



Reports of Cases

JUDGMENT OF THE COURT (Sixth Chamber)

6 June 2019*

(Reference for a preliminary ruling — Judicial cooperation in civil matters — Regulation (EU) No 1215/2012 — Article 66 — Temporal scope — Regulation (EC) No 44/2001 — Material scope — Civil and commercial matters — Article 1(1) and (2)(a) — Matters excluded — Rights in property arising out of a matrimonial relationship — Article 54 — Application for the certificate certifying that the judgment given by the court of origin is enforceable — Judgment given concerning a debt stemming from the settlement of rights in property arising out of an unregistered non-marital partnership)

In Case C-361/18,

REQUEST for a preliminary ruling under Article 267 TFEU from the Szekszárdi Járásbíróság (Szekszárd District Court, Hungary), made by decision of 16 May 2018, received at the Court on 5 June 2018, in the proceedings

Ágnes Weil

v

Géza Gulácsi,

THE COURT (Sixth Chamber),

composed of C. Toader (Rapporteur), President of the Chamber, A. Rosas and M. Safjan, Judges,

Advocate General: M. Bobek,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

- the Hungarian Government, by M.Z. Fehér, acting as Agent,
- the Czech Government, by M. Smolek and J. Vlácil, acting as Agents,
- the Polish Government, by B. Majczyna, acting as Agent,
- the European Commission, by M. Heller and A. Tokár, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

* Language of the case: Hungarian.

gives the following

Judgment

- 1 This request for a preliminary ruling concerns the interpretation of Article 1(1) and (2)(a) and Article 53 of Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2012 L 351, p. 1).
- 2 The request has been made in proceedings between Ms Ágnes Weil, domiciled in Hungary, and Mr Géza Gulácsi, domiciled in the United Kingdom, concerning the issuance of the certificate referred to in Article 53 of Regulation No 1215/2012, for the purposes of enforcing a final judgment given against Mr Gulácsi.

Legal context

EU law

Regulation (EC) No 44/2001

- 3 Recitals 16 to 18 of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1), state:
 - (16) Mutual trust in the administration of justice in the Community justifies judgments given in a Member State being recognised automatically without the need for any procedure except in cases of dispute.
 - (17) By virtue of the same principle of mutual trust, the procedure for making enforceable in one Member State a judgment given in another must be efficient and rapid. To that end, the declaration that a judgment is enforceable should be issued virtually automatically after purely formal checks of the documents supplied, without there being any possibility for the court to raise of its own motion any of the grounds for non-enforcement provided for by this Regulation.
 - (18) However, respect for the rights of the defence means that the defendant should be able to appeal in an adversarial procedure, against the declaration of enforceability, if he considers one of the grounds for non-enforcement to be present. Redress procedures should also be available to the claimant where his application for a declaration of enforceability has been rejected.'
- 4 Article 1 of that regulation provides:
 - '1. This Regulation shall apply in civil and commercial matters whatever the nature of the court or tribunal. It shall not extend, in particular, to revenue, customs or administrative matters.
 2. The Regulation shall not apply to:
 - (a) the status or legal capacity of natural persons, rights in property arising out of a matrimonial relationship, wills and succession;...'

5 According to Article 53 of Regulation No 44/2001:

‘1. A party seeking recognition or applying for a declaration of enforceability shall produce a copy of the judgment which satisfies the conditions necessary to establish its authenticity.

2. A party applying for a declaration of enforceability shall also produce the certificate referred to in Article 54, without prejudice to Article 55.’

6 Article 54 of that regulation provides:

‘The court or competent authority of a Member State where a judgment was given shall issue, at the request of any interested party, a certificate using the standard form in Annex V to this Regulation.’

7 Article 55(1) of Regulation No 44/2001 states:

‘If the certificate referred to in Article 54 is not produced, the court or competent authority may specify a time for its production or accept an equivalent document or, if it considers that it has sufficient information before it, dispense with its production.’

Regulation No 1215/2012

8 Article 1 of Regulation No 1215/2012 provides:

‘1. This Regulation shall apply in civil and commercial matters whatever the nature of the court or tribunal. It shall not extend, in particular, to revenue, customs or administrative matters or to the liability of the State for acts and omissions in the exercise of State authority (*acta iure imperii*).

