Reports of Cases

JUDGMENT OF THE COURT (Fifth Chamber)

13 February 2025 *

(Reference for a preliminary ruling – Judicial cooperation in civil and commercial matters – Jurisdiction and the recognition and enforcement of judgments in civil and commercial matters – Regulation (EU) No 1215/2012 – Special jurisdiction – Article 8(1) – Multiple defendants – Claims 'so closely connected' that it is expedient to hear and determine them together – Article 102 TFEU – Concept of an 'undertaking' – Parent and subsidiary companies – Infringement committed by the subsidiary – Presumption of dominant influence exercised by the parent company – Joint and several liability – Decision of a national competition authority – Actions for compensation)

In Case C-393/23,

REQUEST for a preliminary ruling under Article 267 TFEU from the Hoge Raad der Nederlanden (Supreme Court of the Netherlands), made by decision of 23 June 2023, received at the Court on 28 June 2023, in the proceedings

Athenian Brewery SA,

Heineken NV

v

Macedonian Thrace Brewery SA,

THE COURT (Fifth Chamber),

composed of I. Jarukaitis, President of the Fourth Chamber, acting as President of the Fifth Chamber, D. Gratsias (Rapporteur) and E. Regan, Judges,

Advocate General: J. Kokott,

Registrar: A. Lamote, Administrator,

having regard to the written procedure and further to the hearing on 6 June 2024,

after considering the observations submitted on behalf of:

– Athenian Brewery SA and Heineken NV, by R. Dufour and E. Pijnacker Hordijk, advocaten,

* Language of the case: Dutch.

– Macedonian Thrace Brewery SA, by A.J.M.J. de Moncuit de Boiscuillé, avocat, J.W. Fanoy, P.A. Fruytier, T.S. Hoyer and M.H.J. van Maanen, advocaten,

– the European Commission, by S. Noë and W. Wils, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 26 September 2024,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 8(1) of Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2012 L 351, p. 1).

2 The request has been made in proceedings between, on the one hand, Athenian Brewery SA ('AB') and Heineken NV and, on the other hand, Macedonian Thrace Brewery SA ('MTB'), concerning an action aimed at establishing the joint and several liability of AB and Heineken for compensation for the damage suffered by MTB as a result of an infringement, by AB, of Article 102 TFEU and Article 2 of the Nomos 3959/2011 Prostasia tou eleutherou antagonismou (Law 3959 on the protection of competition) of 20 April 2011 (FEK A' 93).

Legal context

Regulation (EU) No 1/2003

3 Article 5 of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles [101] and [102 TFEU] (OJ 2003 L 1, p. 1), entitled 'Powers of the competition authorities of the Member States', provides, in the first sentence:

'The competition authorities of the Member States shall have the power to apply Articles [101] and [102 TFEU] in individual cases. …'

4 Article 16 of that regulation, entitled 'Uniform application of Community competition law', states in paragraph 1:

'When national courts rule on agreements, decisions or practices under Article [101] or Article [102 TFEU] which are already the subject of a Commission decision, they cannot take decisions running counter to the decision adopted by the [European] Commission. They must also avoid giving decisions which would conflict with a decision contemplated by the Commission in proceedings it has initiated. To that effect, the national court may assess whether it is necessary to stay its proceedings. This obligation is without prejudice to the rights and obligations under Article [267 TFEU].'

5 Under Article 23(2)(a) of that regulation, the Commission may by decision impose fines on undertakings and associations of undertakings where, either intentionally or negligently, they infringe Article 101 or Article 102 TFEU.

Regulation No 1215/2012

6 Recitals 15, 16 and 21 of Regulation No 1215/2012 state:

'(15) The rules of jurisdiction should be highly predictable and founded on the principle that jurisdiction is generally based on the defendant's domicile. Jurisdiction should always be available on this ground save in a few well-defined situations in which the subject matter of the dispute or the autonomy of the parties warrants a different connecting factor. The domicile of a legal person must be defined autonomously so as to make the common rules more transparent and avoid conflicts of jurisdiction.

