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## Press and Information

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Judgment of the Court of Justice in Case C-168/08

*László Hadadi v. Csilla Marta Mesko*

### **SPOUSES HOLDING THE SAME DUAL NATIONALITY IN THE UNION MAY CHOOSE TO INSTITUTE DIVORCE PROCEEDINGS BEFORE THE COURTS OF EITHER OF THE TWO MEMBER STATES CONCERNED**

*The jurisdiction of one of those Member States may not be rejected on the ground that the applicant does not put forward other links with that State, apart from nationality*

The Community regulation concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters<sup>1</sup> provides, inter alia, several grounds of jurisdiction in proceedings relating to the dissolution of marriages. In addition to certain grounds of jurisdiction based in various respects on the habitual residence of the spouses, the regulation states that the nationality<sup>2</sup> of both spouses may determine which court has jurisdiction.

Furthermore, the regulation provides, in principle, that judgments granting a divorce given in one Member State are to be recognised by the other Member States and that the jurisdiction of the court of the Member State of origin may not be reviewed. However, under the transitional provisions on recognition laid down in the regulation<sup>3</sup>, in certain cases where a judgment granting a divorce was given before the date of application of the regulation<sup>4</sup>, the jurisdiction of the Member State of origin may, exceptionally, be reviewed.

In 1979, Mr Hadadi and Ms Mesko, both of Hungarian nationality, married in Hungary. They emigrated to France in 1980, where they still reside. In 1985, they became naturalised French citizens, so that they each hold Hungarian and French nationality.

On 23 February 2002, Mr Hadadi instituted divorce proceedings before Pest Court, in Hungary. Ms Mesko, for her part, instituted proceedings for divorce before the Tribunal de grande instance de Meaux (Meaux Regional Court), on 19 February 2003.

<sup>1</sup> 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)

<sup>2</sup> For the United Kingdom and Ireland, the nationality ground is replaced by that of the “domicile” of both spouses.

<sup>3</sup> Those transitional provisions can be found in Article 64 of the Regulation.

<sup>4</sup> The Regulation was applicable from 1 March 2005, with the exception of Articles 67 to 70, which are not relevant to the case in the main proceedings.

On 4 May 2004, some days after the Republic of Hungary acceded to the European Union, the couple's divorce was granted by judgment of Pest Court.

Following that judgment, the French court declared the divorce proceedings brought before it by Ms Mesko to be inadmissible. She appealed against that judgment to the Cour d'appel de Paris (Paris Court of Appeal), which held that the divorce granted by judgment of the Hungarian court could not be recognised in France, since the jurisdiction of the Hungarian court was 'in reality very flimsy', whereas the jurisdiction of the court where the marital home is situated, that is France, was by comparison 'particularly clear'. The Cour d'appel de Paris therefore held Ms Mesko's action for divorce to be admissible.

Mr Hadadi appealed on a point of law against that decision. In its examination of the admissibility of the divorce action brought in France, the Cour de Cassation is called upon to apply, with regard to the judgment given by the Hungarian court granting the divorce, the transitional provisions on recognition laid down in the regulation. Essentially, it must be determined whether the Hungarian courts could have had jurisdiction under that regulation to rule in the divorce proceedings instituted by Mr Hadidi. In that context, the Cour de Cassation referred to the Court of Justice questions on the interpretation of the rules on jurisdiction provided for in the regulation with regard to the situation of spouses holding the same dual nationality, Hungarian and French, who have not been living Hungary for a long time and whose only link with that country is Hungarian nationality.

The Court holds, first, that the regulation does not make a distinction according to whether a person holds one or several nationalities. Therefore, the provision of the regulation providing for jurisdiction of the courts of the Member State of which the spouses hold the nationality **cannot be interpreted differently** according to whether the two spouses have the same dual nationality or only one, same, nationality. Thus, where the spouses hold the same dual nationality, the court seised in divorce proceedings cannot ignore the fact that the individuals concerned hold the nationality of another Member State.

Consequently, for the purposes of applying the transitional provisions laid down in the regulation, **the French courts must take into account the fact that Mr Hadidi and Ms Mesko also hold Hungarian nationality and that, therefore, the Hungarian courts could have had jurisdiction under that regulation in the divorce proceedings between them.**

The Court notes in that regard that the Regulation is not intended to preclude the courts of several States from having jurisdiction. Rather, the coexistence of several courts having jurisdiction is expressly provided for, without any hierarchy being established between them.

Second, the Court points out that the regulation, inasmuch as it makes nationality a ground of jurisdiction, endorses a link that is unambiguous and easy to apply. It does not provide for any other criterion relating to nationality such as, for example, how effective it is. The need to check the links between the spouses and their respective nationalities would make verification of jurisdiction more onerous and thus be at odds with the objective of facilitating the application of the regulation by the use of a simple and unambiguous connecting factor.

Finally, the Court recalls that, under the regulation, a couple holding only the nationality of one Member State would always be able to seise the courts of that State, even if they had not had their habitual residence in that Member State for many years and even if they had few real links with that State.

In those circumstances, the Court holds that, **where spouses each hold the nationality of the same two Member States, the regulation precludes the jurisdiction of the courts of one of those Member States from being rejected on the ground that the applicant does not put forward other links with that State.**

The Court therefore finds that **the courts of the Member States of which the spouses hold the nationality have jurisdiction under the regulation and the spouses may choose between the courts of either of those Member States.**

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

*Languages available: BG ES CS DE EL EN FR IT HU NL PL RO 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-168/08>*

*It can usually be consulted after midday (CET) on the day judgment is delivered.*

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*Pictures of the delivery of the judgment are available on EbS "Europe by Satellite",  
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