

- (b) Is the competent authority within the meaning of Article 20(2) of Regulation No 604/2013 the authority responsible for receiving the form or for preparing the report or the authority responsible for the decision on the asylum application?
- (c) Has a report prepared by the authorities reached the competent authority even if that authority was informed of the main content of the form or the report, or must the original or a copy of the report be communicated to it for that purpose?
6. Can delays between the first request for asylum or the first issue of a certificate of registration as an asylum seeker and the submission of a take charge request lead to a transfer of responsibility to the requesting Member State by analogous application of the third subparagraph of Article 21(1) of Regulation No 604/2013 or require the requesting Member State to exercise its right to assume responsibility pursuant to the first subparagraph of Article 17(1) of Regulation No 604/2013?
7. If Question 6 is to be answered in the affirmative in respect of either alternative: from what time can there be considered to be an unreasonable delay in submitting a take charge request?
8. Does a take charge request in which the requesting Member State indicates only the date of entry into the requesting Member State and the date of submission of the formal asylum application, but not also the date of the first request for asylum or the date of first issue of a certificate of registration as an asylum seeker, comply with the time limit provided for in the first subparagraph of Article 21(1) of Regulation No 604/2013, or is such a request 'ineffective'?

⁽¹⁾ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (OJ 2013 L 180, p. 31).

Request for a preliminary ruling from the Curtea Constituțională a României (Romania) lodged on 30 December 2016 — Relu Adrian Coman, Robert Clabourn Hamilton, Asociația Accept v Inspectoratul General pentru Imigrări, Ministerul Afacerilor Interne, Consiliul Național pentru Combaterea Discriminării

(Case C-673/16)

(2017/C 104/43)

Language of the case: Romanian

Referring court

Curtea Constituțională a României

Parties to the main proceedings

Applicants: Relu Adrian Coman, Robert Clabourn Hamilton, Asociația Accept

Defendants: Inspectoratul General pentru Imigrări, Ministerul Afacerilor Interne, Consiliul Național pentru Combaterea Discriminării

Questions referred

1. Does the term 'spouse' in Article 2(2)(a) of Directive 2004/38/[EC], ⁽¹⁾ in conjunction with Articles 7, 9, 21 and 45 of the Charter of Fundamental Rights of the European Union, include the same-sex spouse, from a State which is not a Member State of the European Union, of a citizen of the European Union to whom that citizen is lawfully married under the law of a Member State other than the host Member State?
2. If the answer to Question 1 is in the affirmative, do Articles 3(1) and 7(1) of Directive 2004/38/[EC], in conjunction with Articles 7, 9, 21 and 45 of the Charter of Fundamental Rights of the European Union, require the host Member State to confer the right of residence in its territory or for a period of longer than three months on the same-sex spouse of a citizen of the European Union?

3. If the answer to Question 1 is in the negative, can the same-sex spouse, from a State which is not a Member State of the European Union, of a European Union citizen, to whom the citizen concerned is lawfully married under the law of a Member State other than the host Member State, be classified as 'any other family member' within the meaning of Article 3(2)(a) of Directive 2004/38/[EC] or 'partner with whom the Union citizen has a durable relationship, duly attested' within the meaning of Article 3(2)(b) of Directive 2004/38/[EC], with the corresponding obligation for the host Member State to facilitate entry and residence for him, even though the host State does not recognise marriages between members of the same sex or provide for an alternative form of legal recognition, such as registered partnerships?
4. If the answer to Question 3 is in the affirmative, do Articles 3(2) and 7(2) of Directive 2004/38/[EC], in conjunction with Articles 7, 9, 21 and 45 of the Charter of Fundamental Rights of the European Union, require the Member State to confer the right of residence in its territory or for a period of longer than three months on the same-sex spouse of a citizen of the European Union?

⁽¹⁾ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ 2004 L 158, p. 77)

**Request for a preliminary ruling from the Landgericht Düsseldorf (Germany) lodged on
27 December 2016 — Pfizer Ireland Pharmaceuticals, Operations Support Group v Orifarm GmbH**

(Case C-681/16)

(2017/C 104/44)

Language of the case: German

Referring court

Landgericht Düsseldorf

Parties to the main proceedings

Applicant: Pfizer Ireland Pharmaceuticals, Operations Support Group

Defendant: Orifarm GmbH

Questions referred

1. Can the holder of a supplementary protection certificate that was issued to it for the Federal Republic of Germany rely on the specific mechanism to prevent the importation of products into the Federal Republic of Germany from the accession States the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, Slovenia, Slovakia, Bulgaria, Romania ... and Croatia (Annex IV to the 2003 Act of Accession, OJ 2003 L 236, p. 797, as amended in OJ 2004 L 126, p. 4, for Estonia, Latvia, Lithuania, Poland, Slovenia, Hungary, Slovakia, the Czech Republic; Part I of Annex V to the 2005 Act of Accession, OJ 2005 L 157, p. 268, for Romania and Bulgaria; Annex IV to the 2011 Act of Accession, OJ 2012 L 112, p. 60, for Croatia) if the supplementary protection certificate was applied for in the Federal Republic of Germany at a point in time at which the laws for obtaining such a supplementary protection certificate already existed in the respective accession States but could not be applied for by, or issued to, the holder of the supplementary protection certificate issued for the Federal Republic of Germany because the basic patent required for the issuing of the supplementary protection certificate did not exist in the accession State?
2. Does it make any difference to the answer to Question 1 if it was merely at the time of the filing of the application for the basic patent issued for the Federal Republic of Germany that such protection through a basic patent could not be obtained in the accession State but, by the time of publication of the application on which the basic patent issued for the Federal Republic of Germany was based, it could be so obtained?