



EU law applies to an action for annulment of marriage brought by a third party following the death of one of the spouses

However, a person other than one of the spouses who brings such an action may rely on only some of the grounds of jurisdiction provided for under EU law

In 2012, Edyta Mikołajczyk brought an action before a Polish court seeking annulment of the marriage of Stefan Czarnecki (who died on 3 March 1971) to Marie Louise Czarnecka, entered into in 1956 in Paris (France). The applicant stated that she was the heir to the estate of Zdzisława Czarnecka, Stefan Czarnecki's first wife, who had died on 15 June 1999. According to the applicant, the marriage of Stefan Czarnecki to Zdzisława Czarnecka, contracted on 13 July 1937 in Poznań (Poland), had not been dissolved at the time at which the marriage between Stefan Czarnecki and Marie Louise Czarnecka was contracted. Consequently, she argued, that second marriage was a bigamous union which should for that reason be annulled. Marie Louise Czarnecka, for her part, contended that the action for annulment was inadmissible because the Polish courts did not have jurisdiction. She submitted that the action should have been brought before a French court.

Under Polish law the annulment of a marriage on the ground that one of the spouses is still married to another person may be requested by any person who has a legal interest in the matter.

The EU regulation concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility¹ applies, inter alia, whatever the nature of the court or tribunal, in civil matters relating to divorce, legal separation or marriage annulment. Under the fifth and sixth indents of Article 3(1)(a) of that regulation, matters relating to those subjects come within the jurisdiction of, inter alia, the courts of the Member State in whose territory (1) the applicant is habitually resident, provided that he or she resided there for at least one year immediately before the application was made or (2) the applicant is habitually resident, provided that he or she resided there for at least six months immediately before the application was made and that he or she is a national of the Member State in question.

The Sąd Apelacyjny w Warszawie (Court of Appeal, Warsaw, Poland), before which the appeal is pending, has asked the Court of Justice whether the regulation applies to an action for annulment of marriage brought by a person other than one of the spouses following the death of one of the spouses and whether such a person may rely on the grounds of jurisdiction set out in the abovementioned provision of the regulation.

In today's judgment, the Court notes, with regard to the applicability of the regulation, that the latter states that marriage annulment is one of the matters which come within its scope, without drawing any distinction on the basis of the date on which such an action is brought in relation to the death of one of the spouses or the identity of the person entitled to bring such an action. Furthermore, an action for annulment of marriage brought by a third party following the death of one of the spouses is not included in the list of matters excluded from the scope of that regulation. Such an

¹ Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 (OJ 2003 L 338, p. 1).

interpretation is also borne out by the objective pursued by the regulation, which contributes to the creation of an area of freedom, security and justice in which the free movement of persons is ensured.

The Court takes the view that excluding an action for annulment of marriage from the scope of the regulation would be liable to increase legal uncertainty as a result of there being no uniform regulatory framework in this area.

Lastly, the Court points out that the fact that the action for annulment relates to a marriage previously ended by the death of one of the spouses does not mean that the action falls outside the scope of the regulation. Indeed, it cannot be excluded that a person may have an interest in having a marriage annulled, even after the death of one of the spouses. While such an interest must be assessed in the light of the applicable national legislation, there is no reason to deprive a third party who has brought an action for annulment of a marriage following the death of one of the spouses of the benefit of the uniform conflict-of-law rules laid down by the regulation.

The Court accordingly holds that an action for annulment of marriage brought by a third party following the death of one of the spouses comes within the scope of the regulation.

As regards the grounds of jurisdiction set out in the fifth and sixth indents of Article 3(1)(a) of the regulation, the Court notes that those provisions recognise, under certain conditions, the jurisdiction of the courts of the Member State in whose territory the applicant is habitually resident to rule on the dissolution of matrimonial ties.

The Court recalls, in this regard, that the jurisdiction rules laid down in the regulation are intended to protect the interests of spouses, to reflect the mobility of individuals and also to protect the rights of a spouse who has left the country of common habitual residence.

The Court accordingly concludes that, while an action for annulment of marriage brought by a third party comes within the scope of the regulation, that third party must be bound by the jurisdiction rules set out for the benefit of spouses. Consequently, the term 'applicant' within the meaning of the regulation does not extend to persons other than spouses, and third parties may therefore not rely on the grounds of jurisdiction set out in the fifth and sixth indents of Article 3(1)(a) of the regulation.

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 judgment is published on the CURIA website on the day of delivery.

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