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Provisional text

JUDGMENT OF THE COURT (First Chamber)

22 September 2022 (*)

(Request for a preliminary ruling – Regulation (EU) No 604/2013 – Determination of the Member State responsible for examining an application for international protection – Articles 27 and 29 – Transfer of the person concerned to the Member State responsible for the examination of his or her request – Suspension of the transfer due to the COVID-19 pandemic – Impossibility of carrying out the transfer – Judicial protection – Consequences for the time limit for transfer)

In Joined Cases C-245/21 and C-248/21,

TWO REQUESTS for a preliminary ruling under Article 267 TFEU from the Bundesverwaltungsgericht (Federal Administrative Court, Germany), made by decisions of 26 January 2021, received at the Court on 19 April 2021, in the proceedings

Federal Republic of Germany

v

MA (C-245/21),

PB (C-245/21),

LE (C-248/21),

THE COURT (First Chamber),

composed of A. Arabadjiev, President of the Chamber, L. Bay Larsen (Rapporteur), Vice-President of the Court, acting as Judge of the First Chamber, I. Ziemele, P.G. Xuereb and A. Kumin, Judges,

Advocate General: P. Pikamäe,

Registrar: R. Stefanova-Kamisheva, Administrator,

having regard to the written procedure and further to the hearing on 9 March 2022,

after considering the observations submitted on behalf of:

- MA and PB, by A. Petzold, Rechtsanwalt,
- the German Government, by J. Möller and R. Kanitz, acting as Agents,
- the Swiss Government, by S. Lauper, acting as Agent,
- the European Commission, by A. Azéma and M.G. von Rintelen, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 2 June 2022,

gives the following

Judgment

1 These requests for a preliminary ruling concern the interpretation of Article 27(4) and Article 29(1) 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 requests for a preliminary ruling have been made in proceedings between the Bundesrepublik Deutschland (Federal Republic of Germany) and MA, PB (C-245/21) and LE (C-248/21) concerning decisions adopted by the Bundesamt für Migration und Flüchtlinge (Federal Office for Migration, Germany) ('the Office') declaring their asylum applications inadmissible, finding that there are no grounds prohibiting their removal, ordering their deportation to Italy and imposing entry and residence bans on them.

The legal framework

European Union law

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

'(4) The Tampere [European Council] conclusions [of 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 Article 27(3) and (4) of that regulation provides:

'3. For the purposes of appeals against, or reviews of, transfer decisions, Member States shall provide in their national law that:

(a) the appeal or review confers upon the person concerned the right to remain in the Member State concerned pending the outcome of the appeal or review; or

(b) the transfer is automatically suspended and such suspension lapses after a certain reasonable period of time, during which a court or a tribunal, after a close and rigorous scrutiny, shall have taken a decision whether to grant suspensive effect to an appeal or review; or

(c) the person concerned has the opportunity to request within a reasonable period of time a court or tribunal to suspend the implementation of the transfer decision pending the outcome of his or her appeal or review. Member States shall ensure that an effective remedy is in place by suspending the transfer until the decision on the first suspension request is taken. Any decision on whether to suspend the implementation of the transfer decision shall be taken within a reasonable period of time, while permitting a close and rigorous scrutiny of the suspension request. A decision not to suspend the implementation of the transfer decision shall state the reasons on which it is based.

4. Member States may provide that the competent authorities may decide, acting *ex officio*, to suspend the implementation of the transfer decision pending the outcome of the appeal or review.’

5 The third subparagraph of Article 28(3) of that regulation provides:

‘Where a person is detained pursuant to this Article, the transfer of that person from the requesting Member State to the Member State responsible shall be carried out as soon as practically possible, and at the latest within six weeks of the implicit or explicit acceptance of the request by another Member State to take charge or to take back the person concerned or of the moment when the appeal or review no longer has a suspensive effect in accordance with Article 27(3).’

6 Article 29(1) and (2) of that regulation is worded as follows:

‘1. The transfer of the applicant ... 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).

...

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.’

German law

7 Paragraph 80(4) of the Verwaltungsgerichtsordnung (Code of Administrative Justice) provides that the authority which is the author of the administrative act may, in certain cases, suspend the implementation of that act, unless otherwise provided by federal law.

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

Case C-245/21

8 MA and PB applied for asylum in Germany in November 2019.

9 As a search in the Eurodac system revealed that they had entered the territory of the Italian Republic illegally and had been registered as applicants for international protection in that Member State, the Office requested, on 19 November 2019, the Italian authorities to take charge of MA and PB on the basis of the Dublin III Regulation.

