Annotation on ECJ Judgment in "FBTO Schadeverzekeringen"

Thomas Thiede and *Katarzyna Ludwichowska* (both Vienna) have written a comment (in German) on the ECJ's judgment in case C-463/06 (*FBTO Schadeverzekeringen*) in the latest issue of the legal journal Versicherungsrecht (VersR 2008, 631 et seq.).

An English abstract has been kindly provided by the authors:

> *The authors criticise the judgment of the European Court of Justice from 13 December 2007, in which the Court ruled that the reference in Art. 11(2) of Regulation No 44/2001 on jurisdiction and the recognition and enforcement of judgements in civil and commercial matters to Art. 9(1)(b) of that Regulation is to be interpreted as meaning that the injured party may bring an action directly against the liability insurer of the person liable before the courts of the Member State where that injured party is domiciled. They present and counter the arguments given by the ECJ and show the possible negative consequences of the solution accepted by the Court, such as the aggravation of forum shopping or the possible multiplicity of proceedings concerning the same incident in various Member States. The authors also emphasise that – although the case decided by the ECJ concerns only motor vehicle insurance – the reference in Art. 11(2) of Regulation 44/2001 applies to all – also non-compulsory – third-party liability insurance, which means that the Court's interpretation will have a very broad impact.*

See with regard to this case also our previous posts on the judgment, the referring decision as well as an annotation on the referring decision.