

Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 3 January 2014 — Criminal proceedings against Thi Bich Ngoc Nguyen and Nadine Schönherr

(Case C-2/14)

(2014/C 71/20)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Thi Bich Ngoc Nguyen

Nadine Schönherr

Other party to the proceedings: Generalbundesanwalt beim Bundesgerichtshof

Question referred

Are medicinal products, as defined in Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use, ⁽¹⁾ which contain ‘scheduled substances’ listed in Regulations (EC) No 273/2004 ⁽²⁾ and (EC) No 111/2005 ⁽³⁾ always excluded from the scope of those regulations in accordance with Article 2(a) of those regulations, or is that to be presumed only where the medicinal products are compounded in such a way that the scheduled substances cannot for the purposes of those regulations be easily used or extracted by readily applicable or economically viable means?

⁽¹⁾ OJ 2001 L 311, p. 67.

⁽²⁾ Regulation (EC) No 273/2004 of the European Parliament and of the Council of 11 February 2004 on drug precursors (OJ 2004 L 47, p. 1).

⁽³⁾ Council Regulation (EC) No 111/2005 of 22 December 2004 laying down rules for the monitoring of trade between the Community and third countries in drug precursors (OJ 2005 L 22, p. 1).

Request for a preliminary ruling from the Korkein oikeus (Finland) lodged on 6 January 2014 — Christophe Bohez v Ingrid Wiertz

(Case C-4/14)

(2014/C 71/21)

Language of the case: Finnish

Referring court

Korkein oikeus

Parties to the main proceedings

Applicant: Christophe Bohez

Defendant: Ingrid Wiertz

Questions referred

1. Is Article 1(2) of the Brussels I Regulation ⁽¹⁾ to be interpreted as meaning that cases concerning the enforcement of a penalty payment (astreinte) imposed to ensure compliance with the principal obligation in a case concerning child custody or rights of access are outside the scope of the regulation?
2. If the cases set out in the preceding paragraph fall within the scope of the Brussels I Regulation, is Article 49 of the Brussels I Regulation to be interpreted as meaning that a periodic penalty payment which is enforceable as such in the amount stated in the State in which judgment was given, but whose final amount may be changed on the application or arguments of the party subject to the penalty payment, is enforceable in a Member State only if its amount has been separately determined in the State in which judgment was given?
3. If cases such as those identified above are outside the scope of the Brussels I Regulation, is Article 47(1) of the Brussels I Regulation ⁽²⁾ to be interpreted as meaning that sanctions and protective measures concerning child custody and rights of access fall within the enforcement procedure referred to in that provision which is governed by the legislation of the Member State of enforcement, or can they form part of the judgment concerning child custody and rights of access which is enforceable in another Member State under the Brussels I Regulation?
4. When enforcement of a penalty payment is sought in another Member State, is it a requirement that the amount of the penalty payment to be enforced has been finally determined separately in the Member State in which judgment was given, even if the Brussels I Regulation does not apply in the enforcement proceedings?
5. If a periodic penalty payment (astreinte) imposed as a means to ensure compliance with rights of access is enforceable in another Member State without the amount of the penalty payment to be enforced having separately been finally determined:
 - (a) does the enforcement of the penalty payment nevertheless require a review of whether the failure to comply with rights of access was based on obstacles which it was essential to take into consideration on account of the rights of children, and
 - (b) which court has jurisdiction to examine such factors, more specifically,
 - (i) is the jurisdiction of the court of the State of enforcement always limited solely to an examination of whether the alleged failure to comply with rights of access has occurred for reasons which are expressly set out in the judgment in the main proceedings, or

- (ii) does it follow from the protection of the rights of children in the Charter of Fundamental Rights of the European Union that the court of the State of enforcement has a more extensive right or obligation to examine whether the failure to comply with rights of access was based on grounds which it was essential to take into consideration in order to safeguard the rights of children?

(¹) Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1).

(²) 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).

Action brought on 27 January 2014 — Kingdom of Spain v European Parliament and Council of the European Union

(Case C-44/14)

(2014/C 71/22)

Language of the case: Spanish

Parties

Applicant: Kingdom of Spain (represented by: A. Rubio González, Agent)

Defendants: European Parliament and Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Article 19 of Regulation (EU) No 1052/2013 of the European Parliament and of the Council of 22 October 2013 (¹) establishing the European Border Surveillance System (Eurosur);

— order the European Parliament and Council of the European Union to pay the costs.

Pleas in law and main arguments

Infringement of Article 4 of the Schengen Protocol in conjunction with Article 5 thereof. Article 19 of the Eurosur Regulation establishes an *ad hoc* procedure for the participation of the United Kingdom and Ireland through cooperation agreements. It therefore establishes a procedure for the participation of those Member States distinct from that provided for in Article 4 of the Schengen Protocol, effectively placing the United Kingdom and Ireland in the position of a third country outside the European Union.

(¹) OJ 2013 L 295, p. 11.