(16) In addition to the defendant's domicile, there should be alternative grounds of jurisdiction based on a close connection between the court and the action or in order to facilitate the sound administration of justice. The existence of a close connection should ensure legal certainty and avoid the possibility of the defendant being sued in a court of a Member State which he could not reasonably have foreseen. …

…

(21) In the interests of the harmonious administration of justice it is necessary to minimise the possibility of concurrent proceedings and to ensure that irreconcilable judgments will not be given in different Member States. There should be a clear and effective mechanism for resolving cases of *lis pendens* and related actions, and for obviating problems flowing from national differences as to the determination of the time when a case is regarded as pending. For the purposes of this Regulation, that time should be defined autonomously.'

7 Article 4(1) of that regulation, which appears in Section 1 of Chapter II thereof, entitled 'General provisions', is worded as follows:

'Subject to this Regulation, persons domiciled in a Member State shall, whatever their nationality, be sued in the courts of that Member State.'

8 Article 5(1) of that regulation, which appears in the same section, provides:

'Persons domiciled in a Member State may be sued in the courts of another Member State only by virtue of the rules set out in Sections 2 to 7 of this Chapter.'

9 Article 8(1) of that regulation, which appears in Section 2 of Chapter II thereof, entitled 'Special jurisdiction', provides:

'A person domiciled in a Member State may also be sued:

(1) where he is one of a number of defendants, in the courts for the place where any one of them is domiciled, provided the claims are so closely connected that it is expedient to hear and determine them together to avoid the risk of irreconcilable judgments resulting from separate proceedings;

…'

Directive 2014/104/EU

10 Article 9 of Directive 2014/104/EU of the European Parliament and of the Council of 26 November 2014 on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union (OJ 2014 L 349, p. 1), entitled 'Effect of national decisions', states:

'1. Member States shall ensure that an infringement of competition law found by a final decision of a national competition authority or by a review court is deemed to be irrefutably established for the purposes of an action for damages brought before their national courts under Article 101 or 102 TFEU or under national competition law.

2. Member States shall ensure that where a final decision referred to in paragraph 1 is taken in another Member State, that final decision may, in accordance with national law, be presented before their national courts as at least prima facie evidence that an infringement of competition law has occurred and, as appropriate, may be assessed along with any other evidence adduced by the parties.

3. This Article is without prejudice to the rights and obligations of national courts under Article 267 TFEU.'

The dispute in the main proceedings and the questions referred for a preliminary ruling

11 AB and MTB are breweries established in Greece and operating on the Greek beer market. AB is part of the Heineken group, the parent company of which, Heineken, has its registered office in Amsterdam (Netherlands). Heineken sets the strategy and objectives of the Heineken group. It does not itself carry on any operational activities in Greece. Between September 1998 and 14 September 2014, Heineken indirectly held approximately 98.8% of the shares in the capital of AB.

12 By decision of 19 September 2014, the Epitropi Antagonismou (Competition Commission, Greece) found that AB had abused its dominant position on the Greek beer market during the period referred to in the preceding paragraph and that this should be deemed to be a single continuous infringement of Article 102 TFEU and Article 2 of Law 3959 on the protection of competition. Although MTB had asked the Competition Commission to include Heineken in the investigation, that commission stated, inter alia, in that decision, that there was no evidence of Heineken's direct involvement in the infringements and that the specific circumstances did not support the assumption that Heineken had exercised a decisive influence over AB. That commission did not adjudicate in that decision on the rebuttable presumption, recognised in the Court's case-law, that, in the particular case in which a parent company holds, directly or indirectly, all or almost all of the capital in a subsidiary which has committed an infringement of the competition rules, that parent company actually exercises a decisive influence over the conduct of its subsidiary and may be held responsible for the infringement on the same basis as that subsidiary ('the presumption of the parent company's decisive influence and liability').

