

- (b) For this purpose, is it necessary to conduct a comprehensive assessment of the conditions of detention concerned that determines both the personal space available to each prisoner and other conditions of detention? Are the conditions of detention thus determined to be assessed on the basis of the case-law of the European Court of Human Rights established in its judgment in *Muršić v Croatia* (judgment of 30 October 2016, application no 7334/13)?
3. If Question 2 is also answered to the effect that the assessment required by the executing judicial authority must extend to all prisons under consideration:
- (a) Can the assessment by the executing judicial authority of the conditions of detention in each individual prison envisaged be rendered superfluous by a general assurance given by the issuing Member State that the person whose surrender is sought will not be exposed to any risk of inhuman or degrading treatment?
- (b) Or, in lieu of an assessment of the conditions of detention of each individual prison envisaged, can the decision by the executing judicial authority on the admissibility of the surrender be made contingent upon the person whose surrender is sought not being exposed to any such treatment?
4. If Question 3 is also answered to the effect that the provision of assurances and the imposition of conditions cannot render the assessment by the executing judicial authority of the conditions of detention in each individual prison envisaged in the issuing Member State superfluous:
- (a) Must the duty of assessment by the executing judicial authority extend to the conditions of detention in all prisons envisaged, even in the case where the judicial authority of the issuing Member State advises that the period of detention in them of the person whose surrender is sought will not exceed three weeks, circumstances permitting?
- (b) Does this also apply if the executing judicial authority is unable to ascertain whether that information was provided by the issuing judicial authority or whether it originates from a central authority in the issuing Member State acting in response to a request by the issuing judicial authority for support?

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<sup>(1)</sup> Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States — Statements made by certain Member States on the adoption of the Framework Decision; OJ 2002 L 190, p. 1. Council Framework Decision 2009/299/JHA of 26 February 2009 amending Framework Decisions 2002/584/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA and 2008/947/JHA, thereby enhancing the procedural rights of persons and fostering the application of the principle of mutual recognition to decisions rendered in the absence of the person concerned at the trial; OJ 2009 L 81, p. 24.

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**Request for a preliminary ruling from the Fővárosi Közigazgatási és Munkaügyi Bíróság (Hungary)  
lodged on 28 March 2018 — VIPA Kereskedelmi és Szolgáltató Kft. v Országos Gyógyszerészeti és  
Élelmezés-egészségügyi Intézet**

(Case C-222/18)

(2018/C 221/10)

*Language of the case: Hungarian*

**Referring court**

Fővárosi Közigazgatási és Munkaügyi Bíróság

**Parties to the main proceedings**

*Applicant:* VIPA Kereskedelmi és Szolgáltató Kft.

*Defendant:* Országos Gyógyszerészeti és Élelmezés-egészségügyi Intézet

**Question referred**

Must Articles 3(k) and 11(1) of Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare <sup>(1)</sup> be interpreted as meaning that national legislation, which distinguishes between two categories of prescriptions and, only in the case of one of those categories, allows medicinal products to be dispensed to a doctor who exercises his healthcare activity in a State other than the Member State concerned, contrary to the mutual recognition of prescriptions and to the freedom to provide services, and therefore incompatible therewith?

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<sup>(1)</sup> OJ L 88, 4.4.2011, p. 45.

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**Request for a preliminary ruling from the Oberlandesgericht Oldenburg (Germany) lodged on  
3 April 2018 — Case involving an administrative fine imposed on NK**

**(Case C-231/18)**

(2018/C 221/11)

*Language of the case: German*

**Referring court**

Oberlandesgericht Oldenburg

**Parties to the main proceedings**

NK

Other parties: Staatsanwaltschaft Oldenburg (Public Prosecutor's Office, Oldenburg); Staatliches Gewerbeaufsichtsamt Oldenburg (Commercial Regulatory Authority, Oldenburg)

**Questions referred**

1. Can a livestock wholesaler who purchases live animals from a farmer and transports them within a distance of up to 100 km to a slaughterhouse, to which he sells the animals, rely on the exception provided for in Article 13(1)(p) of Regulation (EC) No 561/2006 <sup>(1)</sup> of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport — 'vehicles used for the carriage of live animals from farms to local markets and vice versa or from markets to local slaughterhouses within a radius of up to 100 km' — because the purchase from the farmer involves a 'market' within the meaning of this provision or the cattle trade enterprise is itself regarded as a 'market'?

If it does not involve a 'market' within the meaning of this provision:

2. Can the livestock wholesaler who purchases live animals from a farmer and transports them within a radius of up to 100 km to a slaughterhouse, to which he sells the animals, rely on this exception by analogy to the aforesaid rule?

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<sup>(1)</sup> Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85 (OJ 2006 L 102, p. 1).