



Brussels II-bis Regulation

Divorce jurisdiction

Dr. Ian Curry-Sumner
26 November 2015, Berlin



Structure of presentation

1. History of the regulation
2. Scope of the instrument
3. Grounds of jurisdiction
4. *Lis pendens*
5. Current Developments
6. Discussion



Scope

Brussel II-bis Regulation

Substantive

Art. 1(1)(a) divorce, judicial separation, marriage annulment

Temporal

Art. 72 and 64 1 March 2005
procedures commenced after this date

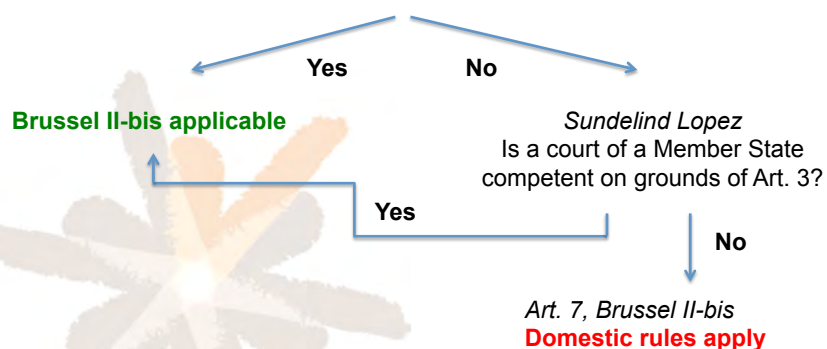
Geographical

Art. 6 and 7 respondent has HR / nationality MS
ECJ Sundelind Lopez also is court of MS has jurisdiction on Art. 3

Geographical scope

Art. 6, Brussel II-bis

Does the respondent have habitual residence in a Member State or is a national of a Member State?



Rules of jurisdiction

- ✓ Art. 3 Brussel II-bis
 - ✓ HR of both (sub a, 1 and 2)
 - ✓ HR of respondent (sub a, 3)
 - ✓ HR of claimant (sub a, 5 and 6)
 - ✓ Joint petition (sub a, 4)

- ✓ Nationality of parties (sub b)
 - ✓ **ECJ Hadadi**

Quick example



- Two French nationals
- Husband lived in Belgium since 1978, wife lived in Belgium since marriage in 2001
- Moved to the Netherlands together in 2007
- Now split up and wife has lived for 6 months in England

Lis pendens



Court second seized

Court first seized

Art. 19(3) Brussels II-bis

Art. 19(1) Brussels II-bis

Art. 16 Brussels II-bis



Issues

- ✓ Universality of rules of jurisdiction
- ✓ Choice of court clauses
- ✓ Hierarchy of jurisdictional grounds
- ✓ Definition of habitual residence



Contact details

dr. Ian Curry-Sumner, BA, MA, PhD, LLB, LLM

Voorts Juridische Diensten

✓ Wijnstraat 172, 3311 BZ Dordrecht, Netherlands

✓ +31 (0) 6 4709 4427

✓ info@voorts.com

✓ www.voorts.com