10 The Italian authorities did not respond to that request to take charge.

11 By decision of 22 January 2020, the Office declared MA's and PB's asylum applications inadmissible, found that there were no grounds prohibiting their removal, ordered their deportation to Italy and imposed entry and residence bans on them.

12 On 1 February 2020, MA and PB lodged an appeal against that decision of the Office before the competent Verwaltungsgericht (Administrative Court, Germany). PB also filed an appeal with a request for suspension of the decision. That request was rejected on 11 February 2020.

13 By decision of 8 April 2020, the Office suspended, until further notice, the implementation of the removal orders pursuant to Article 80(4) of the Code of Administrative Justice and Article 27(4) of the Dublin III Regulation, on the grounds that, in view of the development of the COVID-19 pandemic, the implementation of MA's and PB's transfers was not possible.

14 By judgment of 14 August 2020, the Verwaltungsgericht (Administrative Court) seised of the case annulled the Office's decision of 22 January 2020. That judgment was based on the finding that, even if the Italian Republic had been responsible for the examination of MA's and PB's asylum applications, that responsibility was transferred to the Federal Republic of Germany due to the expiry of the time limit for transfer set out in Article 29(1) of the Dublin III Regulation, since the expiry of that time limit had not been interrupted by the Office's decision of 8 April 2020.

15 The Federal Republic of Germany brought an appeal on a point of law against the judgment of 14 August 2020 before the Bundesverwaltungsgericht (Federal Administrative Court, Germany).

Case C-248/21

16 LE applied for asylum in Germany in August 2019.

17 As a search of the Eurodac system revealed that he had lodged an application for international protection in Italy on 7 June 2017, the Office asked the Italian authorities to take charge of LE on the basis of the Dublin III Regulation.

18 The Italian authorities granted that take back request.

19 The Office declared LE's asylum application inadmissible, found that there were no grounds prohibiting his removal, ordered his deportation to Italy and imposed a ban on his entry and residence.

20 LE brought an action against that decision of the Office before the competent Verwaltungsgericht (Administrative Court) on 11 September 2019. In addition, he accompanied

that action with a request for suspension of that decision. That request was rejected on 1 October 2019.

21 By letter of 24 February 2020, the Italian authorities informed the German authorities that, due to the COVID-19 pandemic, transfers to and from Italy under the Dublin III Regulation would no longer take place.

22 By decision of 25 March 2020, the Office suspended, until further notice, the implementation of the removal order pursuant to Article 80(4) of the Code of Administrative Justice and Article 27(4) of the Dublin III Regulation, on the grounds that, in view of the development of the COVID-19 pandemic, the implementation of LE's transfer was not possible.

23 After rejecting, on 4 May 2020, a second request for suspension of the transfer decision, the administrative court seised of the case, by judgment of 10 June 2020, annulled that decision. That judgment was based on grounds similar to those of the judgment referred to in paragraph 14 of the present judgment.

24 The Federal Republic of Germany brought an appeal on a point of law against the judgment of 10 June 2020 before the Bundesverwaltungsgericht (Federal Administrative Court).

Considerations generally applicable to the two cases

25 The referring court considers that, in the present case, the actions brought before it must be upheld if it is established, first, that a suspension of the implementation of a transfer decision on the ground that it is materially impossible to transfer because of the COVID-19 pandemic falls within the scope of Article 27(4) of the Dublin III Regulation, secondly, that such a suspension may have the effect of interrupting the time limit for transfer provided for in Article 29(1) of that regulation and, thirdly, that an interruption of that time limit for transfer is permissible even if a court has previously rejected an application for suspension of the transfer decision at issue.

26 The referring court considers that, although Article 27(4) of the Dublin III Regulation requires the suspension of the implementation of a transfer decision provided for by it to be linked to the bringing of an appeal, its application in a situation such as that at issue in the main proceedings could possibly be envisaged, since an appeal against a transfer decision is pending and the impossibility of carrying out the removal may, under German law, give rise to doubts as to the legality of that decision. However, account should be taken of the objectives of that regulation and the respective interests of the persons concerned and the Member State in question, which should be balanced in the health context of the COVID-19 pandemic.

27 In those circumstances, the Bundesverwaltungsgericht (Federal Administrative Court) decided to stay the proceedings and to refer the following identically worded questions to the Court for a preliminary ruling in Joined Cases C-245/21 and C-248/21:

‘(1) Does suspension by the authorities of the implementation of a transfer decision, which is revocable only on account of the fact that transfers are (temporarily) impossible in fact due to the COVID-19 pandemic, fall within the scope of Article 27(4) of the Dublin III Regulation during appeal proceedings?

