

Re:

Reference for a preliminary ruling — Oberlandesgericht Celle — Interpretation of Article 42 of Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 (OJ 2003 L 338, p. 1) — Abduction of a child — Enforcement of a decision ordering the return of a child taken by a (Spanish) court having jurisdiction — Power of the (German) court responsible for enforcement to refuse to enforce that decision where there has been a serious infringement of the rights of the child

Operative part of the judgment

In circumstances such as those of the main proceedings, the court with jurisdiction in the Member State of enforcement cannot oppose the enforcement of a certified judgment, ordering the return of a child who has been wrongfully removed, on the ground that the court of the Member State of origin which handed down that judgment may have infringed Article 42 of Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000, interpreted in accordance with Article 24 of the Charter of Fundamental Rights of the European Union, since the assessment of whether there is such an infringement falls exclusively within the jurisdiction of the courts of the Member State of origin.

(¹) OJ C 346, 18.12.2010.

Order of the Court (Third Chamber) of 14 October 2010 (reference for a preliminary ruling from the Landessozialgericht Berlin, Germany) — Christel Reinke v AOK Berlin

(Case C-336/08) (¹)

(Reference for a preliminary ruling — No need to adjudicate)

(2011/C 63/24)

Language of the case: German

Referring court

Landessozialgericht Berlin

Parties to the main proceedings

Appellant: Christel Reinke

Respondent: AOK Berlin

Re:

Reference for a preliminary ruling — Landessozialgericht Berlin-Brandenburg — Interpretation of Articles 18 EC, 49 EC and 50 EC and Article 34(4) and (5) of Council Regulation (EEC) No 574/72 of 21 March 1972 laying down the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons and to their families moving within the Community (OJ, English Special

Edition 1972(I), p. 159) — Reimbursement of medical costs incurred in connection with emergency treatment of a national of a Member State in a private hospital of another Member State as a result of the refusal of the competent public hospital to provide that benefit on the ground of insufficient capacity — National legislation of the competent Member State excluding reimbursement of medical costs incurred for emergency treatment in a private hospital of another Member State but allowing reimbursement of those costs if charged by a private hospital situated in national territory

Operative part of the order

There is no need to reply to the reference for a preliminary ruling made by the Landessozialgericht Berlin-Brandenburg (Germany) by decision of 27 June 2008.

(¹) OJ C 260, 11.10.2008.

Order of the Court (Sixth Chamber) of 2 December 2010 (reference for a preliminary ruling from the Verwaltungsgericht Meiningen — Germany) — Frank Scheffler v Landkreis Wartburgkreis

(Case C-334/09) (¹)

(First subparagraph of Article 104(3) of the Rules of Procedure — Directive 91/439/EEC — Mutual recognition of driving licences — Surrender of the national driving licence after reaching the maximum number of points for various offences — Driving licence issued in another Member State — Negative medical psychological expert's report obtained in the Member State of residence after obtaining a new licence in another Member State — Withdrawal of the right to drive in the territory of the first Member State — Authority for the Member State of residence of the holder of the licence issued in another Member State to apply its national provisions on the restriction, suspension, withdrawal or cancellation of the right to drive to the said licence — Conditions — Interpretation of the concept of 'conduct after obtaining the new driving licence')

(2011/C 63/25)

Language of the case: German

Referring court

Verwaltungsgericht Meiningen

Parties to the main proceedings

Applicant: Frank Scheffler

Defendant: Landkreis Wartburgkreis

Re:

Reference for a preliminary ruling — Verwaltungsgericht Meiningen — Interpretation of Articles 1(2) and 8(2) and (4) of Council Directive 91/439/EEC of 29 July 1991 on driving licences (OJ 1991 L 237, p. 1) — Driving licence issued

by a Member State to a national of another Member State having given up his national licence and having his normal residence, at the time of the issue of the new licence, in the territory of the issuing Member State — Refusal by the authorities of the Member State of domicile to recognise that licence based on a medical-psychological expert's report drawn up in that Member State on the basis of a medical examination carried out after the issue of the new licence, but referring only to circumstances prior to its being obtained — Whether classification of that report as a circumstance subsequent to the obtaining of the new driving licence capable of justifying application of national provisions on the restriction, suspension, withdrawal or annulment of the right to drive.

Operative part of the order

Article 1(2) and Article 8(2) and (4) of Council Directive 91/439/EEC of 29 July 1991 on driving licences, as amended by Council Directive 2006/103/EC of 20 November 2006, must be interpreted as meaning that they preclude a Member State, when exercising its authority under Article 8(2) to apply its national provisions on the restriction, suspension, withdrawal or cancellation of the right to drive to the holder of a driving licence issued in another Member State, from refusing to recognise in its territory the right to drive, resulting from a valid driving licence issued in another Member State, on account of an expert's report on fitness to drive submitted by the holder of the driving licence in question if the report, although issued after the date of issue of the driving licence and based on an examination of the party concerned carried out after that date, has no connection, even partial, to conduct of the person concerned occurring after the issue of the driving licence and relates solely to circumstances that took place prior to that date.

⁽¹⁾ OJ C 267, 7.11.2009.

Order of the Court (Sixth Chamber) of 11 November 2010 (reference for a preliminary ruling from the Tribunale di Trani — Italy) — *Vino Cosimo Damiano v Poste Italiane SpA*

(Case C-20/10) ⁽¹⁾

(Article 104(3) of the Rules of Procedure — Social policy — Directive 1999/70/EC — Clauses 3 and 8 of the framework agreement on fixed-term work — Fixed-term employment contracts in the public sector — First or single use of a contract — Obligation to state the objective reasons — Elimination — Reduction in the general level of protection of employees — Principle of non-discrimination — Articles 82 EC and 86 EC)

(2011/C 63/26)

Language of the case: Italian

Referring court

Tribunale di Trani

Parties to the main proceedings

Applicant: *Vino Cosimo Damiano*

Defendant: *Poste Italiane SpA*

Re:

Reference for a preliminary ruling — Tribunale di Trani — Interpretation of Clauses 3 and 8(3) of the Annex to Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP (OJ 1999 L 175, p.43) — Compatibility of an internal rule validating in the internal legal an 'acausal' case for the engagement of workers by Poste Italiane SpA on fixed-term contracts

Operative part of the order

1. Clause 8(3) of the framework agreement on fixed-term work concluded on 18 March 1999, which is annexed to Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP, must be interpreted as not precluding national legislation, such as that provided for by Article 2(1)(a) of Legislative Decree No 368 implementing Directive 1999/70/EC concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP of 6 September 2001 (decreto legislativo n. 368, attuazione della direttiva 1999/70/CE relativa all'accordo quadro sul lavoro a tempo determinato concluso dall'UNICE, dal CEEP e dal CES), which, unlike the national rules applicable before the entry into force of that decree, allows a company such as Poste Italiane SpA, to conclude, subject to certain conditions, a first or single use of a fixed-term contracts with a worker, such as Mr *Vino*, without having to state the objective reasons which justify the use of a contract concluded for such a duration, since that legislation is not connected to the implementation of the Framework Agreement. It is in that regard, in principle, irrelevant whether the objective pursued by that legislation provides protection at least equivalent to the protection of fixed-term workers referred to in the Framework Agreement.
2. The Court of Justice of the European Union manifestly lacks jurisdiction to reply to the fourth question referred for a preliminary ruling by the Tribunale di Trani (Italy).
3. The fifth question referred for a preliminary ruling by the Tribunale di Trani is manifestly inadmissible.

⁽¹⁾ OJ C 134, 22.5.2010.