

## V

(Announcements)

## COURT PROCEEDINGS

## COURT OF JUSTICE

**Request for an opinion submitted by the European Commission pursuant to Article 218(11) TFEU**

(Opinion 1/13)

(2013/C 226/02)

*Language of the case: all the official languages***Applicant**

European Commission (represented by: F. Castillo de la Torre, A.-M. Rouchaud-Joët, acting as Agents)

**Question submitted to the Court**

Does the acceptance of the accession of a third country to the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction fall within the exclusive competence of the Union?

**Request for a preliminary ruling from the Oberster Gerichtshof (Austria) lodged on 8 March 2013 — A v B and Others**

(Case C-112/13)

(2013/C 226/03)

*Language of the case: German***Referring court**

Oberster Gerichtshof

**Parties to the main proceedings***Defendant and appellant on a point of law: A**Applicants and respondents in the appeal on a point of law: B and Others***Questions referred**

1. In the case of rules of procedural law under which the ordinary courts called upon to decide on the substance of

cases are also required to examine whether legislation is unconstitutional but are not empowered to repeal legislation generally, this being reserved for a specially organised constitutional court, does the 'principle of equivalence' in the implementation of European Union law mean that, where legislation infringes Article 47 of the Charter of Fundamental Rights of the European Union (the CFR), the ordinary courts are also required, in the course of the proceedings, to request the constitutional court to set aside the legislation generally, and cannot simply refrain from applying that legislation in the particular case concerned?

2. Is Article 47 of the CFR to be interpreted as precluding a procedural rule under which a court which does not have international jurisdiction appoints a representative *in absentia* for a party whose place of domicile cannot be established and that representative can then, by 'entering an appearance', confer binding international jurisdiction on that court?
3. Is Article 24 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<sup>(1)</sup> to be interpreted as meaning that 'a defendant enters an appearance', within the meaning of that provision, only where that procedural act was carried out by the defendant himself or by a legal representative authorised by him, or does the foregoing obtain without restriction also in the case of a representative *in absentia* appointed under the law of the Member State in question?

<sup>(1)</sup> OJ 2001 L 12, p. 1.

**Request for a preliminary ruling from the Tribunal Supremo (Spain) lodged on 21 May 2013 — Elcogás, S.A. v Administración del Estado and Iberdrola, S.A.**

(Case C-275/13)

(2013/C 226/04)

*Language of the case: Spanish***Referring court**

Tribunal Supremo, Spain