13 MTB made an application to the rechtbank Amsterdam (District Court, Amsterdam, Netherlands) for AB and Heineken to be held jointly and severally liable for the infringement referred to in the preceding paragraph and, accordingly, ordered jointly and severally to compensate MTB for the entire loss which it had suffered as a result of that infringement. AB

and Heineken requested, inter alia, the rechtbank Amsterdam (District Court, Amsterdam) to declare itself not to have jurisdiction to hear the claim against AB. The rechtbank Amsterdam (District Court, Amsterdam) held that it had jurisdiction to decide on the claims brought against Heineken under Article 4(1) of Regulation No 1215/2012, since that company's seat is in Amsterdam. By contrast, it upheld the claim of lack of jurisdiction made by AB and Heineken and held that it had no jurisdiction in respect of AB as the claim brought against Heineken and that brought against AB were not 'so closely connected', within the meaning of Article 8(1) of Regulation No 1215/2012, that it was expedient to hear and determine them together to avoid the risk of irreconcilable judgments resulting from separate proceedings.

14 Hearing the case on appeal, the Gerechtshof Amsterdam (Court of Appeal, Amsterdam, Netherlands) set aside the judgment of the rechtbank Amsterdam (District Court, Amsterdam), dismissed the ancillary claim brought by AB and Heineken and referred the case back to the latter court for a new examination and a decision on the merits. That court of appeal held, in essence, that those companies were in the same factual situation and it could not be excluded with sufficient certainty that they formed one and the same undertaking.

15 AB and Heineken brought an appeal on a point of law before the Hoge Raad der Nederlanden (Supreme Court of the Netherlands), which is the referring court.

16 That court notes that the case before it differs from the one referred to in the judgment of 21 May 2015, *CDC Hydrogen Peroxide* (C-352/13, EU:C:2015:335), in which the Court held, inter alia, that actions brought against undertakings which have participated, in different places and at different times, in a single and continuous infringement, which has been established by a decision of the Commission, were so closely connected that it was expedient to hear and determine them together to avoid the risk of irreconcilable judgments. In the present case, the infringement of the competition rules was not established by a decision of the Commission, but by a national competition authority, namely the Competition Commission. Moreover, it is common ground that Heineken did not itself carry out operations on the Greek beer market and the action brought against it by MTB was based solely on the decisive influence that it exercised over AB's conduct. Where, as in the present case, the defendant disputes, in a reasoned manner, having exercised such influence, the question arises as to whether, in accordance with the criteria established by the Court in the judgments of 28 January 2015, *Kolassa* (C-375/13, EU:C:2015:37), and of 16 June 2016, *Universal Music International Holding* (C-12/15, EU:C:2016:449), it is possible to rely on the presumption of the parent company's decisive influence and liability, in which case the court seised would have to recognise its jurisdiction to decide the case, unless the parent company concerned is able, without a comprehensive taking of evidence, to rebut that presumption.

17 In those circumstances, the Hoge Raad der Nederlanden (Supreme Court of the Netherlands) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) In a case such as that at issue in these proceedings, must the court of the parent company's domicile, when assessing its jurisdiction under Article 8(1) of Regulation [No 1215/2012] with regard to a subsidiary established in another Member State, in the context of the close-connection requirement referred to in that provision, rely on the presumption – accepted as regards substantive competition law – that the parent company exercises decisive influence on the economic activity of the subsidiary which is the subject of the proceedings?

(2) If the first question is answered in the affirmative, how is the criterion formulated in the judgments [of 28 January 2015, *Kolassa* (C-375/13, EU:C:2015:37),] and [of 16 June 2016, *Universal Music International Holding* (C-12/15, EU:C:2016:449),] to be interpreted? In such a case, where the parent company's decisive influence on the economic activity of the subsidiary is disputed, is it sufficient for the assumption of jurisdiction under Article 8(1) of Regulation [No 1215/2012] as regards the subsidiary concerned, that the existence of such a decisive influence cannot be excluded a priori?'

