

# New References for Preliminary Rulings

New references for preliminary rulings on the interpretation of the Brussels I Regulation, the Brussels II *bis* Regulation and the Insolvency Regulation have been referred to the ECJ:

## 1. Reference on Brussels I Regulation

The Swedish *Högsta Domstolen* has referred the following question to the ECJ:

*Is the exception in the Brussels I Regulation regarding insolvency, compositions and analogous proceedings to be interpreted as meaning that it covers a decision given by a court in one Member State (A) regarding registration of ownership of shares in a company having its registered office in Member State A, which ownership is transferred by the liquidator to a company in another Member State (B), where the court based its decision on the fact that Member State A, in the absence of an agreement between the States regarding mutual recognition of insolvency proceedings, does not recognise the liquidator's powers of disposal over property in Member State A?*

The case is pending as *SCT Industri Aktiebolag i likvidation v. Alpenblume Aktiebolag* (C-111/08).

## 2. Reference on Insolvency Regulation

The Spanish *Juzgado de lo Mercantil No 1* has referred the following questions to the ECJ:

*1. For the purposes of Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty of European Union and the Treaty establishing the European Community, should Denmark be considered to be a Member State within the meaning of Article 16 of Regulation (EC) No 1346/2000 on insolvency proceedings?*

*2. Does the fact that that Regulation is subject to that Protocol mean that that Regulation does not form part of the body of Community law in that country?*

3. Does the fact that Regulation No 1346/2000 is not binding on and is not applicable in Denmark mean that other Member States are not to apply that Regulation in respect of the recognition and enforcement of judicial declarations of insolvency handed down in that country, or, on the other hand, that other Member States are obliged, unless they have made derogations, to apply that Regulation when the judicial declaration of insolvency is handed down in Denmark and is presented for recognition and enforcement in other Member States, in particular, in Spain?

The case is pending as *Finn Mejnertsen v Betina Mandal Barsoe* (C-148/08).

### **3. Reference on Brussels II *bis* Regulation**

The French *Cour de Cassation* has referred the following questions to the ECJ:

*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?*

*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 dominant of the two nationalities?*

*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?*

The case is pending as *Iaszlo Hadadi (Hadady) v Csilla Marta Mesko, married name Hadadi (Hadady)* (C-168/08).

(Many thanks to Jens Karsten (Brussels) for the tip-off.)