2. This Regulation shall not apply to:

(a) the status or legal capacity of natural persons, rights in property arising out of a matrimonial relationship or out of a relationship deemed by the law applicable to such relationship to have comparable effects to marriage;

...’

9 Article 66 of that regulation provides:

‘1. This Regulation shall apply only to legal proceedings instituted, to authentic instruments formally drawn up or registered and to court settlements approved or concluded on or after 10 January 2015.

2. Notwithstanding Article 80, Regulation (EC) No 44/2001 shall continue to apply to judgments given in legal proceedings instituted, to authentic instruments formally drawn up or registered and to court settlements approved or concluded before 10 January 2015 which fall within the scope of that Regulation.’

Hungarian law

The law on judicial enforcement

- 10 Paragraph 31/C(1)(g) of the bírósági végrehajtásról szóló 1994. évi LIII. törvény (Law No LIII of 1994 on judicial enforcement) states that:

‘Upon request, the court that heard the case at first instance ... shall issue the certificate provided for in Article 53 of Regulation No 1215/2012 using the form set out in Annex I to that regulation.’

The Civil Code

- 11 The Polgári Törvénykönyvről szóló 1959. évi IV. törvény (Law No IV of 1959 approving the Civil Code), in the version in force at the time the judgment was given for which enforcement is sought (‘the Civil Code’), stated the following, in Article 578/G(1) and (2), under point 3, entitled ‘Property relationships of persons living in the same household’, of Chapter XLVI of Title IV of that code, entitled ‘Law of obligations’:

‘1. During the time they live together, partners shall acquire joint ownership in proportion to their contribution to the acquisition. If that proportion cannot be determined, it shall be considered as equal. Work carried out in the home shall be considered as a contribution to the acquisition.

2. Those provisions shall also apply to property relationships of other relatives living in the same household, with the exception of spouses and registered partners.’

- 12 Article 685/A of the Civil Code, contained in Title VI, entitled ‘Final provisions’, provided that:

‘A partnership is where two people live together (in a union) in the same household and have an affectionate and economic relationship without being married or registered partners, and where neither of them has entered a marriage, a registered partnership or a non-marital partnership with another person, and they do not have a lineal kin relationship and are not siblings or half-siblings.’

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

- 13 Ms Weil and Mr Gulácsi were unregistered partners, within the meaning of Article 685/A of the Civil Code, who lived together from February 2002 to October 2006.
- 14 By judgment of the Szekszárdi Városi Bíróság (Municipal Court, Szekszárd, Hungary) which became final and enforceable on 23 April 2009, Mr Gulácsi was ordered to pay Ms Weil the sum of 665 133 Hungarian forint (HUF) (approximately EUR 2 060), together with interest for late payment, by virtue of the settlement of rights in property arising out of their de facto (unregistered) non-marital partnership.
- 15 In order to obtain payment of that debt, Ms Weil initiated enforcement proceedings against Mr Gulácsi in Hungary, which were unsuccessful, since the latter did not have any assets.
- 16 Aware that Mr Gulácsi had been living in the United Kingdom since 2006, where he had a regular income, Ms Weil lodged an application, on 22 November 2017, before the Szekszárdi Járásbíróság (Szekszárd District Court, Hungary) — the same court which had given the judgment of 23 April 2009 — for the certificate referred to in Article 53 of Regulation No 1215/2012, for the purposes of enforcing that judgment.