Consideration of the questions referred

18 By its questions, which it is appropriate to examine together, the referring court asks, in essence, whether Article 8(1) of Regulation No 1215/2012 must be interpreted as not precluding – in claims for a parent company and its subsidiary to be held jointly and severally liable to pay compensation for the damage suffered as a result of an infringement, by that subsidiary, of the competition rules – the court for the place of residence of the parent company seised of those claims from relying exclusively, in order to establish its international jurisdiction, on the presumption that where a parent company holds directly or indirectly all or almost all of the capital of the subsidiary that infringed the competition rules, it exercises a decisive influence over that subsidiary.

19 Article 8(1) of Regulation No 1215/2012 provides that a person domiciled in a Member State may be sued, where he or she is one of a number of defendants, in the courts for the place where any one of them is domiciled, provided that the claims are so closely connected that it is expedient to hear and determine them together to avoid the risk of irreconcilable judgments resulting from separate proceedings.

20 The objective of the rule of jurisdiction in Article 8(1) of Regulation No 1215/2012 meets, in accordance with recitals 16 and 21 of that regulation, the wish to facilitate the sound administration of justice, to minimise the possibility of concurrent proceedings and to ensure that irreconcilable judgments will not be given in two Member States (judgment of 7 September 2023, *Beverage City Polska*, C-832/21, EU:C:2023:635, paragraph 34 and the case-law cited).

21 That rule of special jurisdiction, because it derogates from the principle set out in Article 4 of Regulation No 1215/2012 that jurisdiction be based on the defendant's domicile, must be given a strict interpretation that does not go beyond the cases expressly envisaged by that regulation (judgment of 7 September 2023, *Beverage City Polska*, C-832/21, EU:C:2023:635, paragraph 35 and the case-law cited).

22 It follows that, in order for Article 8(1) of Regulation No 1215/2012 to apply, it is necessary to ascertain whether, between various claims brought by the same applicant against various defendants, there is a connection of such a kind that it is expedient to determine those actions together in order to avoid the risk of irreconcilable judgments resulting from separate proceedings. In that regard, for judgments to be regarded as irreconcilable, it is not sufficient that there be a divergence in the outcome of the dispute, but that divergence must also arise in the context of the same situation of fact and law (judgment of 21 May 2015, *CDC Hydrogen Peroxide*, C-352/13, EU:C:2015:335, paragraph 20 and the case-law cited).

23 However, the Court held that the rule laid down in Article 8(1) of Regulation No 1215/2012 cannot be interpreted as allowing an applicant to make a claim against a number of defendants for the sole purpose of removing one of them from the jurisdiction of the courts of the State in which that defendant is domiciled and, thus, of circumventing the rule of jurisdiction contained in that provision by artificially creating or maintaining the conditions for the application of that provision (judgment of 7 September 2023, *Beverage City Polska*, C-832/21, EU:C:2023:635, paragraph 43 and the case-law cited).

24 The Court has also held that the possibility that an applicant could bring a claim against a number of defendants for the sole purpose of ousting the jurisdiction of the courts of the State in which one of the defendants is domiciled will be ruled out where there is a close connection between the claims brought against each of the defendants when the proceedings are instituted, that is to say, where it is expedient to hear and determine them together to avoid the risk of irreconcilable judgments resulting from separate proceedings (see, by analogy, judgments of 11 October 2007, *Freeport*, C-98/06, EU:C:2007:595, paragraph 54; of 21 May 2015, *CDC Hydrogen Peroxide*, C-352/13, EU:C:2015:335, paragraph 28; and of 7 September 2023, *Beverage City Polska*, C-832/21, EU:C:2023:635, paragraph 44 and the case-law cited). It inferred from this that where, when proceedings are instituted, claims are connected within the meaning of Article 6(1) 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 (OJ 2001 L 12, p. 1), which corresponds to Article 8(1) of Regulation No 1215/2012, the court seised of the case can find that the rule of jurisdiction laid down in that provision has potentially been circumvented only where there is firm evidence to support the conclusion that the applicant artificially fulfilled, or prolonged the fulfilment of, that provision's applicability (see, by analogy, judgment of 21 May 2015, *CDC Hydrogen Peroxide*, C-352/13, EU:C:2015:335, paragraph 29).

