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TRYBUNAŁ SPRAWIEDLIWOŚCI UNII EUROPEJSKIEJ  
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CURTEA DE JUSTIȚIE A UNIUNII EUROPENE  
SÚDNY DVOR EURÓPSKEJ ÚNIE  
SODIŠČE EVROPSKE UNIJE  
EUROOPAN UNIONIN TUOMIOISTUIN  
EUROPEISKA UNIONENS DOMSTOL

## JUDGMENT OF THE COURT (Grand Chamber)

2 December 2025 \*

(Reference for a preliminary ruling – Jurisdiction and the recognition and enforcement of judgments in civil and commercial matters – Regulation (EU) No 1215/2012 – Article 7(2) – Special jurisdiction in matters relating to tort, delict or quasi-delict – Determination of the territorial jurisdiction of a court of a Member State – Place where the harmful event occurred – Place where the damage occurred – Representative action seeking compensation for the damage caused by anticompetitive conduct consisting of the charging by the operator of an online platform, aimed at all users in a Member State, of excessive commission on the price of applications and digital products offered for sale on that platform – Action brought by an entity qualified to defend the collective interests of multiple unidentified but identifiable users)

In Case C-34/24,

REQUEST for a preliminary ruling under Article 267 TFEU from the rechtbank Amsterdam (District Court, Amsterdam, Netherlands), made by decision of 20 December 2023, received at the Court on 18 January 2024, in the proceedings

**Stichting Right to Consumer Justice,**

**Stichting App Stores Claims**

v

**Apple Distribution International Ltd,**

**Apple Inc.,**

THE COURT (Grand Chamber),

composed of K. Lenaerts, President, T. von Danwitz, Vice-President, F. Biltgen, I. Jarukaitis, M.L. Arastey Sahún, I. Ziemele, J. Passer, O. Spineanu-Matei

\* Language of the case: Dutch.

(Rapporteur), M. Condinanzi, F. Schalin, Presidents of Chambers, A. Kumin, N. Jääskinen, Z. Csehi, B. Smulders and S. Gervasoni, Judges,

Advocate General: M. Campos Sánchez-Bordona,

Registrar: G. Chiapponi, Administrator,

having regard to the written procedure and further to the hearing on 10 December 2024,

after considering the observations submitted on behalf of:

- Stichting Right to Consumer Justice, by M.A. van Bommel and C. Jeloscsek, advocaten,
- Stichting App Stores Claims, by R. Meijer and S. Timmerman, advocaten,
- Apple Distribution International Ltd and Apple Inc., by B.M. Katan, J.S. Kortmann and R. Wesseling, advocaten,
- the Netherlands Government, by E.M.M. Besselink, M.K. Bulterman and A. Hanje, acting as Agents,
- the Portuguese Government, by C. Alves, P. Barros da Costa and M.J. Castello-Branco, acting as Agents,
- the European Commission, by S. Noë and W. Wils, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 27 March 2025,

gives the following

### **Judgment**

- 1 This request for a preliminary ruling concerns the interpretation of Article 7(2) 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 (i) two foundations governed by Netherlands law, established in Amsterdam (Netherlands), respectively, Stichting Right to Consumer Justice and Stichting App Stores Claims, and (ii) Apple Distribution International Ltd, a company incorporated under Irish law, and Apple Inc., a company incorporated under United States law (together, ‘Apple’), concerning the finding that the defendants in the main proceedings had engaged in

anticompetitive conduct and concerning the fact that they were ordered to pay compensation for the damage allegedly caused by that conduct.

## **Legal context**

### ***European Union law***

3 Recitals 15 and 16 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. This is important, particularly in disputes concerning non-contractual obligations arising out of violations of privacy and rights relating to personality, including defamation.’

4 Chapter II of that regulation, entitled ‘Jurisdiction’, contains, inter alia, Section 1, entitled ‘General provisions’, and Section 2, entitled ‘Special jurisdiction’. Article 4(1) of that regulation, which is set out in Section 1 of Chapter II, provides:

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

5 Article 5(1) of that regulation, also set out in Section 1 of Chapter II, 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.’

6 Article 7 of Regulation No 1215/2012, which is set out in Section 2 of Chapter II of that regulation, states:

‘A person domiciled in a Member State may be sued in another Member State:

(1) (a) in matters relating to a contract, in the courts for the place of performance of the obligation in question;

...

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

...’

***Netherlands law***

- 7 The Wet tot wijziging van het Burgerlijk Wetboek en het Wetboek van Burgerlijke Rechtsvordering teneinde de afwikkeling van massaschade in een collectieve actie mogelijk te maken (Wet afwikkeling massaschade in collectieve actie) (Law amending the Civil Code and the Code of Civil Procedure to allow the payment of collective damages in a collective action (Law on the payment of collective damages in collective actions)) of 20 March 2019 (Stb. 2019, No 130) entered into force on 1 January 2020 and was amended as from 25 June 2023 for the purposes of the transposition, into Netherlands law, of Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC (OJ 2020 L 409, p. 1).

