ECLI:EU:C:2022:237

Provisional text

JUDGMENT OF THE COURT (Seventh Chamber)

31 March 2022 (*)

(Reference for a preliminary ruling – Area of freedom, security and justice – Dublin system – Regulation (EU) No 604/2013 – Article 29(2) – Transfer of the asylum seeker to the Member State responsible for examining the application for international protection – Six-month time limit for transfer – Possibility of extending that time limit up to a maximum of one year in the event of imprisonment – Definition of 'imprisonment' – Court-authorised non-voluntary committal of the asylum seeker to a hospital psychiatric department)

In Case C-231/21,

REQUEST for a preliminary ruling under Article 267 TFEU from the Verwaltungsgerichtshof (Supreme Administrative Court, Austria), made by decision of 25 March 2021, received at the Court on 12 April 2021, in the proceedings

IA

v

Bundesamt für Fremdenwesen und Asyl,

THE COURT (Seventh Chamber),

composed of J. Passer, President of the Chamber, A. Prechal (Rapporteur), President of the Second Chamber, and M.L. Arastey Sahún, Judge,

Advocate General: J. Richard de la Tour,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– the Austrian Government, by J. Schmoll, V.-S. Strasser, A. Posch and G. Eberhard, acting as Agents,

– the German Government, by J. Möller and R. Kanitz, acting as Agents,

– the European Commission, by C. Cattabriga and M. Wasmeier, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 29(2) of 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; 'the Dublin III Regulation').

2 The request has been made in proceedings between IA and the Bundesamt für Fremdenwesen und Asyl (Federal Office for Foreign Affairs and Asylum, Austria) ('the Office') concerning the transfer of the individual concerned to Italy.

Legal context

European Union law

3 Recitals 4 and 5 of the Dublin III Regulation are worded as follows:

'(4) The Tampere conclusions [of the European Council at its special meeting on 15 and 16 October 1999] also stated that the [Common European Asylum System] should include, in the short term, a clear and workable method for determining the Member State responsible for the examination of an asylum application.

(5) Such a method should be based on objective, fair criteria both for the Member States and for the persons concerned. It should, in particular, make it possible to determine rapidly the Member State responsible, so as to guarantee effective access to the procedures for granting international protection and not to compromise the objective of the rapid processing of applications for international protection.'

4 Section VI of Chapter VI of the Dublin III Regulation, dealing with transfers of applicants to the Member State responsible, contains Article 29 of that regulation, entitled 'Modalities and time limits', which provides:

'1. The transfer of the applicant or of another person as referred to in Article 18(1)(c) or (d) from the requesting Member State to the Member State responsible shall be carried out in accordance with the national law of the requesting Member State, after consultation between the Member States concerned, as soon as practically possible, and at the latest within six months of acceptance of the request by another Member State to take charge or to take back the person concerned or of the final decision on an appeal or review where there is a suspensive effect in accordance with Article 27(3).

If transfers to the Member State responsible are carried out by supervised departure or under escort, Member States shall ensure that they are carried out in a humane manner and with full respect for fundamental rights and human dignity.

…

2. Where the transfer does not take place within the six months' time limit, the Member State responsible shall be relieved of its obligations to take charge or to take back the person concerned and responsibility shall then be transferred to the requesting Member State. This time limit may be extended up to a maximum of one year if the transfer could not be carried out due to imprisonment of the person concerned or up to a maximum of eighteen months if the person concerned absconds.

…

4. The Commission shall, by means of implementing acts, establish uniform conditions for the consultation and exchange of information between Member States, in particular in the event of postponed or delayed transfers, transfers following acceptance by default, transfers of minors or dependent persons, and supervised transfers. …'

5 Commission Regulation (EC) No 1560/2003 of 2 September 2003 laying down detailed rules for the application of Regulation No 343/2003 (OJ 2003 L 222, p. 3), as amended by Commission Implementing Regulation (EU) No 118/2014 of 30 January 2014 (OJ 2014 L 39, p. 1) ('the Implementing Regulation'), sets out the detailed rules for the application of the Dublin III Regulation.

6 Chapter III of the Implementing Regulation, entitled 'Transfers', contains Article 9, entitled 'Postponed and delayed transfers', which provides:

'1. The Member State responsible shall be informed without delay of any postponement due either to an appeal or review procedure with suspensive effect, or physical reasons such as ill health of the asylum seeker, non-availability of transport or the fact that the asylum seeker has withdrawn from the transfer procedure.