- 17 The referring court, hearing that application, is uncertain, first, whether it may ascertain, when issuing the certificate referred to in Article 53 of Regulation No 1215/2012, whether the action giving rise to the judgment of 23 April 2009 falls within the scope of that regulation.
- 18 In that regard, it states that the abolition of the *exequatur* by Regulation No 1215/2012 means that the court of the Member State addressed may carry out only a formal check of an application for enforcement. Consequently, if the court of the Member State of origin were required to issue the certificate referred to in Article 53 of Regulation No 1215/2012 automatically, there would be a risk that cases excluded from the scope of that regulation would be subject to the enforcement regime laid down by it, the grounds for refusal of enforcement being exhaustively provided for by that regulation.
- 19 Should the issuance of the certificate referred to in Article 53 of Regulation No 1215/2012 not be automatic, the referring court asks, secondly, whether rights in property arising out of a *de facto* (unregistered) partnership fall within civil and commercial matters, within the meaning of Article 1(1) of that regulation, or whether they relate to matters excluded from that regulation's scope, in particular to rights in property arising out of a relationship deemed by the law applicable to such a relationship to have comparable effects to marriage, within the meaning of Article 1(2)(a) of that regulation.
- 20 In that regard, the referring court states that, according to Article 578/G(1) of the Civil Code, property relationships of *de facto* (unregistered) partners fell within the law of obligations.
- 21 The referring court also underlines the fact that, in the Hungarian-language version of Article 1(2)(a) of Regulation No 1215/2012, unlike other language versions of that provision, the expression 'to have comparable effects to marriage' has been translated by 'to have comparable legal effects to marriage'. The referring court is, therefore, uncertain whether greater importance should be attributed to a *de facto* (unregistered) partnership or to the legal effects of that relationship. In that regard, it states that, from a material point of view, there is no fundamental difference between such a *de facto* (unregistered) partnership and marriage, both being based on an affectionate and economic relationship. By contrast, from a legal point of view, Hungarian law regulated the two types of union differently, in particular as regards division of shared property, responsibility for child support maintenance, use of the home and succession. However, with regard to social welfare benefits, tax and housing benefits for families, there were no substantial differences between spouses and *de facto* (unregistered) partners.
- 22 In those circumstances the Szekszárdi Járásbíróság (Szekszárd District Court) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:
- '(1) Is Article 53 of Regulation ... No 1215/2012 to be interpreted as meaning that, if requested by one of the parties, the court of the Member State that delivered the decision must issue the certificate relating to the decision automatically, without examining if [the case] falls within the scope of Regulation ... No 1215/2012?
- (2) If the answer to the first question is in the negative, is Article 1(2)(a) of Regulation ... No 1215/2012 to be interpreted as meaning that a repayment action between members of an unregistered non-marital [*de facto*] partnership falls within the scope of the rights in property arising out of a relationship deemed ... to have comparable (legal) effects to marriage?'

Consideration of the questions referred

The applicable regulation

- 23 The referring court formulates its questions in the light of Regulation No 1215/2012 taking into account the date on which the application for the certificate was lodged, namely 22 November 2017.
- 24 In that regard, it must be borne in mind that, as is apparent from Article 66 of Regulation No 1215/2012, that regulation is to apply, *inter alia*, to legal proceedings instituted on or after 10 January 2015, Regulation No 44/2001 continuing to apply to judgments given in legal proceedings instituted before 10 January 2015. Consequently, for the purposes of determining the applicable regulation *ratione temporis*, the starting point must be the date on which the action giving rise to the judgment for which enforcement is sought was instituted, not a later date, such as the date on which the application for the certificate certifying that such a judgment is enforceable was lodged.
- 25 In the main proceedings, the judgment for which a certificate is sought certifying that that judgment is enforceable was given on 23 April 2009. Clearly, therefore, the action giving rise to that judgment was also instituted before the relevant date for the purposes of applying Regulation No 1215/2012, that is before 10 January 2015. It must, therefore, be found, as the Hungarian Government and the European Commission have stated, that, in the present case, Regulation No 44/2001 is applicable *ratione temporis*.
- 26 However, the fact that a national court has, formally speaking, worded its request for a preliminary ruling with reference to certain provisions of Regulation No 1215/2012 does not preclude, as is apparent from the settled case-law, the Court of Justice from providing to the national court all the elements of interpretation which may be of assistance in adjudicating on the case pending before it, whether or not that court has referred to them in its questions (see, to that effect, judgments of 29 September 2016, *Essent Belgium*, C-492/14, EU:C:2016:732, paragraph 43, and of 7 June 2018, *Inter-Environnement Bruxelles and Others*, C-671/16, EU:C:2018:403, paragraph 29 and the case-law cited).