- 8 Article 3:305a of the Burgerlijk Wetboek (Civil Code), in the version applicable to the disputes in the main proceedings (‘the BW’), provides:

‘1. A foundation or association with full legal capacity may bring an action for the protection of similar interests of other persons, provided that it promotes those interests under its statutes and that those interests are adequately safeguarded.

...

3. A legal person referred to in paragraph 1 shall be admissible only if:

...

- b. the legal action has a sufficiently close link with the Netherlands legal order. The link with the Netherlands legal order shall be sufficiently close if:

1° the legal person establishes to the requisite standard that the majority of the persons whose interests the legal action seeks to protect are habitually resident in the Netherlands; or

2° the person against whom the action is brought is domiciled in the Netherlands and additional circumstances demonstrate a sufficient link with the Netherlands legal order; or

3° the event or events to which the legal action relates take(s) place or took place in the Netherlands;

...’

- 9 Article 220(1) of the Wetboek van Burgerlijke Rechtsvordering (Code of Civil Procedure), in the version applicable to the disputes in the main proceedings (‘the Rv’), provides:

‘In cases already pending before another ordinary court of the same level, between the same parties and involving the same subject matter, or where the case is connected to a case already pending before another ordinary court of the same level, referral to that other court may be requested. In those cases, the court may also make a referral of its own motion, after hearing the parties. Such a referral is also possible if one of the cases is being examined before the cantonal court and the other case is not.’

- 10 Articles 1018b to 1018f of the Rv, which come under Title 14a thereof, set out the rules of procedure relating to a collective action.

- 11 Article 1018c(5) of the Rv provides:

‘The substance of the collective claim shall be examined only if and after the court has decided:

- (a) that the claimant satisfies the conditions of admissibility laid down in Article 305a(1) to (3) of Book 3 of the [BW] or the conditions of admissibility which must be satisfied pursuant to paragraph 6 of the present Article;
- (b) that the claimant has sufficiently established that the pursuit of that collective action is more efficient and effective than an individual action, because the questions of fact and law to be answered are sufficiently common, the number of persons whose interests the action seeks to protect is sufficient and, if the action seeks compensation, those persons have, individually or jointly, a sufficiently significant financial interest;
- (c) that the collective action does not appear, *prima facie*, to be futile at the time when the dispute is brought before the court.

...’

- 12 Article 1018e of Rv provides:

‘1. The court shall designate as the exclusive defender of the interests the most suitable claimant among the claimants who have brought a collective action pursuant to Article 1018c or 1018d ...

2. In addition, the court shall assess the precise content of the collective action, the strictly defined group of persons for which the exclusive defender of the interests represents those interests in that collective action and whether the nature

of the collective action related to a particular place justifies the case being examined by another court.

3. The claimant designated as the exclusive defender of the interests shall act in such proceedings on behalf of the interests of all persons belonging to the strictly defined group referred to in paragraph 2 and shall act as the representative of the claimants who have not been designated as exclusive defender. Claimants who have not been designated as exclusive defender shall remain parties to the proceedings. The exclusive defender shall carry out the procedural steps. The court may determine that claimants who have not been designated are also entitled to carry out procedural steps.

...’

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

- 13 Apple Inc. is the parent company of Apple Distribution International; the latter acts as a representative of Apple Inc. and as a distributor of Apple products within the European Union.
- 14 Apple is the manufacturer of a range of portable devices, such as the iPhone, iPad and iPod Touch (‘Apple devices’). Apple devices run on the basis of the iOS operating system which is pre-installed on those devices and regularly updated.
- 15 The applications (‘apps’) and digital products integrated into those apps (‘digital in-app products’) for those devices can be purchased in the App Store, which is an online sales platform developed and operated by Apple and which, since 2009, has been systematically installed on Apple devices. The App Store offers apps free of charge and in return for payment, which may vary from country to country and are developed either by Apple or by third parties (the latter hereinafter referred to as ‘developers’). Payments for the purchase of those apps are made, as a rule, through the App Store payment system.
- 16 In order to sell their apps on the App Store, on which those apps are exclusively offered, developers have to enter into an agreement with Apple Inc. The sale price for those apps is determined on the basis of a scale established by Apple and is collected through the App Store payment system. Depending on the case, Apple deducts 15 or 30% of the sale price, by way of commission. After deduction of that commission, the balance is paid to the developers.
- 17 Users of Apple devices must create a user profile in order to access the App Store (‘Apple ID’). Where a user has an Apple ID which indicates the Netherlands as the country or region and accesses the App Store, he or she is directed by default to the ‘online shop’ specifically designed for the Netherlands (‘the App Store NL’). Although a user theoretically has the possibility of changing the country

associated with his or her profile, in order to do so he or she must sign up to new terms and have a valid payment method in that country.

