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Our Services

- Liability and Insurance Law
- Personal Injury Law
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- Customs and Excise
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Agenda

- Introduction and legal framework
- Damage location
 - Principle
 - Limitation
- Insurance matters
- Case examples
- Belgian considerations
- Conclusion



Introduction and legal framework

- Which court has jurisdiction?
- Applicable law
 - Brussels I bis Regulation: Chapter II
 - General rule, article 4: Member State of the defendant's domicile
 - Special jurisdiction, article 7 (2): place of harmful event
 - In Belgium: WIPR, article 96 (2) (Code of Private International Law)

Article 4

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

2. Persons who are not nationals of the Member State in which they are domiciled shall be governed by the rules of jurisdiction applicable to nationals of that Member State.

(2) in matters relating to tort, delict or quasi-delict, in the courts for the place where the harmful event occurred or may occur;

2° een verbintenis voortvloeiend uit een onrechtmatige daad,

- a) indien de schadelijke handeling zich geheel of gedeeltelijk in België heeft voorgedaan of dreigt zich te zullen voordoen; of
- b) indien en voorzover de schade zich in België heeft voorgedaan of dreigt zich te zullen voordoen;

Damage location: principle

- Cross-border tort claims: several (foreign) parties involved
- Two pins that decide your court
 - Place of harmful event
Example: place of manufacturing of a defective product
 - Place of first damage
Example: place of an accident
- Choice of forum: first strategic decision



Damage location: limitation

- Judgement of the Belgian Cassation Court 6 October 2006
 - Issue: Belgian employer against German insurer relating to road traffic accident of an employee in Germany
 - Ruling: Belgian courts have no jurisdiction
 - Discussion: no jurisdiction at place where the harmful effects are felt
- Belgium is not one of the two points of reference
- In line with judgement of the CJEU of 19 September 1995





Insurance matters

- Section 3 of Brussels I bis is applicable: Articles 10-16
- Provides more options for claimant
- Tripartite insurance relationship
 - Injured party
 - Insured party
 - Insurer
- CJEU in BT v. Seguros Catalana Occidente and EB: do British courts have jurisdiction?
 - Injured party against insurer ✓
 - Injured party against insured party ✗ → governed by Section 2

Case examples

- Road traffic accident in Belgium with a British victim
 - Jurisdiction: Belgian courts based on article 7 (2) of Brussels I bis
- Road traffic accident in Germany with Belgian and German victims and Belgian liable party
 - Jurisdiction: Belgian courts based on article 11 of Brussels I bis (insurer)



Belgian considerations

- New Indicative Table 2024
 - Increased compensations: permanent incapacities tripled !
 - Still limited amounts
- Result: parties attempt to bring the proceedings before foreign courts

leeftijd op datum van consolidatie	bedrag
Tot 15 jaar	3.660
16 jaar	3.600
17 jaar	3.555
18 jaar	3.510
19 jaar	3.465
20 jaar	3.420
21 jaar	3.375
22 jaar	3.330
23 jaar	3.285
24 jaar	3.240
25 jaar	3.195
26 jaar	3.150
27 jaar	3.105
28 jaar	3.060
29 jaar	3.015
30 jaar	2.970
31 jaar	2.925
32 jaar	2.880



Conclusion

- Brussels I bis contains two points of reference for jurisdiction → strategic choice of forum
- Insurance matters are governed by a different section
- Belgian tort law provides limited compensation

Thank you for your attention!



Sources

- Brussel I bis Regulation
- Belgian WIPR
- J. G. KNOT, “Grensoverschrijdende letselschade en Europa”, in *Lettselschade en Europa* 2016, p. 39-53
- Belgian Cass. 6 October 2006
- V. DE RUYCK, “Wegverkeersongevallen”, in TPR 2006, 1625-1626.
- CJEU in BT v. Seguros Catalana Occidente and EB
- Belgian Indicative Table