The first question

- 27 In the light of the considerations set out in paragraphs 23 to 26 above, the first question must be understood as seeking, essentially, to establish whether Article 54 of Regulation No 44/2001 must be interpreted as meaning that a Member State's court, hearing an application for a certificate certifying that a judgment given by the court of origin is enforceable, must ascertain whether the dispute falls within the scope of that regulation or whether it is required to issue that certificate automatically.
- 28 First of all, it must be noted that all the parties submitting observations in the present case agree that a court, in a situation such as that at issue in the main proceedings, has the power to ascertain whether the dispute giving rise to the judgment for which the certificate is sought, certifying that that judgment is enforceable, falls within the scope of the legal instrument which provides for such a certificate to be issued, whether that be Regulation No 44/2001 or Regulation No 1215/2012.
- 29 In that regard, it should be recalled that, as is apparent from the case-law of the Court, the rules on recognition and enforcement laid down by Regulation No 44/2001 are based on mutual trust in the administration of justice in the European Union. Such trust requires that judicial decisions delivered in one Member State are not only recognised automatically in another Member State, but also that the procedure for making those decisions enforceable in that Member State is efficient and rapid (judgment of 13 October 2011, *Prism Investments*, C-139/10, EU:C:2011:653, paragraph 27).

- 30 Such a procedure, according to the terms of recital 17 of Regulation No 44/2001, may involve only a purely formal check of the documents required for enforceability in the Member State in which enforcement is sought (judgment of 13 October 2011, *Prism Investments*, C-139/10, EU:C:2011:653, paragraph 28).
- 31 To that end, in accordance with Article 53 of Regulation No 44/2001, a party applying for a declaration of enforceability is required to produce a copy of the judgment which satisfies the conditions necessary to establish its authenticity, as well as the certificate referred to in Article 54 of that regulation, issued by the authorities of the Member State of origin (see, to that effect, judgment of 13 October 2011, *Prism Investments*, C-139/10, EU:C:2011:653, paragraph 29).
- 32 Consequently, the function ascribed to the certificate referred to in Article 54 of Regulation No 44/2001 is to facilitate the issuance of the declaration of enforceability of the judgment given in the Member State of origin, making that issuance almost automatic, as is expressly stated in recital 17 of that regulation (see, to that effect, judgment of 6 September 2012, *Trade Agency*, C-619/10, EU:C:2012:531, paragraph 41).
- 33 It is apparent from that case-law that the need to ensure the swift enforcement of judgments, while preserving the legal certainty on which the mutual trust in the administration of justice in the European Union is based, justifies, in particular in a situation such as that of the main proceedings — where the court which gave the judgment to be enforced did not adjudicate, when giving that judgment, on whether Regulation No 44/2001 was applicable — that the court hearing the application for the certificate ascertains, at that stage, whether the dispute falls within that regulation.
- 34 The fact that, according to Article 55 of that regulation, the production of such a certificate for the purposes of enforcing a judgment is not mandatory cannot call in question the obligation of a court requested to issue it to ascertain whether the dispute giving rise to the judgment given falls within the scope of Regulation No 44/2001.
- 35 That conclusion is supported by the fact that the enforcement procedure, under Regulation No 44/2001, precludes, like enforcement under Regulation No 1215/2012, any subsequent review on the part of a court of the Member State addressed of whether the action giving rise to the judgment for which enforcement is sought falls within the scope of Regulation No 44/2001, the grounds for challenging the declaration that a judgment is enforceable being exhaustively laid down by that regulation.
- 36 In addition, it should also be noted that, by ascertaining whether it is competent to issue the certificate under Article 54 of Regulation No 44/2001, a court is continuing the previous judicial proceedings by guaranteeing the full effectiveness thereof and carries out a procedure judicial in nature, with the result that a national court ruling in the context of such a procedure is entitled to refer questions to the Court for a preliminary ruling (see, by analogy, judgment of 28 February 2019, *Gradbeništvo Korana*, C-579/17, EU:C:2019:162, paragraphs 39 and 41).
- 37 In the light of those considerations, the answer to the first question is that Article 54 of Regulation No 44/2001 must be interpreted as meaning that a Member State's court hearing an application for a certificate certifying that a judgment given by the court of origin is enforceable must, in a situation such as that at issue in the main proceedings, where the court which gave the judgment to be enforced did not adjudicate, when giving that judgment, on whether that regulation was applicable, ascertain whether the dispute falls within the scope of that regulation.