- 18 The applicants in the main proceedings are foundations governed by Netherlands law whose object, in accordance with their respective statutes, is, inter alia, to represent in legal proceedings, and defend the interests of, persons who have been the victims of fraudulent or anticompetitive conduct, in particular unlawful conduct by one or more entities forming part of the Apple Group, and to obtain compensation for the damage caused to those victims.
- 19 Those applicants brought two representative actions before the rechtbank Amsterdam (District Court, Amsterdam, Netherlands), which is the referring court, seeking a declaration that the defendants in the main proceedings had acted unlawfully vis-à-vis users of apps running on the basis of the iOS operating system and seeking an order that the defendants pay compensation for the damage which they had thus caused.
- 20 In support of their claims, the applicants in the main proceedings argue that Apple holds a dominant position on the market for the distribution of apps for Apple devices and on the App Store payment system. In their view, Apple abuses that position by charging an excessive commission of 30% of the price paid for the purchase of those apps, in breach of Article 102 TFEU. They claim that Apple, by engaging in vertical price-fixing, also infringes Article 101 TFEU. As a result of that anticompetitive conduct, the users of those apps have suffered damage.
- 21 Apple contends that the referring court does not have jurisdiction to hear the disputes in the main proceedings and submits that that court cannot declare that it has jurisdiction, on the basis of Article 7(2) of Regulation No 1215/2012, because the alleged harmful event did not occur in the Netherlands and, in particular, in Amsterdam, and no significant event took place in that State or in that city. In the alternative, Apple submits that that court can have jurisdiction only in respect of claims concerning users who have made purchases in Amsterdam, in the App Store NL. For all other claims, it argues that the referring court does not have international or territorial jurisdiction on the basis of that provision.
- 22 By interlocutory judgment of 16 August 2023, the referring court found that the disputes in the main proceedings fell within the scope of Regulation No 1215/2012 in so far as the action was brought against Apple Distribution International, whose registered office is in the territory of another Member State, namely Ireland. By contrast, that court stated that, as regards Apple Inc., its jurisdiction would be determined in accordance with national law.
- 23 In that context, the referring court recalled that, according to the case-law of the Court of Justice, Article 7(2) of Regulation No 1215/2012 establishes the jurisdiction of the court both for the place of the event giving rise to the alleged damage and for the place where that damage occurred, with the result that the applicant has the choice of suing the defendant before either of those courts.

- 24 As regards, first, the place of the event which gave rise to the alleged damage, the referring court found, in respect of the complaint alleging infringement of Article 101 TFEU, that it could not establish that it had jurisdiction to hear the disputes in the main proceedings in the absence of identification of a specific event that had taken place in the Netherlands in the context of which either (i) the alleged restrictive agreement was definitively concluded, or (ii) an arrangement constituting in itself the event giving rise to the damage allegedly caused was made.
- 25 By contrast, as regards the complaint alleging infringement of Article 102 TFEU, that court held that, in accordance with the judgment of 5 July 2018, *flyLAL-Lithuanian Airlines* (C-27/17, EU:C:2018:533), the causal event was situated in the Netherlands, since the acts carried out by Apple in order to abuse its dominant position had taken place in the territory of that Member State. In that regard, that court held, in essence, that the App Store NL was aimed specifically at the Netherlands market and that it used the Dutch language. That court also noted that Apple Distribution International acted as the exclusive distributor and commission agent in respect of the apps developed by the developers and, as such, offered those apps in the App Store NL.
- 26 Consequently, the referring court found that it had international jurisdiction to hear the disputes in the main proceedings, in so far as those disputes concerned the alleged infringement of Article 102 TFEU.
- 27 As regards, second, the place where the damage occurred, the referring court stated that, in the disputes in the main proceedings, the initial and direct damage consisted of an allegedly too high price paid by users when purchasing apps in the App Store NL.
- 28 In that respect, that court observed, first of all, that the distinction between the complaints alleging infringement of Article 101 TFEU and those alleging infringement of Article 102 TFEU was irrelevant to the determination of the place where the alleged damage occurred.
- 29 It then observed, on the basis, inter alia, of the judgment of 5 July 2018, *flyLAL-Lithuanian Airlines* (C-27/17, EU:C:2018:533), that, where the market affected by the anticompetitive conduct concerned is in the Member State in which that damage occurred, it was necessary to consider that the place where that damage occurred was in that Member State.
- 30 Since most of the users who had made purchases in the App Store NL were resident or established in the Netherlands and had paid for those purchases using Netherlands bank accounts, that court concluded, lastly, that that damage had been suffered in the Netherlands.
- 31 Accordingly, the referring court found that it had international jurisdiction to hear the disputes in the main proceedings on the basis of the place where the damage occurred.



