

ECJ, judgment of 7 May 2020, C-641/18 - Rina, on the concepts of ‘civil and commercial matters’ and ‘administrative matters’ under Article 1 Brussels I Regulation

Today, the ECJ decided in case C-641/18 - *LG and Others v. Rina SpA, Ente Registro Italiano Navale*, on the concepts of ‘civil and commercial matters’ and ‘administrative matters’ under Article 1 Brussels I Regulation.

The case arose from the following facts:

14 *LG and Others* — relatives of the victims and survivors of the sinking of the *Al Salam Boccaccio’98* vessel in the Red Sea on 2 and 3 February 2006, in which more than 1 000 people lost their lives — brought an action before the Tribunale di Genova (District Court, Genoa, Italy) against the Rina companies — ship classification and certification societies — whose seat is in Genoa.

15 *LG and Others* claim compensation for the pecuniary and non-pecuniary losses stemming from the Rina companies’ civil liability, arguing that the classification and certification operations for the *Al Salam Boccaccio’98* vessel, carried out by the Rina companies under a contract concluded with the Republic of Panama, for the purposes of obtaining that State’s flag for that vessel, were the cause of that sinking.

16 The Rina companies contend that the referring court lacks jurisdiction, relying on the international-law principle of immunity from jurisdiction of foreign States. In particular, according to those companies, the classification and certification operations which they conducted were carried out upon delegation from the Republic of Panama and, therefore, are a manifestation of the sovereign powers of the delegating State.

17 According to *LG and Others*, by contrast, given that the Rina companies have their seat in Italy and the dispute at issue in the main proceedings is civil

in nature, within the meaning of Article 1 of Regulation No 44/2001, the Italian courts have jurisdiction under Article 2(1) of that regulation. In addition, LG and Others submit that the plea of immunity from jurisdiction, relied on by the Rina companies, does not cover activities that are governed by non-discretionary technical rules which are, in any event, unrelated to the political decisions and prerogatives of a State.

18 *The referring court raises the question of the jurisdiction of the Italian courts in so far as, while it is common ground that the Rina companies have their seat in Italy, it is claimed that they acted upon delegation from the Republic of Panama.*

19 *In that regard, the referring court refers, in its request for a preliminary ruling, to the case-law of the Corte costituzionale (Constitutional Court, Italy) and of the Corte Suprema di Cassazione (Supreme Court of Cassation, Italy) concerning immunity from jurisdiction. In accordance with the case-law of those supreme courts, recognition of immunity from jurisdiction is precluded only in respect of the acts of foreign States consisting in war crimes and crimes against humanity or where such recognition undermines the principle of judicial protection.*

The Court held that

Article 1(1) 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 an action for damages, brought against private-law corporations engaged in the classification and certification of ships on behalf of and upon delegation from a third State, falls within the concept of ‘civil and commercial matters’, within the meaning of that provision, and, therefore, within the scope of that regulation, provided that that classification and certification activity is not exercised under public powers, within the meaning of EU law, which it is for the referring court to determine. The principle of customary international law concerning immunity from jurisdiction does not preclude the national court seised from exercising the jurisdiction provided for by that regulation in a dispute relating to such an action, where that court finds that such corporations have not had recourse to public powers within the meaning of international law.

The full text of the judgment is [here](#).

The CoL post on the Opinion of Advocate General Szpunar in this case is [here](#).