1a. Where a transfer has been delayed at the request of the transferring Member State, the transferring and the responsible Member States must resume communication in order to allow for a new transfer to be organised as soon as possible, in accordance with Article 8, and no later than two weeks from the moment the authorities become aware of the cessation of the circumstances that caused the delay or postponement. In such a case, an updated standard form for the transfer of the data before a transfer is carried out as set out in Annex VI shall be sent prior to the transfer.

2. A Member State which, for one of the reasons set out in Article 29(2) of [the Dublin III Regulation], cannot carry out the transfer within the normal time limit of six months from the date of acceptance of the request to take charge or take back the person concerned or of the final decision on an appeal or review where there is a suspensive effect, shall inform the Member State responsible before the end of that time limit. Otherwise, the responsibility for processing the application for international protection and the other obligations under [the Dublin III Regulation] falls to the requesting Member State, in accordance with Article 29(2) of that Regulation.

…'

Austrian law

7 Paragraph 5 of the Bundesgesetz über die Gewährung von Asyl (Asylgesetz 2005) (Federal Law concerning the granting of asylum (Law on asylum 2005)), in the version applicable to the facts in the main proceedings ('AsylG 2005'), provides:

'[Cases in which] Austria is not responsible [for examining asylum applications]

…

Responsibility of another State

(1) An application for international protection which has not been decided in accordance with Paragraph 4 or 4a shall be rejected as inadmissible if, under treaty provisions or pursuant to the Dublin [III] Regulation, another State is responsible for examining the application for asylum or the application for international protection. …

(2) The steps set out in subparagraph 1 shall also be followed if, under treaty provisions or pursuant to the Dublin [III] Regulation, another State is responsible for determining which State is responsible for examining the application for asylum or the application for international protection.

…'

8 Paragraph 46 of the Fremdenpolizeigesetz 2005 (Law on the police for foreign nationals 2005) provides:

'(1) Foreign nationals subject to an enforceable return decision, removal order, expulsion order or refusal of stay shall be removed from the territory (deportation) by officers of the public security services on behalf of [the Office] …

…

(7) In the event that the foreign national is in a hospital … and his or her deportation is imminent, the hospital must, on request, inform [the Office] without delay of the date on which the foreign national is to be, or is likely to be, discharged. If the date notified in accordance with the first sentence is changed, the hospital shall notify [the Office] on its own initiative.'

9 Paragraph 61 of the Law on the police for foreign nationals 2005 provides:

'(1) [The Office] shall order the removal of a third-country national where

1. his or her application for international protection is rejected as inadmissible pursuant to Paragraph 4a or 5 of the AsylG 2005, or following any other decision to reject on the ground of inadmissibility taken pursuant to Paragraph 68(1) of the Allgemeines Verwaltungsverfahrensgesetz (General law on administrative procedure) following a decision to reject on the ground of inadmissibility pursuant to Paragraph 4a or 5 of the AsylG 2005 …

…

(2) A removal order shall have the effect that the deportation of the third-country national to the destination State is lawful. The order shall remain in force for 18 months from the departure of the third-country national.

…’

10 Paragraph 3 of the Unterbringungsgesetz (Law on the committal of mentally ill persons to hospitals; ‘the UbG’), entitled ‘Conditions of committal’, provides:

‘A person may not be committed to a psychiatric department unless

1. he or she is suffering from a mental illness and, in connection therewith, seriously and significantly endangers his or her life or health or the life or health of others; and

2. he or she cannot receive adequate medical treatment or care by other means, including outwith a psychiatric department.’

11 Paragraph 8 of the UbG, entitled ‘Committal otherwise than at [the] request [of the person concerned]’, provides:

‘A person may not be admitted to a psychiatric department against his or her will or without his or her agreement unless a public health service doctor [or] police doctor or primary care doctor, authorised for that purpose …, to whom that person has been presented assesses that person and certifies that the conditions of committal are satisfied. The certificate shall set out in detail the reasons why the doctor considers the conditions of committal to be satisfied.’

12 Paragraph 9 of that law states:

‘(1) Officers of the public security services shall be entitled and obliged to bring a person in respect of whom they consider, for particular reasons, that the conditions of committal are satisfied to a doctor for assessment (Paragraph 8) or to summon a doctor to assess that person. If the doctor certifies that the conditions of committal are satisfied, the officer(s) of the public security services must take the person concerned to a psychiatric department or ensure that he or she is taken there. If the doctor does not so certify, the person concerned may no longer be detained.

