

Request for a preliminary ruling from the Curtea de Apel Constanța (Romania) lodged on 10 July 2019 — TS, UT, VU v Casa Națională de Asigurări de Sănătate, Casa de Asigurări de Sănătate Constanța

(Case C-538/19)

(2019/C 357/22)

Language of the case: Romanian

Referring court

Curtea de Apel Constanța

Parties to the main proceedings

Applicants/appellants: TS, UT, VU

Defendants/respondents: Casa Națională de Asigurări de Sănătate, Casa de Asigurări de Sănătate Constanța

Questions referred

1. May the situation be treated as an emergency, as described in paragraph 45 of the judgment in Case C-173/09 (*Elchinov*), or does it constitute a case in which it is objectively impossible to seek the authorisation required under Article 20(1) and (2) of Regulation (EC) No 883/2004, ⁽¹⁾ which may justify a claim for full reimbursement of the expenses incurred in obtaining appropriate medical treatment (hospital treatment) in a Member State other than that in which the insured person resides, where the therapeutic treatment to which the latter consented was prescribed only by a doctor of a Member State other than the State in which the insured person resides, given that the diagnosis and the need to administer the treatment as a matter of urgency were confirmed by a doctor belonging to the health insurance scheme of the Member State of residence but who recommended a different therapeutic treatment from that to which the insured person consented, for reasons which may be deemed appropriate on the part of the latter, and which has at least the same degree of effectiveness but the advantage of not creating a disability?
2. If the answer to the first question is in the affirmative, where the insured person, having been given a diagnosis and recommended a therapeutic treatment by a doctor within the health insurance scheme of the Member State of residence, which, for reasons which may be deemed appropriate, that person does not accept, goes to another Member State to seek a second medical opinion, that opinion being that a different therapeutic treatment should be administered, which has at least the same degree of effectiveness but the advantage of not creating a disability, and the insured person accepts that treatment, which satisfies the requirements laid down in the second sentence of Article 20(2) of Regulation (EC) No 883/2004, is that person also required, in order to be eligible for reimbursement of the costs incurred as a result of the latter therapeutic treatment, to seek the authorisation referred to in Article 20(1) of that regulation?
3. Do Articles 56 TFEU and 20(1) and (2) of Regulation (EC) No 883/2004 preclude national legislation which, first, makes authorisation by the competent institution to receive appropriate medical treatment (hospital treatment) in a Member State other than that of residence conditional on the drawing up of a medical report only by a doctor who practises within the health insurance scheme of the Member State of residence, on the recommendation of the head physician of the competent institution of that State, also where the therapeutic treatment to which the insured person consented, for reasons which may be deemed appropriate, given that it has the advantage of not creating a disability, is prescribed only by a doctor of another Member State, by way of a second medical opinion, and, second, does not guarantee, under accessible and predictable procedure, actual analysis, from a medical perspective, within the health insurance scheme of the Member State of residence, of the possibility of applying the second medical opinion given in another Member State?
4. If the answer to the first and third questions is in the affirmative, is the insured person, or his heirs respectively, entitled, subject to fulfilment of the two requirements laid down in the second sentence of Article 20(2) of Regulation (EC) 883/2004, to obtain from the competent institution of the State in which the insured person resides full reimbursement of the expenses incurred as a result of therapeutic treatment received in another Member State?

⁽¹⁾ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ 2004 L 166, p. 1).