The second question

- 38 In the light of the clarification provided in paragraphs 23 to 26 above, the second question must be understood as seeking to establish whether Article 1(1) and (2)(a) of Regulation No 44/2001 must be interpreted as meaning that an action, such as that at issue in the main proceedings, concerning an application for dissolution of the property relationships arising out of a de facto (unregistered) partnership comes within the concept of ‘civil and commercial matters’ within the meaning of Article 1(1) of that regulation and falls, therefore, within the material scope of that regulation.
- 39 First of all, it must be pointed out that Article 1(2)(a) of Regulation No 44/2001 excludes rights in property arising out of a matrimonial relationship from the scope of that regulation. Extending that exclusion to rights in property arising out of a relationship deemed by the law applicable to such a relationship to have comparable effects to marriage was only introduced by Regulation No 1215/2012.
- 40 It should also be borne in mind that, inasmuch as Regulation No 44/2001 replaces the Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters (OJ 1978 L 304, p. 36), the interpretation provided by the Court in respect of the provisions of that convention is valid also for those of that regulation, whenever the provisions of those Union instruments may be regarded as equivalent (judgment of 16 June 2016, *Universal Music International Holding*, C-12/15, EU:C:2016:449, paragraph 22 and the case-law cited).
- 41 As is apparent from the Court’s case-law on subparagraph (1) of the second paragraph of Article 1 of that convention, the wording of which corresponds to that of Article 1(2)(a) of Regulation No 44/2001 — with the result that, as pointed out in the preceding paragraph of the present judgment, the interpretation provided by the Court in respect of the first of those provisions is valid also for the second — the concept of ‘rights in property arising out of a matrimonial relationship’ encompasses the property relationships resulting directly from the matrimonial relationship or the dissolution thereof (see, to that effect, judgment of 27 March 1979, *de Cavel*, 143/78, EU:C:1979:83, paragraph 7).
- 42 Since, as is apparent from the request for a preliminary ruling, the parties to the main proceedings were not married, the property relationships resulting from their de facto (unregistered) partnership cannot be characterised as ‘rights in property arising out of a matrimonial relationship’, within the meaning of Article 1(2)(a) of Regulation No 44/2001.
- 43 In that regard, it must be borne in mind that the exclusion in Article 1(2)(a) of Regulation No 44/2001 is an exception which, as such, must be strictly interpreted. In relying on the objective of Regulation No 44/2001 of maintaining and developing an area of freedom, security and justice by facilitating the free movement of judgments, the Court has held that the exclusions from the scope of that regulation are exceptions which, like all exceptions, must be strictly interpreted (see, to that effect, judgment of 23 October 2014, *flyLAL-Lithuanian Airlines*, C-302/13, EU:C:2014:2319, paragraph 27).
- 44 In addition, an interpretation of the concept of ‘rights in property arising out of a matrimonial relationship’, within the meaning of Article 1(2)(a) of Regulation No 44/2001, according to which a de facto (unregistered) partnership, such as that at issue in the main proceedings, does not fall within the scope of that provision, is supported by the legislative amendment made to that exclusion by Regulation No 1215/2012. As pointed out in paragraph 39 above, that exclusion was extended by that regulation beyond rights in property arising out of a matrimonial relationship, in relation only to relationships deemed comparable to marriage. Consequently, on pain of depriving that latter amendment of all meaning, Article 1(2)(a) of Regulation No 44/2001 cannot be interpreted as being applicable to a de facto (unregistered) partnership such as that at issue in the main proceedings.

45 In the light of those considerations, the answer to the second question is that Article 1(1) and (2)(a) of Regulation No 44/2001 must be interpreted as meaning that an action, such as that at issue in the main proceedings, concerning an application for dissolution of the property relationships arising out a de facto (unregistered) partnership, comes within the concept of ‘civil and commercial matters’ within the meaning of Article 1(1) of that regulation and falls, therefore, within the material scope of that regulation.

Costs

46 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 (Sixth Chamber) hereby rules:

- 1. Article 54 of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters must be interpreted as meaning that a Member State’s court hearing an application for a certificate certifying that a judgment given by the court of origin is enforceable must, in a situation such as that at issue in the main proceedings, where the court which gave the judgment to be enforced did not adjudicate, when giving that judgment, on whether that regulation was applicable, ascertain whether the dispute falls within the scope of that regulation.**
- 2. Article 1(1) and (2)(a) of Regulation No 44/2001 must be interpreted as meaning that an action, such as that at issue in the main proceedings, concerning an application for dissolution of the property relationships arising out a de facto (unregistered) partnership, comes within the concept of ‘civil and commercial matters’ within the meaning of Article 1(1) of that regulation and falls, therefore, within the material scope of that regulation.**

[Signatures]