Judgment and Reference on Brussels I Regulation

The ECJ delivered its **judgment** in case C-347/08 (*Vorarlberger Gebietskrankenkasse*) on Artt. 9 (1) (b), 11 (2) Brussels I Regulation on 17 September and held as follows:

> *The reference in Article 11(2) 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 to Article 9(1)(b) thereof must be interpreted as meaning that a social security institution, acting as the statutory assignee of the rights of the directly injured party in a motor accident, may not bring an action directly in the courts of its Member State of establishment against the insurer of the person allegedly responsible for the accident, where that insurer is established in another Member State.*

(See with regard to this case also our previous post which can be found here).

Further, there is a **new reference** pending at the ECJ on Artt. 2 and 5 (3) Brussels I Regulation (C-278/09, *Martinez*) which has been referred by the Tribunal de grande instance Paris:

> *Must Article 2 and Article 5(3) 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 be interpreted to mean that a court or tribunal of a Member State has jurisdiction to hear an action brought in respect on an infringement of personal rights allegedly committed by the placing on-line of information and/or photographs on an Internet site published in another Member State by a company domiciled in that second State – or in a third Member State, but in any event in a State other than the first Member State – :*
> *On the sole condition that that Internet site can be accessed from the first Member State,*
> *On the sole condition that there is between the harmful act and the territory of the first Member State a link which is sufficient, substantial or significant and, in that case, whether that link can be created by:*
> *– the number of hits on the page at issue made from the first Member State, as an absolute figure or as a proportion of all hits on that page,*

– the residence, or nationality, of the person who complains of the infringement of his personal rights or more generally of the persons concerned,
– the language in which the information at issue is broadcast or any other factor which may demonstrate the site publisher's intention to address specifically the public of the first Member State,
– the place where the events described occurred and/or where the photographic images put on-line were taken,
– other criteria?