25 Accordingly, it is for the referring court to assess, having regard to all of the relevant facts of the case before it, whether the same situation of law and fact exists with regard to the claims against the different defendants and to satisfy itself that the claims brought against the sole co-defendant whose domicile gives rise to the jurisdiction of the court seised are not intended artificially to satisfy the conditions for the application of Article 8(1) of Regulation No 1215/2012 (see, to that effect, judgment of 7 September 2023, *Beverage City Polska*, C-832/21, EU:C:2023:635, paragraphs 42 and 45). The Court may nevertheless provide the referring court with the points of interpretation of EU law which are useful for the purposes of that assessment.

26 In that regard, it must be borne in mind that the Court has held that the requirement concerning the existence of the same situation of fact and law must be regarded as satisfied where several undertakings that participated in a single and continuous infringement of EU competition rules, established by a decision of the Commission, are subject, as defendants, to claims based on their participation in that infringement, despite the fact that the defendants in question participated in the implementation of the cartel concerned in different places and at different times (see, to that effect, judgment of 21 May 2015, *Beverage City Polska*, C-352/13, EU:C:2015:335, paragraph 21).

27 As the Advocate General observed, in essence, in point 40 of her Opinion, the same finding must also be made in the case of claims based on a company's participation in an infringement of EU competition law brought against that company and against its parent company, in which it is alleged that they together formed one and the same undertaking.

28 It is settled case-law that EU competition law refers to the activities of undertakings, with the result that, since the liability for damage caused by infringements of EU competition rules is personal in nature, the undertaking which infringes those rules must answer for the damage caused by the infringement (judgment of 14 March 2019, *Skanska Industrial Solutions and Others*, C-724/17, EU:C:2019:204, paragraphs 30 and 31 and the case-law cited).

29 Accordingly, where it is established that a company and its subsidiary are part of the same economic unit and thus form a single undertaking, within the meaning of EU competition law, it is the very existence of that economic unit which committed the infringement that decisively determines the liability of one or other of the companies making up that undertaking for the anticompetitive conduct of the latter. On that basis, the concept of an 'undertaking' and, through it, that of an 'economic unit' automatically entail the application of joint and several liability amongst the entities of which the economic unit is made up at the time that the infringement was committed (see, to that effect, judgment of 6 October 2021, *Sumal*, C-882/19, EU:C:2021:800, paragraphs 43 and 44).

30 In that regard, the fact that, as in the present case, the joint and several liability of the parent company and its subsidiary for the infringement of EU competition rules was not established in a final Commission decision does not preclude the application of Article 8(1) of Regulation No 1215/2012 to such claims.

31 On the contrary, as the Advocate General stated in point 56 of her Opinion, it is precisely in such a situation that there is a risk that irreconcilable judgments will be delivered concerning the same situation of fact and law. As is apparent from recital 21 of Regulation No 1215/2012, Article 8(1) of that regulation is intended precisely to avoid such a risk.

32 Final Commission decisions on an infringement of EU competition law are binding, in accordance with Article 16(1) of Regulation No 1/2003, on any court of a Member State ruling on the same infringement. By contrast, although, in accordance with Article 9(1) of Directive 2014/104, Member States are required to ensure that their national courts are bound only by the final decisions of their own competition authorities ruling on such an infringement, as regards similar decisions taken by a competition authority of another Member State, Article 9(2) thereof merely imposes an obligation on Member States to ensure that such decisions may be presented before their national courts as prima facie evidence of the infringement.