(2) In the event of imminent danger, officers of the public security services may also take the person concerned to a psychiatric department without a doctor’s prior assessment and certification.

(3) The doctor and officers of the public security services must proceed with the utmost care to protect the person concerned and take the necessary measures to avoid any danger. They must, so far as possible, work together with psychiatric institutions without recourse to a psychiatric department and, if necessary, involve local emergency services.’

13 Paragraph 10(1) of that law provides:

‘The head of department shall assess the person concerned without delay. The person concerned may be admitted only if, as medically certified by the head of department, the conditions of committal are satisfied.

…’

14 Paragraph 11 of the UbG provides:

‘Paragraph 10 shall apply *mutatis mutandis* where

1. in the case of a patient otherwise admitted to the psychiatric department and whose freedom of movement is not restricted, there are grounds for an assumption that the conditions of committal are satisfied, or

2. a person committed at his or her own request revokes that request or fails to renew it after six weeks or the overall period of voluntary committal authorised has expired and, in each of those cases, there are grounds for an assumption that the conditions of committal still obtain.'

15 Paragraph 17 of the UbG, entitled 'Notification to the court', states:

'Where a person is admitted to a psychiatric department otherwise than at his or her request (Paragraphs 10 and 11), the head of department must inform the court without delay. …'

16 Paragraph 18 of that law, entitled 'Subject matter of the proceedings', provides:

'The court shall rule on the lawfulness of the patient's committal in the cases referred to in Paragraphs 10 and 11 after examining the conditions of committal.'

17 Paragraph 20(1) of the UbG provides:

'In the event that the court concludes after hearing the patient that the conditions of committal are satisfied, it shall declare the committal to be provisionally lawful pending a decision pursuant to Paragraph 26(1) and shall set the matter down for a hearing which must take place within no more than 14 days.'

18 The same law states in Paragraph 26(1):

'At the end of the hearing, the court shall rule on the lawfulness of the committal. The decision shall be delivered at that hearing in the presence of the patient; it must be reasoned and must be explained to the patient.'

The dispute in the main proceedings and the questions referred for a preliminary ruling

19 In October 2016, IA, a Moroccan national, entered Italy having travelled from Libya. His personal and biometric data were registered by the Italian police.

20 IA subsequently travelled to Austria where he lodged an application for asylum on 20 February 2017.

21 On 1 March 2017, the Austrian authorities requested the Italian authorities to take charge of IA. That request remained unanswered.

22 On 30 May 2017, the Austrian authorities informed the Italian authorities that that take charge request was deemed to have been accepted and that the period of up to six months for carrying out the transfer had started to run on 2 May 2017.

23 By a decision of 12 August 2017, the Office rejected IA's asylum application as being inadmissible and ordered his removal to Italy.

24 On 25 September 2017, IA brought an action against that decision before the Bundesverwaltungsgericht (Federal Administrative Court, Austria). He subsequently discontinued that action.

25 Between 20 September 2017 and 6 October 2017, IA, at his request, received psychiatric care in a hospital in Vienna (Austria).

26 The transfer of IA to Italy, which was to have taken place on 23 October 2017, could not proceed because, between 6 October 2017 and 4 November 2017, IA was committed to the psychiatric department of a hospital in Vienna without this having been requested by IA. That committal was declared lawful by a district court in Vienna, initially on a provisional basis by a first order of 6 October 2017, then, until 17 November 2017, by a second order of 17 October 2017. That court authorised IA's committal on the ground that, because of his mental illness, he constituted a serious and significant threat to himself and to others.

27 On 25 October 2017, the Austrian authorities informed the Italian authorities that, in accordance with Article 29(2) of the Dublin III Regulation, the time limit for IA's transfer had been extended to 12 months because of his committal to a hospital psychiatric department.

28 IA's committal ended prematurely on 4 November 2017. On that date, he was admitted, at his request, to a hospital psychiatric department from which he was discharged on 6 November 2017.