(2) If Question 1 is answered in the affirmative: Does such a suspension decision interrupt the time limit for transfer pursuant to Article 29(1) of the Dublin III Regulation?

(3) If Question 2 is answered in the affirmative: Does this also apply if, prior to the outbreak of the COVID-19 pandemic, a court had dismissed an application by the asylum seeker pursuant to Article 27(3)(c) of the Dublin III Regulation for implementation of the transfer decision to be suspended pending the outcome of the appeal proceedings?’

Procedure before the Court

28 By decision of the President of the Court of 7 June 2021, the present cases were joined for the purposes of the written and oral phases of the proceedings and of the judgment.

29 In addition, the referring court has requested the Court that the present references for a preliminary ruling be dealt with under the expedited procedure, pursuant to Article 105(1) of the Rules of Procedure of the Court.

30 In support of its request, the referring court points out that several Member States refused to carry out transfers because of the COVID-19 pandemic and that, as a result, between March and June 2020, the Office adopted suspension decisions in 20 000 cases, including 9 303 cases in which legal proceedings were pending.

31 Article 105(1) of the Rules of Procedure provides that, at the request of the referring court or, exceptionally, of its own motion, the President of the Court may decide, after hearing the Judge-Rapporteur and the Advocate General, to apply an expedited procedure to a reference for a preliminary ruling where the nature of the case requires that it be dealt with within a short period.

32 In the present case, the President of the Court decided on 7 June 2021, after hearing the Judge-Rapporteur and the Advocate General, that there was no need to grant the request referred to in paragraph 29 of this judgment.

33 It should be noted, in that regard, that the expedited procedure is a procedural instrument intended to respond to a situation of extraordinary urgency (see, to that effect, judgment of 10 March 2022, *Commissioners for Her Majesty’s Revenue and Customs (Comprehensive Sickness Insurance)*, C-247/20, EU:C:2022:177, paragraph 41 and the case-law cited).

34 Consequently, the large number of persons or legal situations potentially concerned by the questions referred is not capable, as such, of constituting an exceptional circumstance capable of justifying the application of an expedited procedure (see, to that effect, judgment of 28 April 2022, *Caruter*, C-642/20, EU:C:2022:308, paragraph 22 and the case-law cited).

35 Therefore, the fact, put forward by the national court, that many applicants for international protection have been placed in a situation comparable to that of the applicants in the main proceedings cannot, on its own, justify the application of that procedure.

36 Moreover, while that procedure may have been initiated, in an exceptional crisis situation, with a view to removing, as soon as possible, an uncertainty prejudicial to the proper functioning of the European asylum system (see, to that effect, orders of the President of the Court of 15 February 2017, *Jafari*, C-646/16, not published, EU:C:2017:138, paragraph 15, and of 15 February 2017, *Mengesteab*, C-670/16, not published, EU:C:2017:120, paragraph 16), it is not apparent from the evidence put forward by the referring court that the functioning of that system is significantly impeded pending the Court’s reply to the questions referred.

Consideration of the questions referred

The first and second questions

37 By its first and second questions in Cases C-245/21 and C-248/21, which must be considered together, the referring court asks, in essence, whether Article 27(4) and Article 29(1) of the Dublin III Regulation are to be interpreted as meaning that the time limit for transfer provided for in the latter provision is interrupted where the competent authorities of a Member State adopt, on the basis of Article 27(4), a revocable decision to suspend the implementation of a transfer decision on the ground that such implementation is materially impossible because of the COVID-19 pandemic.

38 Article 29(1) of the Dublin III Regulation provides that the transfer of the person concerned to the Member State responsible is to take place as soon as practically possible and, at the latest, within six months of the acceptance by another Member State of the request to take charge or take back or of the final decision on the appeal where suspensive effect is granted in accordance with Article 27(3) of that regulation.

39 According to Article 29(2) of that regulation, if the transfer is not carried out within six months, the Member State responsible for examining an application for international protection is released from its obligation to take charge or take back the person concerned and responsibility is transferred to the requesting Member State.

40 While it is clear from those provisions that the EU legislature intended to promote the speedy enforcement of transfer decisions, the fact remains that such enforcement may, in certain cases, be suspended.

41 Article 27(3) of the Dublin III Regulation thus requires Member States to provide the persons concerned with a remedy which may lead to the suspension of the implementation of the transfer decision taken against them.

