JUDGMENT OF THE COURT
13 July 1993 *

In Case C-125/92,

REFERENCE to the Court under under the Protocol of 3 June 1971 on the interpretation by the Court of Justice of the Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters (OJ 1978 L 304, p. 97) by the Social Chamber of the Cour d'Appel, Chambéry, France, for a preliminary ruling in the proceedings pending before that court between

Mulox IBC Ltd

and

Hendrick Geels,

on the interpretation of Article 5(1) of the Convention of 27 September 1968, 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 (OJ 1978 L 304, p. 1),

THE COURT,

composed of: O. Due, President, M. Zuleeg and J. L. Murray (Presidents of Chambers), G. F. Mancini, F. A. Schockweiler, J. C. Moitinho de Almeida, F. Grévisse, M. Diez de Velasco and P. J. G. Kapteyn, Judges,

Advocate General: F. G. Jacobs,
Registrar: J.-G. Giraud,

* Language of the case: French.

after considering the written observations submitted on behalf of:

— the Government of the Federal Republic of Germany, by C. Böhmer, Ministerialrat, Federal Ministry of Justice, acting as Agent,

— the Government of the French Republic, by E. Belliard, Directeur Adjoint, Directorate for Legal Affairs, Ministry of Foreign Affairs, acting as Agent, and H. Duchène, Secretary for Foreign Affairs in the same directorate and ministry, acting as Joint Agent,

— the Commission of the European Communities, by P. Van Nuffel, of its Legal Service, and T. Margellos, a national civil servant seconded to the Legal Service of the Commission under the scheme for secondment, acting as Agents,

having regard to the Report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 26 May 1993,

gives the following

Judgment

1 By judgment of 17 March 1992, received at the Court on 17 April 1992, the Cour d'Appel, Chambéry, referred to the Court for a preliminary ruling under the Protocol of 3 June 1971 on the interpretation by the Court of Justice of the Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters (OJ 1978 L 304, p. 97), 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 (OJ 1978 L 304, p. 1, hereinafter 'the Convention'), a question on the interpretation of Article 5(1) of the Convention.

2 That question was raised in the course of proceedings between Mulox IBC Ltd, a company incorporated under English law whose registered office is in London (hereinafter 'Mulox'), and one of its former employees, Hendrick Geels, a Netherlands national residing in Aix-les-Bains, France, following termination of his contract of employment by his employer.

3 It is apparent from the documents before the Court that Mr Geels, who had been employed by Mulox as international marketing director since 1 November 1988, established his office in Aix-les-Bains and sold Mulox products initially in Germany, Belgium, the Netherlands and the Scandinavian countries, to which he travelled frequently. As from January 1990, Mr Geels worked in France.

4 Following termination of his contract of employment, Mr Geels sued his former employer before the Conseil de Prud'Hommes, Aix-les-Bains, for compensation in lieu of notice and for damages.

5 By judgment of 4 December 1990, that court declared that it had jurisdiction under Article 5(1) of the Convention and, applying French law, ordered Mulox to pay Mr Geels various sums by way of compensation.

6 Mulox then appealed to the Cour d'Appel, Chambéry, claiming that the French courts lacked jurisdiction to hear the case on the grounds that the place of performance of the contract of employment at issue was not confined to France and that Mulox was established in the United Kingdom.

7 The Cour d'Appel, Chambéry, entertained doubts as to whether the French courts had jurisdiction to hear the case, whereupon it stayed the proceedings and referred the following question to the Court of Justice for a preliminary ruling:

'Does the application of the jurisdiction rule under Article 5(1) of the Brussels Convention of 27 September 1968 require the obligation characterizing the employment contract to have been performed wholly and solely in the territory of the State of the court seised of the dispute, or is it sufficient for its operation that part of the obligation — possibly the principal part — has been performed in the territory of that State?'

8 Reference is made to the Report of the Judge-Rapporteur for a fuller account of the facts of the case, the procedure and the written observations submitted to the Court, which are mentioned or discussed hereinafter only in so far as is necessary for the reasoning of the Court.

9 In answering the question from the national court, it must be borne in mind first of all that, by way of derogation from the general principle laid down in the first paragraph of Article 2 of the Convention, namely that the courts of the State where the defendant is domiciled are to have jurisdiction, Article 5(1) of the Convention provides:

'A person domiciled in a Contracting State may, in another Contacting State, be sued:

1. in matters relating to a contract, in the courts for the place of performance of the obligation in question.'

10 It is settled case-law that, as far as possible, the Court of Justice will interpret the terms of the Convention autonomously so as to ensure that it is fully effective having regard to the objectives of Article 220 of the EEC Treaty, for the implementation of which it was adopted.

11 That autonomous interpretation alone is capable of ensuring uniform application of the Convention, the objectives of which include unification of the rules on jurisdiction of the Contracting States, so as to avoid as far as possible the multiplication of the bases of jurisdiction in relation to one and the same legal relationship and to reinforce the legal protection available to persons established in the Community by, at the same time, allowing the plaintiff easily to identify the court before which he may bring an action and the defendant reasonably to foresee the court before which he may be sued.

12 It is true that, with regard to the rule in Article 5(1) of the Convention on special jurisdiction, the Court has already held (Case 12/76 *Tessili* v *Dunlop* [1976] ECR 1473) that, for contracts in general, 'the place of performance of contractual obligations', within the meaning of that provision, cannot be understood otherwise than by reference to the law which governs the obligations in question under the conflict rules of the court before which the matter is brought.

