

French Supreme Court Rules on Scope of Rome II Regulation

The French supreme court for private and criminal matters (*Cour de cassation*) ruled on the respective scopes of the 1971 Hague Convention on the law applicable to traffic accidents and the Rome II Regulation in a judgment of 30 April 2014.

In 2010, a traffic accident occurred in Spain involving two cars. The first was registered in France, the second in Spain. The passenger of the French car initiated proceedings in France against the driver of the same car.

The lower courts found that both parties had their habitual residence in France and that French law thus governed as a consequence of Article 4(2) of the Rome II Regulation. In order to avoid applying the 1971 Hague Convention, to which France is a party, the court of appeal ruled that both France and Spain were members of the EU, and that the Rome II Regulation thus prevailed over conventions entered into by the Member States (article 28(2)).

The French Supreme court sets aside the judgment on the ground that Article 28 of the Rome II Regulation expressly provides that international conventions prevail over the Rome II Regulation when they were also ratified by third states. As it is the case for the 1971 Hague Convention, the latter should have been applied.

Under Articles 3 and 4 of the 1971 Hague Convention, when the traffic accident involves cars registered in different states, the law of the place of accident, here Spain, applies.