42 In accordance with that provision, Member States must provide either, first, that an appeal against the transfer decision gives the person concerned the right to remain in the Member State which adopted that decision pending the outcome of his or her appeal or, secondly, that following the lodging of an appeal against the transfer decision the transfer is automatically suspended for a reasonable period of time during which a court is to determine whether to give suspensive effect to that appeal or, thirdly, that the person concerned has the possibility to lodge an appeal to suspend the implementation of the transfer decision pending the outcome of the appeal against that decision.

43 Furthermore, Article 27(4) of the Dublin III Regulation provides that Member States may provide that the competent authorities may decide *ex officio* to suspend the implementation of the transfer decision pending the outcome of the appeal against that decision.

44 Where the suspension of the implementation of the transfer decision results from the application of Article 27(3) of that regulation, Article 29(1) thereof provides that the time limit for transfer is to run not from the acceptance of the request to take charge or to take back but, by way of derogation, from the final decision on the appeal against the transfer decision.

45 Although Article 29(1) of the Dublin III Regulation does not refer directly to the situation, arising from Article 27(4) of that regulation, in which the suspension of the implementation of the transfer decision is the result of a decision taken by the competent authorities, it is nevertheless clear from the Court's case-law that, because of the similarity of the terms used in the third subparagraph of Article 28(3) and in the first subparagraph of Article 29(1) of that regulation and the fact that those provisions both have as their object the determination of the period during which

the transfer is to be effected, those provisions must be interpreted in the same way (see, to that effect, judgment of 13 September 2017, *Khira Amayry*, C-60/16, EU:C:2017:675, paragraph 70).

46 In those circumstances, it should be noted that the Court has already held, with regard to the third subparagraph of Article 28(3) of the Dublin III Regulation, that the postponement of the starting point of the time limit for transfer in cases where suspensive effect is granted in accordance with Article 27(3) of that regulation is explained by the fact that, as long as an appeal against a transfer decision has suspensive effect, it is, by definition, impossible to carry out the transfer, which is why the time limit for doing so may not begin to run until the future implementation of the transfer has in principle been agreed and only the details of the transfer remain to be settled, that is to say, from the date on which that suspensive effect is lifted (see, to that effect, judgment of 13 September 2017, *Khira Amayry*, C-60/16, EU:C:2017:675, paragraph 55).

47 Where the suspension of the implementation of a transfer decision pending the outcome of the appeal against it is the result of a decision taken by the competent authorities pursuant to Article 27(4) of the Dublin III Regulation, the person concerned by that decision is in a situation comparable in every respect to that of a person whose appeal is given suspensive effect by the effects of legislation or a judicial decision, pursuant to Article 27(3) of that regulation (see, to that effect, judgment of 13 September 2017, *Khira Amayry*, C-60/16, EU:C:2017:675, paragraph 68).

48 Furthermore, if Article 29(1) of the Dublin III Regulation were to be interpreted as meaning that, where the competent authority makes use of the option provided for in Article 27(4) of that regulation, the time limit for transfer should still be calculated from the acceptance of the request to take charge or take back, the latter provision would be largely deprived of its useful effect, since it could not be used without the risk of preventing the transfer being carried out within the time limit laid down by that regulation (see, to that effect, judgment of 13 September 2017, *Khira Amayry*, C-60/16, EU:C:2017:675, paragraph 71).

49 Therefore, Article 29(1) of the Dublin III Regulation must, like the third subparagraph of Article 28(3) thereof, be interpreted as meaning that, where suspensive effect has been given to an appeal against a transfer decision in accordance with Article 27(4) of that regulation, the time limit for transfer runs from the final decision on that appeal, so that the transfer decision must be enforced no later than six months from the final decision on that appeal.

50 However, such a solution can only be applied if the decision to suspend the implementation of the transfer decision was adopted by the competent authorities within the scope of Article 27(4) of the Dublin III Regulation.

51 In order to determine the limits of that scope, account must be taken of the terms of that provision, its context and the objectives pursued by the legislation of which it forms part (see, to that effect, judgment of 24 March 2022, *Autoriteit Persoonsgegevens*, C-245/20, EU:C:2022:216, paragraph 28 and the case-law cited).

52 In that regard, it is necessary, in the first place, to emphasise that, as the Advocate General pointed out in points 50 and 51 of his Opinion, it follows from the very wording of Article 27(4) of the Dublin III Regulation that the application of that provision is closely linked to the lodging by the person concerned of an appeal against the transfer decision, since the suspension ordered by those authorities must take place ‘pending the outcome of the appeal’.

53 As regards, in the second place, the context of Article 27(4) of that regulation, it should be noted that that provision forms part of Section IV of Chapter VI of the regulation, which is entitled ‘Procedural safeguards’.