13 In reaching that conclusion, the Court stated that the various Contracting States have very different views as to the meaning of the place of performance of the relevant obligation under a contract such as the sales transaction at issue in that case.

14 However, no such problem arises in relation to contracts of employment. The Court has consistently held that, in view of the specific nature of contracts of that kind (Case 133/81 *Ivenel* v *Schwab* [1982] ECR 1891, paragraph 20, Case 266/85 *Shenavai* v *Kreischer* [1987] ECR 239, paragraph 11, and Case 32/88 *Six Constructions* v *Humbert* [1989] ECR 341, paragraph 10), the obligation to be taken into consideration for the purposes of the application of Article 5(1) of the Convention to contracts of employment is always the obligation which characterizes such contracts, namely the employee's obligation to carry out the work stipulated.

15 The Court found in *Ivenel*, *Shenavai* and *Six Constructions*, cited above, that such contracts display certain particular features compared with other contracts in that they create a lasting bond which brings the worker to some extent within the

organizational framework of the employer's business and they are linked to the place where the activities are pursued, which determines the application of mandatory rules and collective agreements protecting the employee.

16 It follows that, in the case of a contract of employment, it is appropriate to determine the place of performance of the relevant obligation, for the purposes of applying Article 5(1) of the Convention, by reference not to the applicable national law in accordance with the conflict rules of the court seised but, rather, to uniform criteria which it is for the Court to lay down on the basis of the scheme and the objectives of the Convention.

17 In order specifically to define the place of performance, it must first be noted that, in *Ivenel* and *Shenavai*, the Court held that the rule on special jurisdiction in Article 5(1) of the Convention was justified by the existence of a particularly close relationship between a dispute and the court which may most conveniently be called on to take cognizance of the matter. In its judgments in *Shenavai* and *Six Constructions*, the Court added that, in view of the particular features of contracts of employment, it is the courts of the place in which the work is to be carried out which are best suited to resolving the disputes to which one or more obligations under such contracts may give rise.

18 Furthermore, in *Ivenel* and *Six Constructions*, the Court took the view that, in interpreting that provision of the Convention, account must be taken of the concern to afford proper protection to the party to the contract who is the weaker from the social point of view, in this case the employee.

19 Proper protection of that kind is best assured if disputes relating to a contract of employment fall within the jurisdiction of the courts of the place where the employee discharges his obligations towards his employer. That is the place where it is least expensive for the employee to commence, or defend himself against, court proceedings.

20 It follows that in relation to contracts of employment, the place of performance of the relevant obligation must be interpreted as meaning, for the purposes of Article 5(1) of the Convention, the place where the employee actually performs the work covered by the contract with his employer.

21 Where, as in this case, the work is performed in more than one Contracting State, it is important to interpret the Convention so as to avoid any multiplication of courts having jurisdiction, thereby precluding the risk of irreconcilable decisions and facilitating the recognition and enforcement of judgments in States other than those in which they were delivered (Case C-220/88 *Dumez France and Tracoba* [1990] ECR I-49, paragraph 18).

22 In that connection, the Court has held that, where various obligations derive from the same contract and form the basis of the plaintiff's action, it is the principal obligation which must be relied on in order to determine jurisdiction (*Shenavai*, paragraph 19).

23 It follows that Article 5(1) of the Convention cannot be interpreted as conferring concurrent jurisdiction on the courts of each Contracting State in whose territory the employee performs part of his work.

24 Where the work entrusted to the employee is performed in the territory of more than one Contracting State, it is important to define the place of performance of the contractual obligation, within the meaning of Article 5(1) of the Convention, as being the place where or from which the employee principally discharges his obligations towards his employer.

25 In order to determine the place of performance, which is a matter for the national court, it is necessary to take account of the fact that, in this case, the work entrusted to the employee was carried out from an office in a Contracting State, where the employee had established his residence, from which he performed his

work and to which he returned after each business trip. Furthermore, it is open to the national court to take account of the fact that, when the dispute before it arose, the employee was carrying out his work solely in the territory of that Contracting State. In the absence of other determining factors, that place must be deemed, for the purposes of Article 5(1) of the Convention, to be the place of performance of the obligation on which a claim relating to a contract of employment is based.

26 It follows from all the foregoing considerations that Article 5(1) of the Convention must be interpreted as meaning that, in the case of a contract of employment in pursuance of which the employee performs his work in more than one Contracting State, the place of performance of the obligation characterizing the contract, within the meaning of that provision, is the place where or from which the employee principally discharges his obligations towards his employer.

Costs

27 The costs incurred by German and French Governments and the Commission of the European Communities, which have submitted observations to the Court, are not recoverable. Since these proceedings are, for the parties to the main proceedings, a step in the proceedings pending before the national court, the decision on costs is a matter for that court.

On those grounds,

THE COURT,

in answer to the question referred to it by the Cour d'Appel, Chambéry, by judgment of 17 March 1992, hereby rules:

Article 5(1) of the Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters must be inter-

preted as meaning that, in the case of a contract of employment in pursuance of which the employee performs his work in more than one Contracting State, the place of performance of the obligation characterizing the contract, within the meaning of that provision, is the place where or from which the employee principally discharges his obligations towards his employer.

Due Zuleeg Murray Mancini

Schockweiler Moitinho de Almeida Grévisse Diez de Velasco Kapteyn

Delivered in open court in Luxembourg on 13 July 1993.

J.-G. Giraud

Registrar

O. Due

President