- 32 However, that court states that, although it has thus been able to establish its international jurisdiction to hear the disputes in the main proceedings, it must still verify whether it has territorial jurisdiction, since, in accordance with the judgment of 15 July 2021, *Volvo and Others* (C-30/20, EU:C:2021:604), Article 7(2) of Regulation No 1215/2012 directly and immediately confers both international and territorial jurisdiction.
- 33 To that end, the referring court is uncertain, in the first place, as to where, in the Netherlands, is the place of the event which gave rise to the damage or the place where the alleged damage occurred. It notes that it is apparent from the judgment of 15 July 2021, *Volvo and Others* (C-30/20, EU:C:2021:604), that the court having jurisdiction can be determined on the basis of the place of purchase of goods or, in the case of purchases made in several places, the place where the injured party's registered office is situated. In the present case, as regards purchases made via an online platform for apps that can be downloaded worldwide, a place of purchase is difficult to identify, which leads to the determination of the court having territorial jurisdiction in relation to the buyer/user's headquarters.
- 34 However, such a connecting factor could lead, in the disputes in the main proceedings, to the sharing, between the courts of the 11 *arrondissementen* of the Kingdom of the Netherlands, of jurisdiction to hear representative actions, each of those courts having jurisdiction only for purchasers/users who reside or are established within that court's territorial jurisdiction. Such a situation would increase the risk of divergent decisions and would undermine both procedural economy and the sound administration of justice.
- 35 In the second place, that court asks whether the fact that a representative action is brought by a legal person which defends collective interests makes it possible to connect the jurisdiction to hear such an action to the registered office of that person or whether other connecting factors are relevant in such a situation. In that regard, it asks whether the fact that the representative actions in question in the main proceedings, which were brought, under Article 3:305a of the BW, by a legal person acting not as an assignee or as a representative, but having its own right to bring proceedings on behalf of an indeterminate group of persons, is of any significance for the purpose of determining territorial jurisdiction under Article 7(2) of Regulation No 1215/2012.
- 36 In the third place, if the interpretation of that provision were to lead to the establishment of the jurisdiction of a number of courts to hear the disputes in the main proceedings, that court seeks to ascertain whether, in the light of the fact that the Netherlands legislature did not confer jurisdiction to hear representative actions on a single specialised court, it is possible to apply a rule of national law making it possible to centralise before a single court the examination of several actions which have the same subject matter and were initially brought before different courts.

37 It was in those circumstances that the rechtbank Amsterdam (District Court, Amsterdam) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

- ‘(1)(a) In a case such as that at issue in these proceedings, where the alleged abuse of a dominant position within the meaning of Article 102 TFEU took place in a Member State by means of sales through an online platform operated by Apple and aimed at the entire Member State, with Apple [Distribution International] acting as exclusive distributor and commission agent of the developer and deducting commission from the purchase price, what should be considered to be the place where the harmful act occurred within the meaning of Article 7(2) of [Regulation No 1215/2012]? Is it relevant in this regard that the online platform is in principle accessible worldwide?
- (b) Does it matter in this context that [the disputes in the main proceedings] concern claims brought under Article 3:305a [of the BW] by a legal person whose purpose, by virtue of its own right, is to represent the collective interests of multiple users having their registered offices in different jurisdictions ... within one Member State?
- (c) If, on the basis of Question 1(a) (and/or [Question] 1(b)), not only one but several internal territorially competent courts are designated in the Member State concerned, does Article 7(2) of [Regulation No 1215/2012] preclude the application of national ... law that allows referral to a single court within that Member State?
- (2)(a) Is it possible that, in a case such as that at issue in these proceedings, where the alleged damage occurred as a result of purchases of [apps] through an online platform operated by Apple (the App Store), with Apple [Distribution International] acting as exclusive distributor and commission agent for the developers and deducting commission from the purchase price (and where there has been both an alleged abuse of a dominant position within the meaning of Article 102 TFEU and an alleged infringement of the prohibition on restrictive agreements within the meaning of Article 101 TFEU) and where the place where those purchases took place cannot be determined, only the registered office of the user can serve as the connecting factor for the place where the damage occurred within the meaning of Article 7(2) of [Regulation No 1215/2012]? Or are there also other connecting factors in this situation which could be applied to identify a competent court?
- (b) Does it matter in this context that these proceedings concern claims brought under Article 3:305a [of the] BW by a legal person whose purpose, by virtue of its own right, is to represent the collective

interests of multiple users having their registered offices in different jurisdictions ... within a Member State?

- (c) If, on the basis of Question 2(a) (and/or [Question] 2(b)), an internal territorially competent court in the Member State concerned is designated which has jurisdiction only over the claims of some of the users in that Member State, while other territorially competent courts in the same Member State have jurisdiction over the claims of other users, does Article 7(2) of [Regulation No 1215/2012] preclude the application of national ... law which allows referral to a single court within that Member State?’