29 On 6 December 2017, IA was transferred to Italy by air under police escort and accompanied by a doctor.

30 On 22 December 2017, IA lodged an application for asylum in Italy, which was granted on 24 April 2018.

31 Subsequently, IA brought an action before the Bundesverwaltungsgericht (Federal Administrative Court) challenging his transfer from Austria to Italy, on the ground that it had taken place after the expiry, on 2 November 2017, of the six-month period laid down in the first subparagraph of Article 29(1) of the Dublin III Regulation and was therefore unlawful, being out of time.

32 By a judgment of 14 February 2020, the Bundesverwaltungsgericht (Federal Administrative Court) dismissed that action as unfounded. It held that, on 25 October 2017, the Austrian authorities informed the Italian authorities of the extension of the six-month transfer time limit, in accordance with Article 29(2) of the Dublin III Regulation, due to the detention of the individual concerned. That transfer time limit, which was to have expired on 2 November 2017, was thus extended by six months, until 2 May 2018. Consequently, the transfer of IA on 6 December 2017 was not out of time.

33 The Bundesverwaltungsgericht (Federal Administrative Court) held that the court-ordered committal of IA to a psychiatric establishment, against his will, was based, in accordance with the conditions laid down in Paragraph 3 of the UbG, on the finding that, due to his mental illness, IA was seriously and significantly endangering his life and the lives of others.

34 According to that court, detention on account of mental illness is a measure involving a deprivation of liberty, as is apparent from Articles 6, 52 and 53 of the Charter of Fundamental Rights of the European Union and Article 5(1)(e) of the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950. However, for the

purposes of an extension of the transfer time limit due to 'imprisonment', within the meaning of the second sentence of Article 29(2) of the Dublin III Regulation, that detention need not be in a prison, nor must it be based on a conviction by a court. What is decisive is that the transferring State should be prevented from transferring the person concerned to the competent Member State when that person is placed out of reach of the administrative authorities' control by a judicial decision.

35 Having been seised by IA of an appeal on a point of law against that judgment of the Bundesverwaltungsgericht (Federal Administrative Court), the referring court considers that the essential question, for the purpose of determining whether, in the present case, the transfer of IA to Italy was lawful, is the question whether the concept of 'imprisonment', within the meaning of the second sentence of Article 29(2) of the Dublin III Regulation, a concept which, moreover, is not defined in that regulation, must be understood as including a detention such as that at issue in the main proceedings, namely, committal – which has been declared lawful by a court – to a hospital psychiatric department due to mental illness, against the will of the person concerned or without that person's agreement.

36 The referring court considers that that question could be answered in the affirmative, for the reasons given by the Bundesverwaltungsgericht (Federal Administrative Court). It takes the view, however, that that question could conceivably also be answered in the negative, given the fact that 'committal otherwise than at [the] request [of the person concerned]', within the meaning of Paragraph 8 et seq. of the UbG, is primarily a medical measure that is merely declared lawful by the court, a measure which does not seem necessarily to be covered by the term *Inhaftierung* in the German-language version, 'imprisonment' in the English-language version or *emprisonnement* in the French-language version.

37 Moreover, the referring court considers that serious illnesses which temporarily prevent a transfer to the Member State responsible cannot justify an extension of the transfer time limit in accordance with the second sentence of Article 29(2) of the Dublin III Regulation, as is confirmed by the case-law of the Court (judgment of 16 February 2017, *C. K. and Others*, C-578/16 PPU, EU:C:2017:127, paragraph 89).

38 Should the Court come to the conclusion that committal to a hospital psychiatric department does fall within the concept of 'imprisonment', within the meaning of the second sentence of Article 29(2) of the Dublin III Regulation, the referring court considers it necessary to establish precisely how long the extension of the transfer time limit would be in the present case.

39 In that regard, it might be considered that the transfer time limit may be extended to a period equivalent either to that for which IA was actually committed, against his will, to a hospital psychiatric department, or to the presumed period of 'imprisonment' notified to the requested Member State in accordance with Article 9(2) of the Implementing Regulation, together, if necessary, with a reasonable period for the organisation of the transfer.

40 In those circumstances, the Verwaltungsgerichtshof (Supreme Administrative Court, Austria) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) Is imprisonment within the meaning of the second sentence of Article 29(2) of [the Dublin III Regulation] also to be understood as including committal – which has been declared lawful by a court – of the person concerned to the psychiatric ward of a hospital against or without his will (in this case on account of endangerment of self or others resulting from his mental illness)?

