JUDGMENT OF THE COURT (Third Chamber)

16 July 2009 *

In Case C-168/08,

REFERENCE for a preliminary ruling under Articles 68 EC and 234 EC from the Cour de cassation (France), made by decision of 16 April 2008, received at the Court on 21 April 2008, in the proceedings

Laszlo Hadadi (Hadady)

v

Csilla Marta Mesko, married name Hadadi (Hadady),

THE COURT (Third Chamber),

composed of A. Rosas, President of Chamber, A. Ó Caoimh (Rapporteur), J. Klučka, P. Lindh and A. Arabadjiev, Judges,

* Language of the case: French.

Advocate General: J. Kokott,
Registrar: M. Ferreira, Principal Administrator,

having regard to the written procedure and further to the hearing on 5 February 2009,

after considering the observations submitted on behalf of:

— Mr Hadadi (Hadady), by C. Rouvière, avocate,

— Ms Mesko, by A. Lyon-Caen, avocat,

— the French Government, by G. de Bergues and by A.-L. During and B. Beaupère-Manokha, acting as Agents,

— the Czech Government, by M. Smolek, acting as Agent,

— the German Government, by J. Möller, acting as Agent,

— the Hungarian Government, by K. Szíjjártó and M. Kurucz, acting as Agents,

— the Polish Government, by M. Dowgielewicz, acting as Agent,

— the Slovak Government, by J. Čorba, acting as Agent,

— the Finnish Government, by A. Guimaraes-Purokoski, acting as Agent,

— the Commission of the European Communities, by V. Joris and S. Saastamoinen, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 12 March 2009,

gives the following

Judgment

1 This reference for a preliminary ruling concerns the interpretation of Article 3(1) of 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).

2 The reference was made in proceedings between Mr Hadadi (Hadady) and Ms Mesko regarding the recognition by the French courts of a judgment of Pest Court (Hungary) granting their divorce.

Legal framework

Community legislation

Regulation No 1347/2000

3 According to recitals 4 and 12 in the preamble to Council Regulation (EC) No 1347/2000 of 29 May 2000 on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility for children of both spouses (OJ 2000 L 160, p. 19):

'(4) Differences between certain national rules governing jurisdiction and enforcement hamper the free movement of persons and the sound operation of the internal market. There are accordingly grounds for enacting provisions to unify the rules of conflict of jurisdiction in matrimonial matters and in matters of parental responsibility so as to simplify the formalities for rapid and automatic recognition and enforcement of judgments.

…

(12) The grounds of jurisdiction accepted in this Regulation are based on the rule that there must be a real link between the party concerned and the Member State exercising jurisdiction....'

4 Article 2 of Regulation No 1347/2000, which lays down general rules relating to divorce, legal separation and marriage annulment, was replaced by Article 3 of Regulation No 2201/2003. The wording of those two articles is identical.

Regulation No 2201/2003

5 Recitals 1 and 8 in the preamble to Regulation No 2201/2003 read as follows:

'(1) The European Community has set the objective of creating an area of freedom, security and justice, in which the free movement of persons is ensured. To this end, the Community is to adopt, among others, measures in the field of judicial cooperation in civil matters that are necessary for the proper functioning of the internal market.

...

(8) As regards judgments on divorce, legal separation or marriage annulment, this Regulation should apply only to the dissolution of matrimonial ties and should

not deal with issues such as the grounds for divorce, property consequences of the marriage or any other ancillary measures.'

6 Under Article 1(1)(a) of Regulation No 2201/2003, the regulation is to apply, whatever the nature of the court or tribunal, in civil matters relating to divorce, legal separation or marriage annulment.

7 Article 3 of that regulation, headed 'General jurisdiction', provides in paragraph 1:

'In matters relating to divorce, legal separation or marriage annulment, jurisdiction shall lie with the courts of the Member State:

(a) in whose territory:

— the spouses are habitually resident, or

— the spouses were last habitually resident, in so far as one of them still resides there, or

— the respondent is habitually resident, or

— in the event of a joint application, either of the spouses is habitually resident, or

— the applicant is habitually resident if he or she resided there for at least a year immediately before the application was made, or

— the applicant is habitually resident if he or she resided there for at least six months immediately before the application was made and is either a national of the Member State in question or, in the case of the United Kingdom and Ireland, has his or her "domicile" there;

(b) of the nationality of both spouses or, in the case of the United Kingdom and Ireland, of the "domicile" of both spouses.'