33 That interpretation of Article 8(1) of Regulation No 1215/2012 – namely that that provision also applies in the case of claims brought both against a parent company and against its subsidiary, with which the former forms an economic unit, based on the participation of the latter in an infringement of the competition rules of EU law – is consistent with the objectives of foreseeability of the rules on jurisdiction and the principle of legal certainty, referred to in recitals 15 and 16 of that regulation.

34 According to the Court's case-law, the principle of legal certainty requires, in particular, that the special rules on jurisdiction be interpreted in such a way as to enable a normally well-informed defendant reasonably to foresee before which courts, other than those of the State in which he or she is domiciled, he or she may be sued (judgment of 13 July 2006, *Reisch Montage*, C-103/05, EU:C:2006:471, paragraph 25).

35 That is the case with a parent company and its subsidiary, domiciled in another Member State. In the light of the considerations set out in paragraphs 28 and 29 above, each of those two companies may reasonably foresee that, in the event of an infringement of EU competition law committed by one of them, it may be sued before the courts of the Member State in which the other company is domiciled to respond to claims based on that infringement.

36 In the present case, the referring court has doubts, more specifically, concerning the implications, with respect to the possible application of Article 8(1) of Regulation No 1215/2012, of the fact, first, that an applicant relies, in support of its claims against a company which participated in an infringement of EU competition law and against the company which holds all or almost all of the capital of the first company, on the presumption of the parent company's decisive influence and liability and, secondly, that the parent company disputes having exercised a decisive influence over its subsidiary and having formed an economic entity with it.

37 In that regard, it must be borne in mind, in the first place, that, according to settled case-law, in the specific case where a parent company holds, directly or indirectly, all or almost all of the capital of a subsidiary which has infringed the competition rules, there is a rebuttable presumption, namely the presumption of the parent company's decisive influence and liability, that that parent company does in fact exercise a decisive influence over the conduct of its subsidiary (judgment of 26 October 2017, *Global Steel Wire and Others* v *Commission*, C-457/16 P and C-459/16 P to C-461/16 P, EU:C:2017:819, paragraph 84 and the case-law cited).

38 That presumption was developed in the context of challenges, by the undertakings concerned, to Commission decisions finding that they had participated in an infringement of EU competition rules and imposing fines on them under Article 23(2) of Regulation No 1/2003. In that context, the Court has specified that it is sufficient for the Commission to prove that all or almost all of the capital of a subsidiary is held by its parent company in order for it to be presumed that the parent exercises decisive influence over the commercial policy of that subsidiary. The Commission will then be able to regard the parent company as jointly and severally liable for the payment of the fine imposed on its subsidiary, unless the parent company, which has the burden of rebutting that presumption, adduces sufficient evidence to show that its subsidiary acts independently on the market (judgment of 26 October 2017, *Global Steel Wire and Others* v *Commission*, C-457/16 P and C-459/16 P to C-461/16 P, EU:C:2017:819, paragraph 84 and the case-law cited).

39 Although developed in the context of challenges to Commission decisions adopted under Article 23(2) of Regulation No 1/2003, the presumption of the parent company's decisive influence and liability may also apply in the case of a claim brought by a natural or legal person who alleges that he or she has suffered harm as a result of a company's participation in an infringement of EU competition law, brought against another company which holds all or almost all of the capital of the former.

40 The Court has held that the concept of 'undertaking', within the meaning of EU competition law, which constitutes an autonomous concept of that law, cannot have a different scope with regard to the imposition of fines by the Commission under Article 23(2) of Regulation No 1/2003 as compared to actions for damages for infringement of EU competition rules (judgment of 6 October 2021, *Sumal*, C-882/19, EU:C:2021:800, paragraph 38).

41 It must be noted, in the second place, that it is apparent from the Court's case-law that, at the stage at which international jurisdiction is determined, the court seised examines neither the admissibility nor the substance of the claim, but identifies only the connecting factors with the State in which that court is situated which are capable of providing a basis for its jurisdiction under Article 8(1) of Regulation No 1215/2012.

