



Press and Information

Court of Justice of the European Union

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Advocate General's Opinion in Case C-700/20
London Steam-Ship Owners' Mutual Insurance Association Limited v
Kingdom of Spain

Advocate General Collins: An arbitral award judgment may be a relevant judgment for the purposes of the Regulation on recognition and enforcement of judgments

This notwithstanding that such a judgment falls outside the scope of that same regulation

In November 2002, the M/T *Prestige*, a single-hull oil tanker registered in the Bahamas, broke into two sections and sank off the coast of Galicia (Spain). It was carrying 70 000 tonnes of heavy fuel oil, which escaped, causing significant damage to beaches, towns and villages along the northern coastline of Spain and the western coastline of France. Thus began a lengthy dispute between the insurers of the vessel (The London Steam-Ship Owners' Mutual Insurance Association Limited – “the Club”) and the Spanish State which they pursued by way of two different procedures in two Member States.

These procedures resulted in two judgments: one delivered by the Audiencia Provincial de La Coruña (Provincial Court, A Coruña, Spain), the other handed down by the High Court of Justice (England & Wales), Queen's Bench Division (Commercial Court) (United Kingdom). The Spanish State ultimately sought to have the judgment of the Audiencia Provincial de La Coruña (Provincial Court, A Coruña) recognised by the Courts of England & Wales. The High Court of Justice acceded to that application by a registration order in May 2019.

The Club lodged an appeal against the registration order. Challenging the Club's appeal, the Spanish State asked the High Court of Justice (England & Wales), Queen's Bench division (Commercial Court) to refer issues on the interpretation of Regulation 44/2001¹ for a preliminary ruling.

The referring court seeks to ascertain whether a judgment entered in the terms of an award under the UK Arbitration Act 1996 is capable of constituting a relevant ‘judgment’ of a Member State in which recognition is sought for the purposes of Regulation No 44/2001.

In today's Opinion Advocate General Collins observes that a judgment entered in the terms of an arbitration award, such as a judgment under the Arbitration Act 1996, is caught by the arbitration exclusion provided for in Regulation No 44/2001. However the present case does not involve an attempt to have an English judgment made under the Arbitration Act 1996 recognised or enforced in another Member State. It instead concerns the effect of such a judgment in England and Wales in circumstances where that judgment is irreconcilable with a judgment made in another Member State, the recognition and enforcement of which is sought in England and Wales.

Advocate General Collins gives three reasons why a judgment made under the Arbitration Act 1996 qualifies as a ‘judgment’ in England and Wales for the purposes of Regulation No 44/2001. First, Article 32 of Regulation No 44/2001 defines the concept of a ‘judgment’ in broad terms capable of application to all of the provisions of that regulation in which that concept appears. Second, the Court has previously ruled² that in order to be a ‘judgment’ for the purposes of the

¹ 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 L 12, 16.1.2001, p. 1–23). Regulation No 44/2001 is the applicable regulation to the proceedings before the High Court. It has since been repealed and replaced.

² Judgment of 2 June 1994, *Solo Kleinmotoren* (C-414/92, paragraphs 15 and 20) – Article 25 of the Brussels Convention, which that judgment interpreted, has the same content as Article 32 of Regulation 44/2001.

Brussels Convention, 'the decision must emanate from a judicial body of a Contracting State deciding on its own authority on the issues between the parties', which is the case here. Third, the fact that a judgment adopted pursuant to the Arbitration Act 1996 does not address every issue before the arbitral tribunal does not prevent it from being a 'judgment' for the purposes of Regulation No 44/2001.

Advocate General Collins therefore proposes that the Court should find that **a judgment entered in the terms of an arbitral award pursuant to the Arbitration Act 1996 is capable of constituting a relevant 'judgment' of the Member State in which recognition is sought for the purposes of Regulation No 44/2001.** This notwithstanding that such a judgment falls outside the scope of that same regulation by reason of Article 1(2)(d) thereof.

NOTE: The Advocate General's Opinion is not binding on the Court of Justice. It is the role of the Advocates General to propose to the Court, in complete independence, a legal solution to the cases for which they are responsible. The Judges of the Court are now beginning their deliberations in this case. Judgment will be given at a later date.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the Opinion is published on the CURIA website on the day of delivery.

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