8 Article 6 of that regulation, headed 'Exclusive nature of jurisdiction under Articles 3, 4 and 5', provides:

'A spouse who:

(a) is habitually resident in the territory of a Member State, or

(b) is a national of a Member State, or, in the case of the United Kingdom and Ireland, has his or her "domicile" in the territory of one of the latter Member States,

may be sued in another Member State only in accordance with Articles 3, 4 and 5.'

9 Article 16 of Regulation No 2201/2003, headed 'Seising of a Court', provides:

'1. A court shall be deemed to be seised:

(a) at the time when the document instituting the proceedings or an equivalent document is lodged with the court, provided that the applicant has not subsequently failed to take the steps he was required to take to have service effected on the respondent;

or

(b) if the document has to be served before being lodged with the court, at the time when it is received by the authority responsible for service, provided that the applicant has not subsequently failed to take the steps he was required to take to have the document lodged with the court.'

10 Article 19 of that regulation provides:

‘1. Where proceedings relating to divorce, legal separation or marriage annulment between the same parties are brought before courts of different Member States, the court second seised shall of its own motion stay its proceedings until such time as the jurisdiction of the court first seised is established.

…

3. Where the jurisdiction of the court first seised is established, the court second seised shall decline jurisdiction in favour of that court.

In that case, the party who brought the relevant action before the court second seised may bring that action before the court first seised.’

11 Article 21 of that regulation, entitled ‘Recognition of a judgment’, provides:

‘1. A judgment given in a Member State shall be recognised in the other Member States without any special procedure being required.

…

4. Where the recognition of a judgment is raised as an incidental question in a court of a Member State, that court may determine that issue.'

12 Article 24 of Regulation No 2201/2003, headed 'Prohibition of review of jurisdiction of the court of origin', provides:

'The jurisdiction of the court of the Member State of origin may not be reviewed. The test of public policy referred to in Articles 22(a) and 23(a) may not be applied to the rules relating to jurisdiction set out in Articles 3 to 14.'

13 Article 64(1) and (4), which appear in Chapter VI of Regulation No 2201/2003, headed 'Transitional provisions', provide:

'1. The provisions of this Regulation shall apply only to legal proceedings instituted, to documents formally drawn up or registered as authentic instruments and to agreements concluded between the parties after its date of application in accordance with Article 72.

…

4. Judgments given before the date of application of this Regulation but after the date of entry into force of Regulation … No 1347/2000 in proceedings instituted before the date of entry into force of Regulation … No 1347/2000 shall be recognised and enforced in accordance with the provisions of Chapter III of this Regulation provided they relate to divorce, legal separation or marriage annulment or parental responsibility for the children of both spouses on the occasion of these matrimonial proceedings and that jurisdiction was founded on rules which accorded with those provided for either in

Chapter II of this Regulation or in Regulation … No 1347/2000 or in a convention concluded between the Member State of origin and the Member State addressed which was in force when the proceedings were instituted.'

14 According to Article 72 of Regulation No 2201/2003, the regulation entered into force on 1 August 2004 and was to apply from 1 March 2005, with the exception of Articles 67 to 70, which are not relevant to the main proceedings.

French legislation

15 Article 1070, fourth paragraph, of the Code de procédure civile (Code of Civil Procedure) states:

'Territorial jurisdiction shall be determined by residence on the date of the application or, in divorce matters, on the date on which the initial petition is submitted.'

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

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

17 On 23 February 2002, Mr Hadadi instituted divorce proceedings before Pest Court.

18 Ms Mesko instituted proceedings for divorce on the ground of fault before the Tribunal de grande instance de Meaux (Meaux Regional Court) (France) on 19 February 2003.