42 That being so, and while it is true that Regulation No 1215/2012 does not explicitly define the extent of the verification obligations to which national courts are subject in the course of determining their international jurisdiction, as regards an aspect of national procedural law that that regulation is not intended to unify, the application of the relevant national laws must not impair the effectiveness of that regulation. Although the aim of legal certainty requires the national court seised to be able readily to decide whether it has jurisdiction, without having to consider the substance of the case, a requirement to conduct, already at that stage of the proceedings, a comprehensive taking of evidence in relation to the facts relevant both to the question of jurisdiction and to the substance, risks prejudicing the assessment of the substance (see, to that effect, judgment of 28 January 2015, *Kolassa*, C-375/13, EU:C:2015:37, paragraphs 61 to 63 and the case-law cited).

43 Furthermore, the Court has also pointed out that both the objective of the sound administration of justice and respect for the independence of the national court in the exercise of its functions require the national court seised to be able to examine its international jurisdiction in the light of all of the information available to it, including, where appropriate, that provided by the defendant (see, to that effect, judgments of 28 January 2015, *Kolassa*, C-375/13, EU:C:2015:37, paragraph 64, and of 16 June 2016, *Universal Music International Holding*, C-12/15, EU:C:2016:449, paragraph 45).

44 In that regard, as to whether there is a connection, information intended to establish that the claim does have the same factual situation and, where appropriate, legal situation, will thus be relevant. Accordingly, that court may regard as established, in order to ascertain a connection, the applicant's claims as regards the conditions for liability in tort, delict or quasi-delict (see, by analogy, judgment of 16 June 2016, *Universal Music International Holding*, C-12/15, EU:C:2016:449, paragraph 44 and the case-law cited).

45 Consequently, in a situation such as that in the main proceedings, the court seised may confine itself to verifying that a decisive influence by the parent company over its subsidiary cannot be excluded a priori in order that that court may declare itself competent in so far as permitted under national law.

46 That will be the case if the applicant relies on the presumption of the parent company's decisive influence and liability. However, verifying that the claim against the parent company whose domicile gives rise to the jurisdiction of the court seised is not artificial presupposes that the defendants are able to rely on firm evidence to suggest that the parent company does not hold directly or indirectly all or almost all of the capital of its subsidiary, or that that presumption should nevertheless be rebutted.

47 In the light of all of the foregoing considerations, the answer to the questions referred is that Article 8(1) of Regulation No 1215/2012 must be interpreted as not precluding – in claims for a parent company and its subsidiary to be held jointly and severally liable to pay compensation for the damage suffered as a result of an infringement, by that subsidiary, of the competition rules – the court for the place of residence of the parent company seised of those claims from relying, in

order to establish its international jurisdiction, on the presumption that where a parent company holds directly or indirectly all or almost all of the capital of the subsidiary that infringed the competition rules, it exercises a decisive influence over that subsidiary, provided that the defendants are not deprived of the possibility of relying on firm evidence suggesting either that that parent company did not hold directly or indirectly all or almost all of the capital of that subsidiary, or that that presumption should nevertheless be rebutted.

Costs

48 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Fifth Chamber) hereby rules:

Article 8(1) of Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters

must be interpreted as not precluding – in claims for a parent company and its subsidiary to be held jointly and severally liable to pay compensation for the damage suffered as a result of an infringement, by that subsidiary, of the competition rules – the court for the place of residence of the parent company seised of those claims from relying, in order to establish its international jurisdiction, on the presumption that where a parent company holds directly or indirectly all or almost all of the capital of the subsidiary that infringed the competition rules, it exercises a decisive influence over that subsidiary, provided that the defendants are not deprived of the possibility of relying on firm evidence suggesting either that that parent company did not hold directly or indirectly all or almost all of the capital of that subsidiary, or that that presumption should nevertheless be rebutted.

[Signatures]