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The Court of Justice of the European Union sets out the criteria for allocating international jurisdiction in claims for damages against groups of companies arising from breaches of competition law

I. Background

On 16 April 2026, the Court of Justice of the European Union (the "**CJEU**") delivered its judgment in joined cases C-672/23 and C-673/23 (the "**Judgment**"), in which it ruled on several questions referred for a preliminary ruling by the *Gerechtshof Amsterdam* (Amsterdam Court of Appeal) concerning the interpretation of Article 8(1) of Regulation (EU) No. 1215/2012 ("**Regulation No. 1215/2012**").

The disputes that gave rise to the questions referred for a preliminary ruling shared a common element in that, in both cases, the plaintiffs brought actions for damages arising from breaches of competition law against various undertakings that belonged to business groups involved in the sanctioned conduct. The defendants included entities that were directly subject to the sanctioning decisions, as well as other undertakings within the same group that had not been sanctioned or charged.

The Judgment clarifies which undertakings within a group of undertakings may act as an "anchor defendant" for the purposes of establishing the international jurisdiction of the courts, where the action is brought against a number of defendants domiciled in different Member States. Furthermore, the Judgment clarifies this in a particularly relevant context, as some of the undertakings were not directly subject to any sanctioning decision by the competition authority.

This concept of the anchor defendant is of critical importance in litigation for damages arising from breaches of competition law, which often have an international dimension, as it directly determines whether an injured party can bring all its claims before a single court and, where applicable, what discretion they have when deciding where to bring the action.

In summary, the Judgment addresses the rules on the allocation of international jurisdiction set out in Regulation No. 1215/2012, where an action for damages arising from a breach of competition law is brought against various undertakings that may form a group, within the meaning of European Union ("**EU**") competition law.

II. Questions referred for a preliminary ruling and the CJEU's ruling: interpretation of Article 8(1) of Regulation No. 1215/2012

The CJEU did not address the questions referred for a preliminary ruling in the terms set out by the referring court, but instead reformulated them. Therefore, we will now examine the CJEU's answers in the order in which it set them out in the Judgment, explaining the substance of the question addressed by the CJEU and the answer that the Court gave:

1. First question referred for a preliminary ruling

To clarify the scope of the first question, we must note that Article 8(1) of Regulation No. 1215/2012 provides as follows:

"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;"*

In the first question, the CJEU considered whether Article 8(1) of Regulation No. 1215/2012 must be interpreted as meaning that a defendant in respect of which it has not been established, by a decision of the European Commission ("**EC**") or a national competition authority, that it is liable for an infringement of Article 101 of the Treaty on the Functioning of the European Union ("**TFEU**") or Article 53 of the Agreement on the European Economic Area ("**EEA Agreement**") may nevertheless be "so closely connected" to other defendants, in respect of which there are serious indications that they belong to a group of undertakings whose companies have been held responsible for such an anti-competitive infringement.

To answer this question, the CJEU started from the premise that the purpose of the rule on the attribution of jurisdiction laid down in Article 8(1) of Regulation No. 1215/2012 is to facilitate the proper administration of justice, minimise the risk of parallel proceedings and prevent the adoption of conflicting resolutions in different States that might prove irreconcilable. The last situation would arise if conflicting resolutions were adopted in proceedings that involved the same situation in fact and in law. On that basis, the CJEU set out four considerations that determined its response:

Firstly, the same factual and legal situation exists where several undertakings that have participated in a single and continuous infringement of EU competition rules, as established in a resolution of the European Commission, have been sued for that infringement, even where their involvement in the commission of the infringement differs depending on the geographical areas or periods concerned.

Secondly, if the parent company and its subsidiary form part of the same economic unit and therefore constitute a single undertaking, they are jointly and severally liable for the anti-competitive infringement.

Thirdly, the undertakings within a group, even if each has a legal personality distinct from the others, must be regarded as a single undertaking where there are economic, organisational and legal links between the subsidiaries and the parent company which enable the parent company to exercise decisive influence over the subsidiaries, thereby preventing the latter from independently determining their conduct on the market.

In this regard, the fact that a parent company directly or indirectly holds all or almost all of the share capital of a subsidiary that has engaged in an infringement of competition law constitutes a *iuris tantum* presumption that the parent company exercises a decisive influence over the subsidiary.

Fourthly and finally, a single parent company may form part of several economic units, depending on the economic activity in question. Thus, to establish the existence of an economic unit, a claimant must not only demonstrate the existence of economic, organisational and legal links between the parent company and its subsidiaries, but also prove that there is a specific link between the economic activity of that subsidiary and the subject matter of the infringement by the parent company.

In this regard, the fact that an anchor defendant may or may not be domiciled in the Member State in which the national competition authority has declared the existence of an infringement of competition law does not, in itself, affect whether the defendants are "so closely connected" within the meaning of Article 8(1) of Regulation No. 1215/2012.