(2) If the first question is answered in the affirmative:

(a) Can the time limit laid down in the first sentence of Article 29(2) of the [Dublin III Regulation] in any case be extended to one year – with binding effect for the person concerned – in the event of imprisonment by the requesting Member State?

(b) If not, for what period of time is an extension permissible, for example only for that period of time

– that the detention actually lasted, or

– that the imprisonment is likely to last in total, in relation to the date of informing the Member State responsible in accordance with Article 9(2) of [the Implementing Regulation],

plus, if necessary, a reasonable period for the reorganisation of the transfer?'

Consideration of the questions referred

The first question

41 By its first question, the referring court asks, in essence, whether the second sentence of Article 29(2) of the Dublin III Regulation must be interpreted as meaning that the concept of 'imprisonment' referred to in that provision is applicable to the committal of an asylum seeker to a hospital psychiatric department, which has been authorised by a judicial decision, on the ground that that person, due to a mental illness, is a serious danger to him- or herself or to society.

42 In that regard, it must be recalled that, in accordance with the settled case-law of the Court, it follows from the need for uniform application of EU law and from the principle of equality that the terms of a provision of EU law which makes no express reference to the law of the Member States for the purpose of determining its meaning and scope must normally be given an independent and uniform interpretation throughout the European Union, having regard not only to the wording of that provision but also to the context of the provision and the objective pursued by the legislation of which it forms part (judgment of 15 April 2021, *The North of England P & I Association*, C-786/19, EU:C:2021:276, paragraph 48 and the case-law cited).

43 It is clear that the concept of 'imprisonment', within the meaning of the second sentence of Article 29(2) of the Dublin III Regulation, has not been defined by the EU legislature and that that provision makes no express reference to the law of the Member States for the purpose of determining its meaning and scope. That concept must, therefore, be given an autonomous and uniform interpretation.

44 As regards, in the first place, the wording of the second sentence of Article 29(2) of the Dublin III Regulation, it must be noted as a preliminary point that, in accordance with settled case-law, the wording used in one language version of a provision of EU law cannot serve as the sole basis for the interpretation of that provision or be given preference over other language versions (judgment of 15 April 2021, *The North of England P & I Association*, C-786/19, EU:C:2021:276, paragraph 54 and the case-law cited).

45 In the present case, the term 'imprisonment' or the related and largely interchangeable term 'prison sentence' is used in the great majority of the language versions of that provision. This is so,

inter alia, in the Spanish-, Czech-, Danish-, English-, French-, Maltese-, Dutch-, Romanian-, Slovak- and Finnish-language versions.

46 By contrast, other language versions, clearly in the minority, such as the Italian-, Portuguese- or Swedish-language versions, use broader terms that denote, respectively, detention, custody or being deprived of one's liberty, without those terms suggesting a link to 'prison' or to a 'prison sentence'.

47 As to the term *Inhaftierung*, used in the German-language version, the Austrian Government submits that it encompasses, in everyday language, the 'deprivation of liberty' and cannot therefore be reduced to court-ordered imprisonment in the context of criminal proceedings, while the German Government is of the view that the term could be understood in that narrower sense.

48 Still on a literal interpretation of the second sentence of Article 29(2) of the Dublin III Regulation, it follows from the ordinary meaning of the term 'imprisonment' or 'prison sentence', which, as has been established in paragraph 45 of the present judgment, is derived from the great majority of the language versions of that provision, that it essentially signifies a penalty involving a deprivation of liberty which is imposed in the context of criminal proceedings due to the commission of an offence of which the person concerned is found guilty or of which that person is suspected.

49 More specifically, in its ordinary meaning, the term denotes a penalty involving a deprivation of liberty which, as a general rule, must be served in a prison and which is imposed by a court when that court rules, at the end of criminal proceedings, that a person can be found guilty of an offence. In addition, according to its ordinary meaning, the term also covers the detention on remand pending trial of a person suspected of having committed a criminal offence, which is ordered, as a rule, by means of a judicial decision in the context of criminal proceedings.

50 In the light of that ordinary meaning, the non-voluntary committal of a person to a hospital psychiatric department that is authorised by a court on the ground that that person is suffering from a mental illness which makes that person a particular danger to him- or herself or to society cannot be classified as 'imprisonment' within the meaning of the second sentence of Article 29(2) of the Dublin III Regulation.

