

ECJ News—Conflict of Jurisdictions

Regulation (EC) No 44/2001, Jurisdiction in matters relating to insurance

On September 17, the ECJ delivered a judgment concerning the application of art. 9(1)(b) and 11(2) of Regulation (EC) No 44/2001 in case of statutory assignment of the rights of an injured party in favor of a social security institution ([Voralberger Gebietskrankenkasse, C-347/08](#)).

According to the ECJ, the reference in Art. 11(2) of the Regulation (EC) No 44/2001 to Art. 9 (1)(b) does not lead to jurisdiction in the Member State of establishment of a social security institution, acting as the statutory assignee of the rights of the injured party in a motor accident and bringing in an direct action against the insurer of the person allegedly responsible for the accident, established in another Member State.

Regulation (EC) No 44/2001—Jurisdiction at place of performance

On July 9 the ECJ interpreted the second indent of Article 5(1)(b) in relation to passenger claims for compensation against airlines due to flight cancellation. The case concerned air transport from one Member State to another by an airline established in a third Member State ([C- 204-08 Peter Rehder](#)).

According to the ECJ, the second indent of Article 5(1)(b) must be interpreted as follows: “in the case of air transport of passengers from one Member State to another Member State, carried out on the basis of a contract with only one airline, which is the operating carrier, the court having jurisdiction to deal with a claim for compensation is that, at the applicant’s choice, which has territorial jurisdiction over the place of departure or place of arrival of the aircraft, as those places are agreed in that contract.” The compensation claim was founded on the transport contract and on Regulation (EC) No 261/2004.

Another recent reference for preliminary ruling to the ECJ concerning the second indent of Art. 5 (1) (b) is currently pending in the case [Wood Floor, C-19/09](#). The reference relates to the application of Art. 5 (1) on a contract for the provision of services where the services are, by agreement, provided in several Member States.