19 On 4 May 2004, that is after the accession of the Republic of Hungary to the European Union on 1 May 2004, the couple's divorce was granted by judgment of Pest Court. According to the order for reference, that judgment has become final.

20 By order of 8 November 2005, the Juge aux Affaires Familiales (Family Court) of the Tribunal de grande instance de Meaux declared the divorce proceedings brought before it by Ms Mesko to be inadmissible.

21 On 12 October 2006, following Ms Mesko's appeal against that order, the Cour d'appel de Paris (Paris Court of Appeal) (France) held that the divorce granted by judgment of Pest Court could not be recognised in France. The Cour d'appel de Paris therefore held Ms Mesko's proceedings for divorce to be admissible.

22 Mr Hadadi appealed on a point of law against the decision of the Cour d'appel de Paris, on the ground that it had rejected the jurisdiction of the Hungarian court on the sole basis of Article 3(1)(a) of Regulation No 2201/2003, concerning the habitual residence of the spouses, without having examined whether such jurisdiction could be founded on the spouses' Hungarian nationality, as provided for under Article 3(1)(b) of the regulation.

23 In those circumstances, the Cour de cassation (Court of Cassation) decided to stay the proceedings and to refer the following questions to the Court for a preliminary ruling:

'1. Is Article 3(1)(b) [of Regulation No 2201/2003] to be interpreted as meaning that, in a situation where the spouses hold both the nationality of the State of the court seised and the nationality of another Member State of the European Union, the nationality of the State of the court seised must prevail?

2. If the answer to Question 1 is in the negative, is that provision to be interpreted as referring, in a situation where the spouses each hold dual nationality of the same two Member States, to the more effective of the two nationalities?

3. If the answer to Question 2 is in the negative, should it therefore be considered that that provision offers the spouses an additional option, allowing those spouses the choice of seising the courts of either of the two States of which they both hold the nationality?'

Questions referred for a preliminary ruling

Preliminary observations

24 The dispute in the main proceedings arises from the action for divorce brought in France by Ms Mesko on 19 February 2003. According to the documents before the court, in the context of the examination of the admissibility of that action, the recognition of the judgment granting a divorce of Pest Court of 4 May 2004 is an incidental question. Under Article 21(4) of Regulation No 2201/2003, the French courts

may determine that issue. In that context, the Cour de cassation has raised questions concerning the interpretation of Article 3(1) of the regulation.

25 It should be noted that, in accordance with Article 72 of Regulation No 2201/2003, the regulation entered into force on 1 August 2004 and has been applicable since 1 March 2005.

26 Moreover, Regulation No 1347/2000 was applicable in Hungary only from 1 May 2004, pursuant to Article 2 of the Act concerning the conditions of accession to the European Union of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ 2003 L 236, p. 33).

27 It follows that the judgment of Pest Court of 4 May 2004 granting a divorce postdates the entry into force of Regulation No 1347/2000 in Hungary, in proceedings instituted before that date of entry into force. It must also be pointed out that that judgment was given before 1 March 2005, the date from which Regulation No 2201/2003 became applicable.

28 In those circumstances, as the French, German, Polish and Slovak Governments argue, the question of recognition of that judgment must be assessed by applying Article 64(4) of Regulation No 2201/2003, since proceedings were instituted and the judgment delivered within the period set out in that provision.

29 In accordance with Article 64(4), that divorce judgment is to be recognised pursuant to Regulation No 2201/2003 if jurisdiction was founded on rules which accorded with those provided for either in Chapter II of that regulation, or in Regulation

No 1347/2000, or in a convention concluded between the Member State of origin (in the present case the Republic of Hungary) and the Member State addressed (in this case, the French Republic) which was in force when the proceedings were instituted.

30 The documents before the Court do not indicate the provisions on which Pest Court founded jurisdiction or the wording of those provisions. However, that fact must be regarded as having no bearing on the main proceedings if the jurisdiction of the Hungarian courts was able to be established by applying Article 3(1) of Regulation No 2201/2003, whatever rules on jurisdiction were in fact applied by them. Thus, in essence, the present reference for a preliminary ruling seeks to establish whether, in circumstances such as those at issue in the main proceedings, the Hungarian courts could have had jurisdiction under that provision to rule in divorce proceedings concerning Mr Hadadi and Ms Mesko.

