

ECJ Interpretation of Art 6(1) of the Brussels I Regulation

Case C-103/05 Reisch Montage AG v Kiesel Baumaschinen Handels GmbH (13th July 2006) concerns the interpretation of Article 6(1) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

The question referred to the ECJ by the Oberster Gerichtshof (Supreme Court of Austria) was:

Can a claimant rely on Article 6(1) of Regulation ... No 44/2001 when bringing a claim against a person domiciled in the forum state and against a person resident in another Member State, but where the claim against the person domiciled in the forum state is already inadmissible by the time the claim is brought because bankruptcy proceedings have been commenced against him, which under national law results in a procedural bar?

The ECJ held, *inter alia*, that:

- Article 6(1) should be interpreted strictly in order to preserve the dominant rule in Article 2(1) (see Case C-51/97 *Réunion européenne and Others* [1998] ECR I-6511, paragraph 16, and Case C-265/02 *Frahuil* [2004] ECR I-1543, paragraph 23).
- National courts must have regard for the principle of legal certainty (see Case C-281/02 *Owusu* [2005] ECR I-1383, paragraph 38). That principle requires, in particular, that the special rules on jurisdiction be interpreted in such a way as to enable a normally well-informed defendant reasonably to foresee before which courts, other than those of the State in which he is domiciled, he may be sued.
- The provisions of the regulation must be interpreted independently, by reference to its scheme and purpose. Since Article 6(1) is not one of the provisions, such as Article 59 of Regulation No 44/2001, for example, which provide expressly for the application of domestic rules and thus serve as a legal basis therefor, Article 6(1) of the Regulation cannot be interpreted in such a way as to make its application dependent on the

effects of domestic rules.

Therefore, the Court ruled that Article 6(1) must be interpreted as meaning that, in a situation such as that in the main proceedings, that provision may be relied on in the context of an action brought in a Member State against a defendant domiciled in that State and a co-defendant domiciled in another Member State even when that action is regarded under a national provision as inadmissible from the time it is brought in relation to the first defendant.

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