51 In that regard, it must be noted that non-voluntary committal under the UbG takes place without the person concerned having been found guilty of having committed a criminal offence or being suspected of having committed such an offence.

52 Such a committal differs fundamentally therefore from a person's confinement in a psychiatric hospital that is ordered on the ground that that person has committed an offence for which that person cannot, however, be held criminally liable because he or she was suffering from a mental illness at the material time.

53 In the second place, the context of the second sentence of Article 29(2) of the Dublin III Regulation and the objectives of that regulation do not preclude an interpretation according to which the concept of 'imprisonment', within the meaning of that provision, covers only the deprivation of liberty ordered by a court in the context of criminal proceedings as a result of an offence for which the asylum seeker is held liable or for which he or she is suspected of being liable.

54 In that regard, it must be borne in mind that the second sentence of Article 29(2) of the Dublin III Regulation authorises, exceptionally, the extension of the six-month transfer time limit set in Article 29(1) and in the first sentence of Article 29(2) of that regulation, in order to take account of the fact that it is not practically possible for the requesting Member State to carry out the transfer of the person concerned because he or she has been imprisoned or has absconded (judgment of 19 March 2019, *Jawo*, C-163/17, EU:C:2019:218, paragraph 60).

55 To interpret 'imprisonment', within the meaning of the second sentence of Article 29(2) of the Dublin III Regulation, broadly as including all measures depriving a person of liberty, including measures not imposed in the context of criminal proceedings as a result of an offence committed by the person concerned or which that person is suspected of having committed, would be to disregard the exceptional nature, emphasised by the Court, of such an extension.

56 Since the second sentence of Article 29(2) of the Dublin III Regulation provides for an exception, in two specific situations, to the general rule laid down in Article 29(1) and the first sentence of Article 29(2) of that regulation, it must, according to a principle established in the settled case-law of the Court, be interpreted strictly (see, in particular, judgment of 20 May 2021, *X (LPG road tankers)*, C-120/19, EU:C:2021:398, paragraph 50).

57 Furthermore it is true that, in paragraphs 61 and 62 of the judgment of 19 March 2019, *Jawo* (C-163/17, EU:C:2019:218), the Court rejected an interpretation of the concept of 'absconding', within the meaning of the second sentence of Article 29(2) of the Dublin III Regulation, as requiring proof of the intention of the person concerned to evade the reach of the competent national authorities, in order to avoid the risk that those authorities might encounter considerable difficulties or be unable to ensure the effective functioning of the Dublin system and the achievement of its objectives.

58 However, interpreting the concept of 'imprisonment' within the meaning of that provision in such a way as to limit it to deprivations of liberty ordered by a court in the context of criminal proceedings, and excluding other types of measure involving the deprivation of liberty, does not entail such a risk.

59 Such an interpretation requires only the simple factual verification of the existence of a judicial decision involving a deprivation of liberty, that decision having been adopted in the context of criminal proceedings in respect of a person who has committed an offence or who is suspected of having committed an offence.

60 Such verification does not entail particular practical difficulties that might inhibit the effective functioning of the Dublin system and the achievement of its objectives.

61 Nor, therefore, does that interpretation conflict with the objective of rapid processing that is pursued by the Dublin III Regulation, according to recitals 4 and 5 thereof (judgment of 19 March 2019, *Jawo*, C-163/17, EU:C:2019:218, paragraphs 58 and 59).

62 In the light of all of the foregoing considerations, the answer to the first question is that the second sentence of Article 29(2) of the Dublin III Regulation must be interpreted as meaning that the concept of 'imprisonment' referred to in that provision is not applicable to the non-voluntary committal of an asylum seeker to a hospital psychiatric department, which has been authorised by a judicial decision, on the ground that that person, due to a mental illness, is a serious danger to him- or herself or to society.

The second question

63 The second question was put by the referring court in case the answer to the first question was in the affirmative. However, it is clear from paragraph 62 of the present judgment that the first question is to be answered in the negative. Accordingly, there is no need to answer the second question.

Costs

64 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Seventh Chamber) hereby rules:

The second sentence of Article 29(2) of 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 must be interpreted as meaning that the concept of 'imprisonment' referred to in that provision is not applicable to the non-voluntary committal of an asylum seeker to a hospital psychiatric department, which has been authorised by a judicial decision, on the ground that that person, due to a mental illness, is a serious danger to him- or herself or to society.

[Signatures]

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* Language of the case: German.