31 Finally, it is true that Ms Mesko maintains, in her written observations to the Court, that she only became aware of the divorce proceedings before Pest Court six months after they were instituted by Mr Hadadi. However, she does not claim that Mr Hadadi failed to take the steps he was required to take to have service effected or that, in accordance with Article 16 of Regulation No 2201/2003, the Hungarian court could not, in consequence, be deemed to have been seised at that date. The documents before the court indicate, moreover, that Ms Mesko entered an appearance in the proceedings before that court. In addition, in response to a question put by the Court at the hearing, the Hungarian Government stated that, under national law, once proceedings have been instituted before a court, that court ensures service on the respondent. In those circumstances, the assumption must be that Pest Court is deemed to have been properly seised within the meaning of Article 16.

First question

32 By its first question, the referring court asks, in essence, whether Article 3(1)(b) of Regulation No 2201/2003 must be interpreted as meaning that, where spouses hold both the nationality of the Member State of the court seised and that of the same other Member State, the court of the State in which proceedings are brought must give precedence to the nationality of the Member State to which it belongs.

33 As a preliminary point, it should be noted that courts seised in situations such as that in the main proceedings, which are governed by the transitional provisions on recognition laid down in Article 64(4) of Regulation No 2201/2003, are called upon to rule on the jurisdiction of the courts of another Member State. Such situations differ from those governed more directly by the provisions of Chapter III of that regulation, concerning the recognition and enforcement of judgments, in relation to which Article 24 of the regulation prohibits review of jurisdiction of the court of origin.

34 According to the documents before the court, in the judgment which is being contested in the main proceedings, the Paris Court of Appeal held that the jurisdiction of Pest Court, to the extent that this was founded on Mr Hadadi's Hungarian nationality, a ground of jurisdiction not recognised by the French rules on international jurisdiction, was 'in reality very flimsy', whereas the jurisdiction of the courts where the marital home is situated, that is France, was by comparison 'particularly clear'.

35 According to the Commission of the European Communities, the first question referred for a preliminary ruling has been posed because, where there is a conflict between French nationality and another nationality, French courts tend 'most often to give precedence to the nationality of the State of the court seised'.

36 That view is confirmed by the argument submitted to the Court by Ms Mesko, who contends that Article 3(1) of Regulation No 2201/2003 does not contain any specific provisions governing the case of dual nationality, with the result that each Member State applies its own nationality law in this type of situation. According to Ms Mesko, it follows from French academic writing and case-law that, in case of conflicting nationalities, if one of them is the nationality of the State of the court seised, it will prevail.

37 In those circumstances, the question arises whether, given that, as Ms Mesko points out, Regulation No 2201/2003 does not deal expressly with the case of spouses having the same dual nationality, Article 3(1) of the regulation must be interpreted in one way where the two spouses have the same two nationalities in common and another way where they have only the same, single, nationality.

38 According to settled case-law, it follows from the need for uniform application of Community law and from the principle of equality that the terms of a provision of Community law which makes no express reference to the law of the Member States for the purpose of determining its meaning and scope must normally be given an autonomous and uniform interpretation throughout the Community, having regard to the context of the provision and the objective pursued by the legislation in question (see, in relation to Regulation No 2201/2003, Case C-523/07 *A* [2009] ECR I-2805, paragraph 34).

39 In that regard, it should be pointed out that Article 3(1) of Regulation No 2201/2003 does not make any express reference to the law of the Member States for the purpose of determining the exact scope of the 'nationality' ground of jurisdiction.

40 Moreover, Regulation No 2201/2003 does not appear, at least in principle, to make a distinction according to whether a person holds one or, as the case may be, several nationalities.

