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Judgment of the Court of Justice in Case C-420/07

Meletis Apostolides v. David Charles Orams & Linda Elizabeth Orams

A JUDGMENT OF A COURT IN THE REPUBLIC OF CYPRUS MUST BE RECOGNISED AND ENFORCED BY THE OTHER MEMBER STATES EVEN IF IT CONCERNS LAND SITUATED IN THE NORTHERN PART OF THE ISLAND

The suspension of the application of Community law in the areas where the Government of the Republic of Cyprus does not exercise effective control and the fact that the judgment cannot, as a practical matter, be enforced where the land is situated do not preclude its recognition and enforcement in another Member State.

Following the intervention of Turkish troops in 1974 Cyprus was partitioned into two areas. The Republic of Cyprus, which acceded to the European Union in 2004, has *de facto* control only over the southern part of the island while, in the northern part, the Turkish Republic of Northern Cyprus has been established, which is not recognised by the international community with the exception of Turkey. In those circumstances, the application of Community law in the northern area of the Republic of Cyprus has been suspended by a protocol annexed to the Act of Accession.

Mr Apostolides, a Cypriot national, brought an appeal before the Court of Appeal (England and Wales), in the course of a dispute between himself and a British couple, the Orams, seeking the recognition and enforcement of two judgments from a court in Nicosia. That court, sitting in the southern part of Cyprus, ordered the Orams to vacate land situated in the northern part of the island and to pay various sums. The Orams had purchased the land from a third party in order to build a holiday home on it. According to the findings of the Cypriot court, Mr Apostolides, whose family was forced to leave the north of the island at the time of its partition, is the rightful owner of the land. The first judgment, given in default of appearance, was confirmed by another judgment ruling on an appeal brought by the Orams.

The national court referred to the Court of Justice a number of questions concerning the interpretation and application of the Brussels I Regulation¹. It asks, in particular, whether the suspension of Community law in the northern part of Cyprus and the fact that the land concerned is situated in an area over which the Government of Cyprus does not exercise effective control

¹ Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters

have an effect on the recognition and enforcement of the judgment, in particular in relation to the jurisdiction of the court of origin, the public policy of the Member State in which recognition is sought and the enforceability of the judgment. In addition, it asks whether the recognition or enforcement of a default judgment may be refused, on account of the fact that the document instituting proceedings was not served on the defendant in sufficient time and in such a way as to enable him to arrange for his defence, where the defendant was able to bring an appeal against that judgment.

First of all, the Court declares that the suspension provided for in the Act of Accession of Cyprus is limited to the application of Community law in the northern area. However, the judgments concerned, whose recognition was sought by Mr Apostolides, were given by a court sitting in the Government-controlled area. The fact that those judgments concern land situated in the northern area does not preclude that interpretation because, first, it does not nullify the obligation to apply the regulation in the Government-controlled area and, second, it does not mean that that regulation must thereby be applied in the northern area. The Court therefore concludes that the suspension of Community law in the northern area provided for by the protocol annexed to the Act of Accession, does not preclude the application of the Brussels I Regulation to a judgment which is given by a Cypriot court sitting in the Government-controlled area, but concerns land situated in the northern area.

Next, the Court states, first, that the dispute at issue in the main proceedings falls within the scope of the Brussels I Regulation and, second, that the fact that the land concerned is situated in an area over which the Government does not exercise effective control and, therefore, that the judgments concerned cannot, as a practical matter, be enforced where the land is situated does not preclude the recognition and enforcement of those judgments in another Member State.

In that connection, it is common ground that the land is situated in the territory of the Republic of Cyprus and, therefore, the Cypriot court had jurisdiction to decide the case since the relevant provision of the Brussels I Regulation relates to the international jurisdiction of the Member States and not to their domestic jurisdiction.

The Court also states, as regards the public policy of the Member State in which recognition is sought, that a court of a Member State cannot, without undermining the aim of the Brussels I Regulation, refuse recognition of a judgment emanating from another Member State solely on the ground that it considers that national or Community law was misapplied. The national court may refuse recognition only where the error of law means that the recognition or enforcement of the judgment is regarded as a manifest breach of an essential rule of law in the legal order of the Member State concerned. In the case in the main proceedings, the Court of Appeal has not referred to any fundamental principle within the legal order of the United Kingdom which the recognition or enforcement of the judgments in question would be liable to infringe.

Furthermore, as regards the enforceability of the judgments concerned, the Court states that the fact that Mr Apostolides might encounter difficulties in having the judgments enforced cannot deprive them of their enforceability. Therefore, that situation does not prevent the courts of another Member State from declaring such judgments enforceable.

Lastly, the Court states that the recognition or enforcement of a default judgment cannot be refused where the defendant was able to commence proceedings to challenge the default judgment and those proceedings enabled him to argue that he had not been served with the document which instituted the proceedings or with the equivalent document in sufficient time and in such a way as to enable him to arrange for his defence. In the case in the main proceedings, it is common ground that the Orams brought such proceedings. Consequently, the

recognition and enforcement of the judgments of the Cypriot court cannot be refused in the United Kingdom on that ground.

Unofficial document for media use, not binding on the Court of Justice.

Languages available: CS, DE, EN, EL, ES, FR, HU, IT, NL, RO, PT, SK

*The full text of the judgment may be found on the Court's internet site
<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=C-420/07>
It can usually be consulted after midday (CET) on the day judgment is delivered.*

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