## Consideration of the questions referred

### *Admissibility*

- 38 Stichting Right to Consumer Justice submits that the questions referred for a preliminary ruling can be declared inadmissible since the referring court has already interpreted and applied Article 7(2) of Regulation No 1215/2012. It takes the view that an answer from the Court to those questions would therefore no longer be of use to the referring court in order to resolve the disputes before it.
- 39 In that regard, it should be recalled that, in proceedings under Article 267 TFEU, it is solely for the national court before which the dispute has been brought, and which must assume responsibility for the subsequent judicial decision, to determine in the light of the particular circumstances of the case both the need for a preliminary ruling in order to enable it to deliver judgment and the relevance of the questions which it submits to the Court. Consequently, where the questions submitted concern the interpretation of EU law, the Court is in principle bound to give a ruling. It follows that questions relating to EU law enjoy a presumption of relevance. The Court may refuse to rule on a question referred by a national court only where it is quite obvious that the interpretation of EU law that is sought bears no relation to the actual facts of the main action or its purpose, where the problem is hypothetical, or where the Court does not have before it the factual or legal material necessary to give a useful answer to the questions submitted to it (judgments of 13 July 2000, *Idéal tourisme*, C-36/99, EU:C:2000:405, paragraph 20, and of 24 June 2025, *GR REAL*, C-351/23, EU:C:2025:474, paragraph 45 and the case-law cited).
- 40 In the present case, after finding that the Netherlands courts, including itself, could rely on their international jurisdiction to hear the disputes in the main proceedings, the referring court asks, in essence, which of those courts has territorial jurisdiction on the basis of the place of the event giving rise to the damage or the place where the damage occurred, for the purposes of Article 7(2) of Regulation No 1215/2012.

- 41 In that regard, while noting that it has jurisdiction to hear the representative actions in the main proceedings in so far as the users concerned are resident or established within its territorial jurisdiction, the referring court considers that there is reasonable doubt as to whether it may derive, from Article 7(2), jurisdiction to hear those actions with regard to users whose domicile or registered office is in the Netherlands, but outside that court's territorial jurisdiction.
- 42 Accordingly, it appears that the questions referred are not irrelevant to the outcome of the disputes in the main proceedings. Consequently, those questions are admissible.

### ***Substance***

#### *Preliminary observations*

- 43 It must be observed that, in so far as Regulation No 1215/2012 repealed and replaced 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 itself replaced the Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters (OJ 1978 L 304, p. 36), as amended by successive conventions on the accession of new Member States to that convention, the Court's interpretation of the provisions of the two latter legal instruments also applies to the interpretation of Regulation No 1215/2012 whenever those provisions may be regarded as 'equivalent' to those of that latter regulation (judgment of 16 May 2024, *Toplofikatsia Sofia (Concept of the defendant's domicile)*, C-222/23, EU:C:2024:405, paragraph 49 and the case-law cited). That is the case, in particular, with point 3 of Article 5 of the Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters and Regulation No 44/2001, on the one hand, and with point 2 of Article 7 of Regulation No 1215/2012, on the other (judgment of 9 July 2020, *Verein für Konsumenteninformation*, C-343/19, EU:C:2020:534, paragraph 22 and the case-law cited).
- 44 According to settled case-law, the rule of special jurisdiction laid down by point 2 of Article 7 of Regulation No 1215/2012, which allows the applicant, by way of derogation from the general rule that jurisdiction lies with the courts of the defendant's place of domicile set out in Article 4 of that regulation, to bring his action in matters relating to tort, delict or quasi-delict in the courts for the place where the harmful event occurred or may occur, must be interpreted independently and strictly (judgments of 12 May 2021, *Vereniging van Effectenbezitters*, C-709/19, EU:C:2021:377, paragraph 24, and of 22 February 2024, *FCA Italy and FPT Industrial*, C-81/23, EU:C:2024:165, paragraph 23 and the case-law cited).
- 45 That rule of special jurisdiction is based on the existence of a particularly close connecting factor between the dispute and the courts of the place where the

harmful event occurred, which justifies the attribution of jurisdiction to those courts for reasons relating to the sound administration of justice and the efficacious conduct of proceedings (judgments of 16 July 2009, *Zuid-Chemie*, C-189/08, EU:C:2009:475, paragraph 24, and of 22 February 2024, *FCA Italy and FPT Industrial*, C-81/23, EU:C:2024:165, paragraph 24 and the case-law cited).