41 Accordingly, where the spouses have the same dual nationality, the court seised cannot overlook the fact that the individuals concerned hold the nationality of another Member State, with the result that persons with the same dual nationality are treated as if they had only the nationality of the Member State of the court seised. That would have the effect of precluding such persons, in the context of the transitional rule of recognition referred to in Article 64(4) of Regulation No 2201/2003, from relying on Article 3(1)(b) of that regulation before a court of the Member State addressed in order to establish the jurisdiction of the courts of another Member State, even though those persons hold the nationality of the latter State.

42 On the contrary, in the context of Article 64(4) of the regulation, where the spouses hold both the nationality of the Member State of the court seised and that of the same other Member State, that court must take into account the fact that the courts of that other Member State could, since the persons concerned hold the nationality of the latter State, properly have been seised of the case under Article 3(1)(b) of Regulation No 2201/2003.

43 Consequently, the answer to the first question is that, where the court of the Member State addressed must verify, pursuant to Article 64(4) of Regulation No 2201/2003, whether the court of the Member State of origin of a judgment would have had jurisdiction under Article 3(1)(b) of that regulation, the latter provision precludes the court of the Member State addressed from regarding spouses who each hold the nationality both of that State and of the Member State of origin as nationals only of the Member State addressed. That court must, on the contrary, take into account the fact that the spouses also hold the nationality of the Member State of origin and that, therefore, the courts of the latter could have had jurisdiction to hear the case.

The second and third questions

44 By its second and third questions, which it is appropriate to examine together, the referring court asks, in essence, whether Article 3(1)(b) of Regulation No 2201/2003 must be interpreted as meaning that, in order to determine the court which has jurisdiction in respect of the divorce of persons having the same dual nationality, only the nationality of the Member State with which those persons have the closest links — the 'most effective' nationality — is to be taken into account, so that the courts of that State alone have jurisdiction on the basis of nationality (second question), or whether, on the contrary, both nationalities are to be taken into account, so that the courts of those two Member States can have jurisdiction on that basis, allowing the persons concerned to choose the Member State in which to bring proceedings (third question).

45 Ms Mesko and the Polish Government argue that, where the spouses have the same dual nationality, the ground of jurisdiction of the more effective nationality should be applied. In that regard, Ms Mesko, relying on various factors, in particular the fact that she and Mr Hadadi have been residing in France since 1980, considers that, in the case in the main proceedings, French nationality is the more effective. She submits that, if both nationalities were put on the same footing, that would trigger a 'rush to the courts', encouraging abuse of the system, with one spouse hurrying to seise the courts of one Member State in order to prevent the other spouse from instituting proceedings before the courts of another Member State. The Polish Government considers that the choice of the court having jurisdiction should not be left to the parties, because such a solution would accord an excessive privilege to persons holding the same dual nationality and allow them the possibility *de facto* of choosing the court having jurisdiction, whereas Regulation No 2201/2003 does not grant the same option to others. In addition, according to that government, upholding the jurisdiction of the courts of a Member State in which the spouses had not lived for a long time would undermine the effectiveness and fairness of court judgments and lead to certain abuses, such as 'forum shopping'.

46 By contrast, according to Mr Hadadi, the French, Czech, German, Hungarian, Slovak and Finnish Governments, as well as the Commission, where the same dual nationality is held, each of the spouses is entitled, under Article 3(1)(b) of Regulation

No 2201/2003, to institute divorce proceedings before the courts of either of the two Member States of which he or she and the other spouse hold the nationality.

47 In that regard, it should be noted at the outset that, according to recital 1 in the preamble to Regulation No 2201/2003, that regulation is to contribute to creating an area of freedom, security and justice, in which the free movement of persons is ensured. To that end, Chapters II and III of the regulation lay down rules on jurisdiction and on recognition and enforcement of judgments concerning the dissolution of matrimonial ties.

48 In that context, Article 3(1)(a) and (b) of Regulation No 2201/2003 provides for a number of grounds of jurisdiction, without establishing any hierarchy. All the objective grounds set out in Article 3(1) are alternatives. Taking into account that regulation's purpose of ensuring legal certainty, Article 6 thereof provides, in substance, that the grounds of jurisdiction contained in Articles 3 to 5 of the regulation are exclusive in nature.