On the basis of those considerations, the CJEU concluded that a defendant that has not been found liable for anti-competitive conduct by the EC or a national competition authority may nonetheless be "so closely connected", within the meaning of Article 8(1) of Regulation No. 1215/2012, to other defendants where there are serious indications that it forms part of a group of undertakings whose companies have been held liable for such an infringement.

2. Second question referred for a preliminary ruling

Through the second question referred for a preliminary ruling, the CJEU considered whether, in order to assess the existence of a close connection under Article 8(1) of Regulation No. 1215/2012, it must be examined, as an independent criterion, whether the co-defendant could have foreseen that they might be sued in the forum of the anchor defendant.

To answer this question, the CJEU made the following two considerations:

Firstly, the CJEU noted that, although the foreseeability of the place where the perpetrator of anti-competitive conduct may be sued is not one of the criteria set out in Article 8(1) of Regulation No. 1215/2012, recitals (15) and (16) of the Regulation provide, as objectives of the rules on the allocation of jurisdiction, that the application of these rules should produce foreseeable results compatible with legal certainty.

Secondly, where a defendant has participated in an anti-competitive infringement as part of a group of undertakings, it must be considered that that defendant has established a close relationship with the other participants in the infringement and that it can reasonably foresee that it might be sued before the courts of the domicile of the other members of that group of undertakings.

Therefore, the CJEU concluded that, although it does not constitute an independent criterion, the question of whether a co-defendant could foresee that they might be sued before the court of the anchor defendant must be taken into account as a general principle in the application of the rule on the allocation of jurisdiction under Article 8(1) of Regulation No. 1215/2012.

3. Third question referred for a preliminary ruling

Through the third question referred for a preliminary ruling, the CJEU examined whether, to assess the existence of a close connection under Article 8(1) of Regulation No. 1215/2012, it is necessary to take into account the prospects of success of the claim brought against the anchor defendant, in particular where that claim seeks compensation for damage suffered outside the European Economic Area.

In short, this question is relevant to assessing whether a claimant is attempting to abuse the rules on the attribution of jurisdiction established in Regulation No. 1215/2012 by bringing a defendant before a court other than the one to which the case would, in principle, fall.

To answer this question, the CJEU made the following three considerations:

Firstly, the CJEU noted that when the court before which a claim has been brought examines its admissibility, it does not examine the merits of the case, but merely verifies that there are, *prima facie*, connecting factors with the State in which that court is situated that justify its jurisdiction.

Secondly, the rules on the allocation of jurisdiction laid down in Regulation No. 1215/2012 cannot be interpreted in such a way as to allow a claimant, in an abusive manner, to sue the perpetrator of an anti-competitive infringement in a place other than that to which they would legally be subject.

This "circumvention" of the rules on the attribution of territorial jurisdiction set out in Regulation No. 1215/2012 will not occur where there is a close link between the actions brought against each of the co-defendants, thereby justifying the claims being heard jointly to avoid irreconcilable judgments.

However, such circumvention of the rules on the allocation of jurisdiction may occur if, at the time the claim is brought, the court finds that the claim is manifestly unfounded, or that the claim is devoid of any real interest to the claimant.

Thirdly, the fact that the damage for which compensation is sought occurred outside the European Economic Area does not, in itself, mean that a claim is unfounded. All of this is subject to the claimant establishing a causal link between the damage for which compensation is sought and the anti-competitive conduct.

Therefore, the CJEU concluded that to assess whether the rules on the attribution of jurisdiction set out in Article 8(1) of Regulation No. 1215/2012 apply, it is not necessary to analyse the prospects of success of

the claim brought against the anchor defendant, although this factor may serve as an indication for such an analysis.

Furthermore, the fact that the damage for which compensation is sought occurred outside the European Economic Area does not, in itself, mean that the claim must be regarded as unfounded and, consequently, that the rules on the attribution of international jurisdiction laid down in Article 8(1) of Regulation No. 1215/2012 do not apply.

4. Fourth question referred for a preliminary ruling

With the fourth question referred for a preliminary ruling, the CJEU clarified one of the most important practical aspects addressed by the Judgment, namely whether Article 8(1) of Regulation No. 1215/2012 merely designates the Member State whose courts have international jurisdiction, or whether, on the contrary, it also directly determines territorial jurisdiction by identifying the specific court before which the dispute must be brought.

This distinction is important because it determines whether a claimant relying on this rule of multiple parties must also refer to the domestic procedural law of the relevant State to determine the court with territorial jurisdiction, or whether Regulation No. 1215/2012 itself already provides a complete and self-contained answer.

According to the CJEU, Article 8(1) of Regulation No. 1215/2012 does not limit its function to merely designating the Member State whose courts have jurisdiction; rather, it also directly and immediately attributes territorial jurisdiction to the specific court of the place where the anchor defendant is domiciled.

