

Negative declarations, tort and the Brussels I Regulation

An important, if slightly unexpected, ruling from the CJEU in Case C-133/11, Folien Fischer AG and another v Ritrama SpA (25 October 2012). Disagreeing with the Advocate General, the Court has held that an action for a negative declaration seeking to establish the absence of liability in tort may fall within Art. 5(3) of the Brussels I Regulation.

The Court concludes that:

If, therefore, the relevant elements in the action for a negative declaration can either show a connection with the State in which the damage occurred or may occur or show a connection with the State in which the causal event giving rise to that damage took place, ..., then the court in one of those two places, as the case may be, can claim jurisdiction to hear such an action, pursuant to point (3) of Article 5 of Regulation No 44/2001, irrespective of whether the action in question has been brought by a party whom a tort or delict may have adversely affected or by a party against whom a claim based on that tort or delict might be made.

The judgment is available [here](#), and the Advocate General's opposing opinion [here](#) .

A short summary of the facts and decision appears on the Incorporated Council for Law Reporting website [here](#).