49 It follows that the system of jurisdiction established by Regulation No 2201/2003 concerning the dissolution of matrimonial ties 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.

50 In that regard, while the grounds of jurisdiction listed in Article 3(1)(a) of that regulation are based in various respects on the habitual residence of the spouses, that in Article 3(1)(b) is 'the nationality of both spouses or, in the case of the United Kingdom and Ireland, the "domicile" of both spouses'. Thus, except in relation to the latter two Member States, the courts of the other Member States of which the spouses hold the nationality have jurisdiction in proceedings relating to the dissolution of matrimonial ties.

51 However, there is nothing in the wording of Article 3(1)(b) to suggest that only the 'effective' nationality can be taken into account in applying that provision. Article 3(1)(b), 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.

52 Moreover, no basis can be found in the objectives of that provision or in the context of which it forms part for an interpretation according to which only an 'effective' nationality can be taken into consideration for the purposes of Article 3(1) of Regulation No 2201/2003.

53 First, such an interpretation would restrict individuals' choice of the court having jurisdiction, particularly in cases where the right to freedom of movement for persons had been exercised.

54 In particular, since habitual residence would be an essential consideration for the purpose of determining the most effective nationality, the grounds of jurisdiction provided for in Article 3(1)(a) and (b) of Regulation No 2201/2203 would frequently overlap. On the facts, that would amount to establishing, with regard to persons holding a number of nationalities, a hierarchy between the grounds of jurisdiction laid down in Article 3(1), for which there is no basis in the wording of that paragraph. By contrast, 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.

55 Secondly, in the light of the imprecise nature of the concept of 'effective nationality', a whole set of factors would have to be taken into consideration, not always leading to a clear result. 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 Regulation No 2201/2003 by the use of a simple and unambiguous connecting factor.

56 It is true that, pursuant to Article 3(1)(b) of Regulation No 2201/2003, the courts of a number of Member States can have jurisdiction where the individuals in question hold several nationalities. However, as the Commission and the French, Hungarian and Slovak Governments pointed out, were the courts of several Member States to be seised pursuant to that provision, the conflict of jurisdiction could be resolved by applying the rule laid down in Article 19(1) of that regulation.

57 Finally, it should be acknowledged that Regulation No 2201/2003, in so far as it regulates only jurisdiction but does not lay down conflict rules determining the substantive law to be applied, might indeed, as Ms Mesko claims, induce spouses to rush into seising one of the courts having jurisdiction in order to secure the advantages of the substantive divorce law applicable under the private international law rules used by the court seised. However, contrary to Ms Mesko's claims, such a fact cannot, by itself, mean that the seising of a court having jurisdiction under Article 3(1)(b) of that regulation may be regarded as an abuse. As paragraphs 49 to 52 of the present judgment make clear, seising the courts of a Member State of which both spouses hold the nationality, even in the absence of any other link with that Member State, is not contrary to the objectives pursued by that provision.

58 In those circumstances, the answer to the second and third questions referred must be that, where spouses each hold the nationality of the same two Member States, Article 3(1)(b) of Regulation No 2201/2003 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. On the contrary, the courts of those Member States of which the spouses hold the nationality have jurisdiction under that provision and the spouses may seise the court of the Member State of their choice.

Costs

59 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national 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 (Third Chamber) hereby rules:

1. **Where the court of the Member State addressed must verify, pursuant to Article 64(4) of 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 Council Regulation (EC) No 1347/2000, whether the court of the Member State of origin of a judgment would have had jurisdiction under Article 3(1)(b) of that regulation, the latter provision precludes the court of the Member State addressed from regarding spouses who each hold the nationality both of that State and of the Member State of origin as nationals only of the Member State addressed. That court must, on the contrary, take into account the fact that the spouses also hold the nationality of the Member State of origin and that, therefore, the courts of the latter could have had jurisdiction to hear the case.**

2. **Where spouses each hold the nationality of the same two Member States, Article 3(1)(b) of Regulation No 2201/2003 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. On the contrary, the courts of those Member States of which the spouses hold the nationality have jurisdiction under that provision and the spouses may seise the court of the Member State of their choice.

[Signatures]