The CJEU reached this conclusion by referring to the wording of the Regulation's articles themselves. Thus, where the Regulation refers to the "courts of a Member State"—as in Articles 4(1), 7(6) or 11(1)(a)—it merely seeks to identify the sphere of international jurisdiction, by specifying which State is to hear the case. However, according to the Judgment, Article 8(1) functions in a qualitatively different manner when referring to the "court of the defendant's domicile". Thus, as stated, the provision does not end at the state border, but reaches the level of the specific court, which it designates directly. To support this interpretation, the CJEU referred to its previous judgments in the *Color Drack* (C-386/05), *Volvo* (C-30/20) and *Allianz Elementar Versicherung* (C-652/20) cases, where it had already taken the same position.

To this argument, the CJEU added a functional justification. The simultaneous attribution of both powers to a single body would also meet the requirements of the proper administration of justice, thereby allowing the dispute to be managed in a consistent manner, concentrating the taking and assessment of evidence in a single venue, and neutralising the risk of divergent decisions. The CJEU held that, in the specific context of actions arising from infringements of competition law—where the factual and economic analysis is structurally complex—this concentration is all the more justified.

Thus, the Judgment settles an issue that could have given rise to uncertainty in practice by clarifying that Article 8(1) of Regulation No. 1215/2012 does not function solely as a mere rule for the allocation of jurisdiction between Member States, but has a dual effect, since it determines both the international and territorial jurisdiction in favour of the specific court of the defendant's domicile.

5. Fifth question referred for a preliminary ruling

Finally, the Judgment resolved a question closely linked to the previous one concerning the refusal by the courts of a Member State to hear a case where another court in the same Member State has jurisdiction. This raises the question of what happens when a court before which an action is initially brought considers itself to lack territorial jurisdiction to hear the action against the anchor defendant because the defendant is domiciled outside its jurisdiction.

The question raised is whether the Regulation prevents the court from declining jurisdiction and referring the case to another court in the same Member State, or whether, on the contrary, such a domestic declination of jurisdiction is compatible with the European system of jurisdiction.

The CJEU provided a clear answer: Article 8(1) of Regulation No. 1215/2012 does not prevent a court which considers itself to lack territorial jurisdiction under domestic procedural law from declining jurisdiction in favour of another court in the same Member State, provided that such a decision complies with national procedural rules and does not undermine the effectiveness of the Regulation.

The starting point of the Court's reasoning is structural. Regulation No. 1215/2012 seeks to distribute judicial powers among Member States in civil and commercial matters, not to unify the internal procedural rules of each Member State. Nothing in its provisions suggests that the Regulation opposes mechanisms for declining jurisdiction or abstention between bodies in the same State. Where a dispute remains within the borders of the Member State designated as having jurisdiction, the Regulation has already fulfilled its function: to identify the State concerned. The internal allocation of jurisdiction between a Member State's courts is, in principle, a matter of national procedural law.

This approach is consistent with the established case law of the CJEU itself, which has repeatedly stated that, in procedural matters, reference should be made to the law applicable by the court hearing the case—the *lex fori*—with the sole limitation that its application must not undermine the effectiveness of the Regulation.

III. Conclusions and practical consequences of the Judgment

The main conclusions to be drawn from the Judgment are as follows:

i) Even if an undertaking has not been found directly liable for an anti-competitive infringement, if there are serious indications that that undertaking forms part of a group which has been found liable for an anti-competitive infringement, that undertaking may be sued at the domicile of any of the group's members.

ii) When assessing the territorial jurisdiction of the courts of EU Member States, the criterion of foreseeability may be taken into account. In other words, whether a defendant could reasonably have foreseen that they would be sued in that forum, which will be the case where the defendant has participated in an anti-competitive infringement as part of a group of undertakings and one of those undertakings is domiciled in that forum.

iii) To assess the territorial jurisdiction of EU courts, it is not necessary to analyse the likelihood of the claim succeeding, although this circumstance may be considered an indication of this. In this regard, the fact that the damage for which compensation is sought occurred outside the European Economic Area does not automatically mean that the claim must be classified as unfounded.

iv) Article 8(1) of Regulation No. 1215/2012 determines both the international and territorial jurisdiction of the court of a Member State within whose jurisdiction a defendant is domiciled.

v) A court which considers itself to lack jurisdiction under national rules on internal territorial jurisdiction may, under those rules, decline jurisdiction in favour of the court it considers to have jurisdiction, provided that such a declination does not have the effect of compromising the effective application of Regulation No. 1215/2012.

The CJEU has outlined the criteria for applying the rules on the allocation of international jurisdiction laid down in Regulation No. 1215/2012, thereby facilitating, in principle, the extension of actions for damages to undertakings that are part of a group, even if those undertakings have not directly participated in the infringement.

In this context, the analysis of the territorial jurisdiction of courts that hear actions for damages becomes even more important, if that is possible. From a plaintiff's point of view, it is necessary to choose the most appropriate forum in which to bring the action and to ensure compensation for the damage claimed. From a defendant's point of view, it is necessary to prevent undertakings that do not meet the allocation criteria set out in Regulation No. 1215/2012 from being drawn into the proceedings and, ultimately, having to be held jointly and severally liable alongside other undertakings in the group that have actually committed an anti-competitive infringement.

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