

Case 49: CISG 7(2); 45; 57(1)(a); 74

Germany: Oberlandesgericht Düsseldorf; 17 U 73/93

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The plaintiff, a German buyer of a knifecutting machine, demanded damages for personal injury caused by, and repair costs of, the machine, which the plaintiff had bought from the defendant, a manufacturer situated in Indiana, U.S.A., and installed in a Russian furniture factory. The court of first instance found in an interim judgement that it had jurisdiction. The defendant appealed.

The appellate court dismissed the appeal and found that the court of first instance had jurisdiction under the provisions of the German code of civil procedure granting jurisdiction to the court of the place where the disputed obligation, in the present case the obligation to payment of damages, was to be performed. In order to determine the place where damages were payable, the appellate court applied CISG as part of the law of Indiana, which was applicable under German private international law. The appellate court held that article 57(1)(a) CISG, providing that the purchase price is payable at the place of business of the seller, indicated a general principle that claims for payment of money, including damages for breach of contract arising under articles 45 and 74 CISG, were payable at the place of business of the claimant, who in the present case was the German buyer.