

German Federal Supreme Court: Contest of Local Jurisdiction Implies Contest of International Jurisdiction

The German Federal Supreme Court dealt with **questions concerning Art. 24 Regulation 44/01/EC** in its judgment of 1 June 2005 (VIII ZR 256/04). According to Art. 24 Reg. 44/01/EC a court of a Member State before which a defendant enters an appearance shall have jurisdiction. However, this shall not be the case if appearance was entered to contest the jurisdiction, or where another court has exclusive jurisdiction by virtue of Art. 22 Reg. 44/01/EC.

After stating that Art. 22 Reg. 44/01/EC was not relevant in the case in question, the Court addressed the question which requirements have to be fulfilled "to contest the jurisdiction" in terms of Art. 24 Reg. 44/01/EC. Here the Court agreed with the prevailing opinion among German legal writers according to which it is unnecessary to contest international jurisdiction explicitly. Rather, contesting the local jurisdiction of the respective court can - taking account of the concrete situation - also imply that the court's international jurisdiction will be contested. Further, the Court held that the requirements of Art. 24 s. 1 Reg. 44/01/EC (entering an appearance) are not fulfilled if the defendant enters an appearance only in the alternative, i.e. just providently in case the court affirms jurisdiction despite the fact that he is contesting the jurisdiction.

The full judgment can be viewed on the website of the Federal Supreme Court, as well as in IPRax 2006, 594 (including an annotation by *Leible/Sommer*, IPRax 2006, 568).