

Judgment of the Court (First Chamber) of 16 March 2006 (reference for a preliminary ruling of Landesgericht Innsbruck (Austria)) - Rosmarie Kapferer v Schlank & Schick GmbH (Case C-234/04) [1](#)

(Jurisdiction in civil matters - Regulation (EC) No 44/2001- Interpretation of Article 15 - Jurisdiction over consumer contracts - Prize notification - Misleading advertising - Judgment on jurisdiction - Res judicata - Review on appeal - Legal certainty - Primacy of Community law - Article 10 EC)

Language of the case: German

Referring court

Landesgericht Innsbruck (Austria)

Parties to the main proceedings

Applicant: Rosmarie Kapferer

Defendant: Schlank & Schick GmbH

Re:

REFERENCE for a preliminary ruling - Landesgericht Innsbruck - Interpretation of Art. 10 EC - Duty of court of appeal to review and set aside a final first instance judicial decision on jurisdiction where there is an infringement of Community law - Interpretation of Art. 15(1)(c) of Council Regulation (EC) no 44/100 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgements in civil and commercial matters (OJ 2001 L12, p.1) - National law on consumer protection providing for a right to the prize supposedly won by the addressee of misleading advertising.

Operative part of the judgment

The principle of cooperation under Article 10 EC does not require a national court to disapply its internal rules of procedure in order to review and set aside a final judicial decision if that decision should be contrary to Community law.