968 (OJ 1978 L 304, p. 36).

actions and judicial decisions are **excluded from the scope of ‘civil matters’, by reason either of the legal relationships** between the parties to the action **or of the subject-matter of the action.**

The Court then states that, although certain legal actions between a public authority and a person governed by private law may come within the scope of the Brussels Convention, that is not the case **where the public authority acts in the exercise of its public powers.** Consequently, where the plaintiff acts in legal proceedings **on the basis of a claim which arises from an act in the exercise of public powers,** the legal action falls **outside the scope of the Convention.**

In the present case, **operations conducted by armed forces** are a **characteristic emanation of State sovereignty** and, consequently, a legal action such as that brought by Ms Lechouritou and the other plaintiffs for compensation in respect of loss and damage caused by such operations does not fall within the scope of the Brussels Convention.

Unofficial document for media use, not binding on the Court of Justice.

Languages available: BG CS DE EL EN FR HU IT NL PL RO SK SL

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-292/05>

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

For further information, please contact Christopher Fretwell

Tel: (00352) 4303 3355 Fax: (00352) 4303 2731