- 46 In matters of tort, delict or quasi-delict, the courts of the place where the harmful event occurred or may occur are usually the most appropriate for deciding the case, in particular on grounds of proximity and ease of taking evidence (see judgments of 1 October 2002, *Henkel*, C-167/00, EU:C:2002:555, paragraph 46, and of 22 February 2024, *FCA Italy and FPT Industrial*, C-81/23, EU:C:2024:165, paragraph 25 and the case-law cited).
- 47 It should also be noted that the notion of ‘place where the harmful event occurred’ is intended to cover both the place where the damage occurred and the place of the event giving rise to it, meaning that the defendant may be sued, according to the applicant’s choice, in the courts for either of those places (judgments of 30 November 1976, *Bier*, 21/76, EU:C:1976:166, paragraphs 24 and 25, and of 6 October 2021, *Sumal*, C-882/19, EU:C:2021:800, paragraph 65 and the case-law cited). Those two places could constitute a significant connecting factor from the point of view of jurisdiction, since each of them could, depending on the circumstances, be particularly helpful in relation to the evidence and the conduct of the proceedings (judgment of 25 October 2011, *eDate Advertising and Others*, C-509/09 and C-161/10, EU:C:2011:685, paragraph 41 and the case-law cited).
- 48 In its case-law on the determination of the place where the harmful event occurred in the case of pecuniary damage caused by an abuse of a dominant position, within the meaning of Article 102 TFEU, the Court has held that the event giving rise to the damage is based on the implementation of that abuse, that is, the acts performed by the dominant undertaking to put the abuse into practice, in particular by offering and applying predatory pricing in the market concerned (see, to that effect, judgment of 5 July 2018, *flyLAL-Lithuanian Airlines*, C-27/17, EU:C:2018:533, paragraph 52).
- 49 As regards the place where such damage occurred, the Court has held that, where the market affected by the anticompetitive conduct is in the Member State in whose territory the alleged damage is purported to have occurred, that Member State must be regarded as the place where the damage occurred. The Court has stated that that approach, based on the alignment of those two elements, is consistent with the objectives of proximity and predictability of the rules governing jurisdiction. First, the courts of the Member State in which the affected market is located are best placed to assess such actions for damages and, second, an economic operator engaging in anticompetitive conduct can reasonably expect to be sued in the courts for the place where its conduct distorted the rules governing healthy competition (see, to that effect, judgment of 5 July 2018, *flyLAL-Lithuanian Airlines*, C-27/17, EU:C:2018:533, paragraph 40).

- 50 The Court has also held that it is clear from the very wording of Article 7(2) of Regulation No 1215/2012 that that provision confers directly and immediately both international and territorial jurisdiction on the courts for the place where the damage occurred (judgment of 15 July 2021, *Volvo and Others*, C-30/20, EU:C:2021:604, paragraph 33).

*Parts (a) and (b) of the second question*

- 51 By parts (a) and (b) of its second question, which it is appropriate to examine in the first place, the referring court asks, in essence, how Article 7(2) of Regulation No 1215/2012 should be interpreted in order to identify, within a market of a Member State allegedly affected by the implementation of anticompetitive conduct, consisting of the charging by the operator of an online platform, aimed at all of the users established in that State, of excessive commission on the price of the apps and digital in-app products offered for sale on that platform, the court having territorial jurisdiction, in respect of the place where the damage occurred, to hear a representative action brought by an entity qualified to defend the collective interests of multiple unidentified but identifiable users.
- 52 As a preliminary point, it should be noted that, as is apparent from the request for a preliminary ruling and subject to the assessment of the facts which it will be for the referring court to carry out, the damage alleged in the disputes in the main proceedings consists, in essence, of additional costs paid by the users of Apple devices when purchasing an app in the App Store NL, on account of the passing on, to the purchase price, of an excessive commission imposed by Apple on developers.
- 53 The referring court also established, in its interlocutory judgment of 16 August 2023, that, at least as regards the complaint alleging infringement of Article 102 TFEU, the market affected by the anticompetitive conduct alleged by the applicants in the main proceedings was the Netherlands market, considering, in essence, that the App Store NL had been designed specially for that market, used Dutch to offer apps for sale to users with an Apple ID associated with the Netherlands and that Apple Distribution International acted as the exclusive distributor and commission agent for those apps on that platform.
- 54 As regards, in the first place, the nature of the alleged damage, it follows from the case-law of the Court that a distinction must be drawn between, on the one hand, initial damage, resulting directly from the event giving rise to the damage, in which case the place where such damage occurred may provide a basis for jurisdiction of the courts of that place under Article 7(2) of Regulation No 1215/2012, and, on the other hand, subsequent adverse consequences which are not capable of providing a basis for jurisdiction under that provision (judgment of 22 February 2024, *FCA Italy and FPT Industrial*, C-81/23, EU:C:2024:165, paragraph 28 and the case-law cited). Whilst it has thus been recognised that the term ‘place where the harmful event occurred’, within the meaning of that provision, may cover both the place where the damage occurred and the place of

the event giving rise to it, that term cannot be construed so extensively as to encompass any place where the adverse consequences can be felt of an event which has already caused damage actually arising elsewhere (judgment of 19 September 1995, *Marinari*, C-364/93, EU:C:1995:289, paragraph 14).

