



Press and Information

Court of Justice of the European Union
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Judgment in Case C-1/13
Cartier parfums – lunettes SAS and Axa Corporate Solutions assurances SA
v Ziegler France SA and Others

Where the same dispute is brought before the courts of different Member States, the jurisdiction of the court first seised is established if it has not declined jurisdiction of its own motion and none of the parties has contested it

The court second seised is required to decline jurisdiction from that point in favour of the court first seised

EU law¹ provides that, where proceedings involving the same cause of action and between the same parties are brought in the courts of different Member States, any court other than the court first seised must stay the proceedings of its own motion until such time as the jurisdiction of the court first seised is established.

In 2007, Cartier entrusted Ziegler France with the transport by road of cosmetic products between France and the United Kingdom. That transport was carried out by another company, the last link in a chain of subcontractors. During the transport, part of the consignment of goods was stolen in the United Kingdom, resulting in damage of approximately € 145 000.

On 16 September 2008, Ziegler brought an action before the English courts in order to determine the liability incurred and to calculate the damage sustained by Cartier as a result of the theft concerned. One week later, on 24 September 2008, Cartier and Axa assurances brought an action before the French courts seeking a declaration that Ziegler and its subcontractors were jointly and severally liable. Ziegler takes the view that the French court, which was seised second, must decline jurisdiction in favour of the English court, which was seised first, by reason of the fact that the jurisdiction of the latter has not been contested by the parties and is therefore established for the purposes of EU law. Cartier and Axa assurances take the view that, in order for the jurisdiction of the court first seised to be established, it is necessary that that court has implicitly or expressly recognised its jurisdiction by a judgment which has become final. The Cour de cassation (France) asked the Court of Justice as to circumstances in which it may be considered that the jurisdiction of the court first seised is established.

In today's judgment, the Court of Justice considers that it is clear from EU law that the jurisdiction of the court first seised is established (subject to the exclusive jurisdiction of the court second seised), if that court has not declined jurisdiction of its own motion and none of the parties has contested its jurisdiction prior or up to the time of the defence on the substance. In the present case, the Court points out that the English court has not declined jurisdiction of its own motion and that Cartier entered an appearance before it without contesting its jurisdiction.

Furthermore, a requirement that the court first seised has implicitly or expressly recognised its jurisdiction by a judgment which has become final would deprive of all their effectiveness the rules laid down by EU law intended to resolve situations of *lis pendens* and would increase the risk of parallel proceedings, which EU law specifically seeks to avoid. Finally, the Court of Justice states that, in the present case, its interpretation is unlikely to give rise to a negative conflict of jurisdiction (in which case the parties would be obliged to bring fresh proceedings if the court first seised were to decline jurisdiction), since the jurisdiction of the English court can no longer be contested.

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, p. 1).

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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