- 55 In that regard, as the referring court has found, damage consisting essentially of additional costs resulting from the imposition of high commission on developers which is passed on to the prices charged to end users of apps running on the basis of the iOS operating system appears to be the immediate consequence of the anticompetitive conduct alleged by the applicants in the main proceedings and represents direct damage, making it possible, in principle, to establish the international and territorial jurisdiction of the courts of the Member State in which it occurred.
- 56 As regards, in the second place, the place where that damage occurred, as recalled in paragraph 49 of the present judgment, the Court has ruled that, where the market affected by the anticompetitive conduct concerned is in the Member State in whose territory the alleged damage occurred, it must be held, for the purposes of determining the international jurisdiction of a court, that the place where that damage occurred, under Article 7(2) of Regulation No 1215/2012, is in that Member State.
- 57 In accordance with that case-law, the referring court found that the Netherlands courts had international jurisdiction to hear the disputes in the main proceedings.
- 58 However, in the light of the Court's interpretation of Article 7(2) of Regulation No 1215/2012, referred to in paragraph 50 of the present judgment, according to which that provision confers directly and immediately both international and territorial jurisdiction, the referring court asks which one or more of those courts with international jurisdiction would have territorial jurisdiction to hear that dispute.
- 59 In that respect, it must be noted that, as regards an action for compensation for damage caused by collusive arrangements on the fixing and increase in the prices of material goods, the Court has held that, within the market affected by those arrangements, either the court within whose jurisdiction the legal person claiming to be harmed purchased the goods affected by those arrangements or, in the case of purchases made by that person in several places, the court within whose jurisdiction that person's registered office is situated, has international and territorial jurisdiction over such an action, in terms of the place where the alleged damage occurred (see, to that effect, judgment of 15 July 2021, *Volvo and Others*, C-30/20, EU:C:2021:604, paragraph 43).
- 60 In the present case, it should be noted, first, that those connecting criteria cannot apply *mutatis mutandis* in the event, such as that at issue in the main proceedings, of the purchase of digital products, on an online platform, by an indefinite number

of natural and/or legal persons who were unidentified at the time when the action was brought.

- 61 The difficulties in applying those connecting factors therefore require them to be adapted in order to preserve the effectiveness of Article 7(2) of Regulation No 1215/2012 and to contribute to the sound administration of justice.
- 62 In the present case, in so far as the App Store NL is designed specifically for the Netherlands market and uses Dutch to offer apps for sale to users with an Apple ID associated with the Netherlands, some of those apps being created specially for that market, it may be considered, for the purpose of determining the place where the damage occurred, under Article 7(2) of Regulation No 1215/2012, that the virtual space constituted by the App Store NL and in the context of which the purchases were made corresponds to the entire territory of that State. The damage suffered when purchases are made in that virtual space can, therefore, occur in that territory, irrespective of the place where the users concerned were located at the time of the relevant purchase.
- 63 Second, it should also be noted that, unlike the entity which led the group action in question in the case which gave rise to the judgment of 21 May 2015, *CDC Hydrogen Peroxide* (C-352/13, EU:C:2015:335), the applicants in the main proceedings have not put forward multiple claims for compensation assigned to them by the identified victims of anticompetitive conduct.
- 64 As is apparent from the request for a preliminary ruling, under Netherlands law, a foundation or association which brings a representative action acts as an independent promoter of the interests of persons who, although not referred to individually, have similar interests. Those applicants thus exercise their own right, namely the right to represent and defend the collective interests of a ‘strictly defined group’ which brings together unidentified but identifiable persons, namely users, whether consumers or professionals, who have purchased apps created by developers on the App Store NL to which those persons had access by means of their Apple ID associated with the Netherlands and whose domicile or registered office is likely, for the majority of those users, to be located throughout the territory of that State.
- 65 That group must be determined in a sufficiently precise manner to enable interested persons to express their position on the outcome of the proceedings concerned and, where applicable, to receive compensation. In that regard, the Netherlands Government stated, at the hearing, that the outcome of a representative action for the defence of the collective interests of unidentified but identifiable persons is binding on the persons established in the Netherlands who belong to that group and who have not expressed their intention to refrain from participating in those proceedings.
- 66 In such circumstances, a court cannot be required, for the purpose of determining its territorial jurisdiction to hear such an action, on the basis of the place where the



damage occurred, within the meaning of Article 7(2) of Regulation No 1215/2012, to identify, for each alleged victim taken individually, the precise place where the damage that may have been suffered occurred, since those victims are not identified individually at the time when that court ascertains whether it has jurisdiction; nor can it be required to identify one or some of those victims.

- 67 Lastly, it must be stated that, contrary to what Apple submits in its written observations, the fact that it is impossible to determine, for each person alleged to be the victim of anticompetitive conduct, the place where the damage occurred, within the meaning of Article 7(2), does not mean that that provision does not apply. As stated in paragraph 62 of the present judgment, in this case, that place corresponds to a well-defined geographical area, namely the whole of the territory to which the market affected by the relevant anticompetitive conduct belongs, with the result that it is not impossible to identify that place, which could, where appropriate, justify the application of the general criterion of jurisdiction laid down in Article 4(1) of Regulation No 1215/2012, namely that of the defendant's domicile (see, by analogy, judgment of 19 February 2002, *Besix*, C-256/00, EU:C:2002:99, paragraphs 49 and 50).
- 68 It follows from the foregoing that, in situations such as those at issue in the main proceedings, any court having substantive jurisdiction to hear a representative action brought by an entity qualified to defend the collective interests of multiple unidentified but identifiable users will have international and territorial jurisdiction, on the basis of the place where the damage occurred, within the meaning of Article 7(2) of Regulation No 1215/2012, to hear that action in its entirety.
- 69 Such a conclusion is consistent with the objectives pursued by Regulation No 1215/2012.
- 70 In that regard, it must be noted that the identification of the place where the damage occurred in order to ascertain the court having jurisdiction within the Member States over an action for damages based on anticompetitive conduct must be consistent with the objectives of proximity, predictability of the rules governing jurisdiction, and of the sound administration of justice, referred to in recitals 15 and 16 of that regulation (see, to that effect, judgment of 15 July 2021, *Volvo and Others*, C-30/20, EU:C:2021:604, paragraph 38 and the case-law cited).
- 71 As regards the objective of proximity between the court seised and the subject matter of the dispute, it should be noted that the specific features of the representative actions in the main proceedings lead, in essence, to a situation where the court called upon to hear those actions is required to examine the existence of the alleged damage in relation to the strictly defined group consisting of unidentified but identifiable users who have suffered the same type of damage, resulting from anticompetitive conduct implemented throughout the territory concerned. Consequently, each court having substantive jurisdiction to examine

such an action has the same relationship of proximity with the subject matter of that action.

- 72 That conclusion also satisfies the requirement of predictability, in that it enables both the applicant and the defendant to identify the courts having jurisdiction. As regards, in the present case, Apple Distribution International, in so far as the App Store NL targets specifically the Netherlands market, it is predictable that a representative action for damages in respect of purchases made on that platform will be brought before any Netherlands court having substantive jurisdiction.
- 73 That conclusion also meets the requirements of the sound administration of justice in so far as it allows both efficient procedural management of the dispute, the taking and evaluation of the evidence by a single court, namely the Netherlands court, which has substantive jurisdiction having been seised by the entity qualified to defend the collective interests of multiple unidentified but identifiable users, as well as the prevention of the risk of divergent decisions.
- 74 In that regard, it must be stated that, in view of the specific features of competition law cases and, more specifically, the fact that the bringing of actions for damages for an infringement of that law requires, in principle, a complex factual and economic analysis, the grouping of individual claims together is likely to facilitate both the exercise of the right to compensation by the injured persons (see, to that effect, judgment of 28 January 2025, *ASG 2*, C-252/23, EU:C:2025:40, paragraph 85) and the task incumbent on the court seised. In the context of Article 7(2) of Regulation No 1215/2012, the technical complexity of the rules applicable to actions for damages for infringements of competition law provisions may thus militate in favour of a centralisation of jurisdiction (judgment of 15 July 2021, *Volvo and Others*, C-30/20, EU:C:2021:604, paragraph 37 and the case-law cited), in particular where those actions relate to practices of operators running digital platforms.
- 75 That provision therefore does not preclude the application of national rules aimed at ensuring such a centralisation, in particular where representative actions are brought by qualified entities before several national courts (see, to that effect, judgment of 15 July 2021, *Volvo and Others*, C-30/20, EU:C:2021:604, paragraph 35).
- 76 In the light of all the foregoing considerations, the answer to parts (a) and (b) of the second question is that Article 7(2) of Regulation No 1215/2012 must be interpreted as meaning that, within the market of a Member State allegedly affected by the implementation of anticompetitive conduct consisting of the charging by the operator of an online platform, aimed at all users established in that State, of excessive commission on the price of the apps and digital in-app products offered for sale on that platform, any court having substantive jurisdiction in that State to hear a representative action brought by an entity qualified to defend the collective interests of multiple unidentified but identifiable users who have purchased digital products on that platform has international and

territorial jurisdiction, on the basis of the place where the damage occurred, to hear that action with regard to all those users.

*The first question and part (c) of the second question*

- 77 Subject to the factual verifications which it will be for the referring court to carry out, it thus follows from the answer given to parts (a) and (b) of the second question that that court has jurisdiction to hear the representative actions brought before it in respect of all the users who have purchased apps on the App Store NL, on the basis of the place where the damage occurred, within the meaning of Article 7(2) of Regulation No 1215/2012. It is therefore not necessary to examine whether that court could also derive its jurisdiction from the event giving rise to that damage, under that provision, or whether a national rule allowing several representative actions with the same subject matter, initially brought before different courts, to be centralised before a single court would undermine the effectiveness of that provision.
- 78 Consequently, there is no need to answer the first question and part (c) of the second question.

**Costs**

- 79 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 (Grand Chamber) hereby rules:

**Article 7(2) 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 meaning that, within the market of a Member State allegedly affected by the implementation of anticompetitive conduct consisting of the charging by the operator of an online platform, aimed at all users established in that State, of excessive commission on the price of the apps and digital in-app products offered for sale on that platform, any court having substantive jurisdiction in that State to hear a representative action brought by an entity qualified to defend the collective interests of multiple unidentified but identifiable users who have purchased digital products on that platform has international and territorial jurisdiction, on the basis of the place where the damage occurred, to hear that action with regard to all those users.**

[Signatures]