54 Furthermore, that provision is contained in an article entitled ‘Remedies’ and comes after a paragraph dealing with the suspensive effect of the action against the transfer decision, which it complements by authorising Member States to allow the competent authorities to suspend the implementation of the transfer decision in cases where its suspension following the bringing of an action does not result from the effects of legislation or a judicial decision.

55 Moreover, as noted in paragraph 49 of the present judgment, it follows from the link between that provision and Article 29(1) of the Dublin III Regulation that the suspensive effect thus granted necessarily ceases when the final decision on the appeal against the transfer decision is adopted, since Article 29(1) does not contain any rules intended to govern the calculation of the time limit for transfer in the event that the suspension of the implementation of a transfer decision is lifted by the competent authorities before or after the outcome of the appeal against that decision.

56 In the third place, it follows from recitals 4 and 5 of the Dublin III Regulation that its purpose is to establish a clear and workable method, based on objective and fair criteria for both the Member States and the persons concerned, in order to determine rapidly the Member State responsible for examining an application for international protection, so as to guarantee effective access to the procedures for granting such protection and not to compromise the objective of the rapid processing of applications for international protection (judgment of 19 March 2019, *Jawo*, C-163/17, EU:C:2019:218, paragraph 58).

57 With a view to achieving that objective of expedition, the EU legislature provided, as a framework for the take-charge and take-back procedures, a set of mandatory time limits intended to ensure that those procedures are implemented without undue delay (see, to that effect, judgment of 13 November 2018, *X and X*, C-47/17 and C-48/17, EU:C:2018:900, paragraph 69 and the case-law cited).

58 In particular, the six-month time limit for transfers laid down in Article 29(1) of the Dublin III Regulation is intended to ensure that the person concerned is effectively transferred as soon as possible to the Member State responsible for examining his or her application for international protection, while allowing, having regard to the practical complexity and organisational difficulties involved in implementing the transfer of that person, the necessary time for the two Member States concerned to consult each other with a view to carrying out that transfer and, more specifically, the requesting Member State to determine the details for implementing the transfer (see, to that effect, judgment of 19 March 2019, *Jawo*, C-163/17, EU:C:2019:218, paragraph 59).

59 In view of the interruptive effect which the suspension of the implementation of a transfer decision based on Article 27(4) of that regulation has on the time limit for transfer, as explained in paragraph 49 of the present judgment, to interpret that provision as allowing Member States to permit the competent authorities to suspend the implementation of transfer decisions on grounds which have no direct link with the judicial protection of the person concerned would risk rendering ineffective the time limit for transfer set out in Article 29(1) of that regulation, altering the division of responsibilities between Member States resulting from the Dublin III Regulation and prolonging the processing of applications for international protection.

60 That being so, it should also be noted that the EU legislature did not intend to sacrifice the judicial protection of the persons concerned to the requirement of expedition in the processing of

applications for international protection and, on the contrary, significantly enhanced, by that regulation, the procedural safeguards offered to those persons in the context of the system for determining the Member State responsible devised by the EU legislature (the Dublin system) (see, to that effect, judgment of 7 June 2016, *Ghezelbash*, C-63/15, EU:C:2016:409, paragraph 57).

61 Accordingly, it must be held that a suspension of the implementation of a transfer decision may be ordered by the competent authorities, in accordance with Article 27(4) of the Dublin III Regulation, only where the circumstances surrounding that implementation imply that the person concerned must, in order to ensure his or her effective judicial protection, be allowed to remain in the territory of the Member State which adopted that decision until a final decision on the appeal has been taken.

62 It follows that a revocable decision to suspend the implementation of a transfer decision on the ground that such implementation is materially impossible because of the COVID-19 pandemic cannot be considered to be adoptable under Article 27(4) of the Dublin III Regulation, in so far as that ground does not have a direct link with the judicial protection of the person concerned.

63 The fact, put forward by the referring court and the German Government, that it follows from German law that the material impossibility of enforcing a transfer decision implies that that decision is unlawful cannot call that conclusion into question.

64 First, the revocable nature of a decision to suspend the implementation of a transfer decision rules out the possibility that that suspension was ordered pending the outcome of the appeal against the transfer decision and with the aim of guaranteeing the judicial protection of the person concerned, since it cannot be ruled out that the suspension may be revoked before the outcome of that appeal.

65 Secondly, it must be emphasised that the EU legislature did not consider that the fact that it was materially impossible to implement the transfer decision should be regarded as justifying the interruption or suspension of the time limit for transfer laid down in Article 29(1) of the Dublin III Regulation.

66 That legislature did not include in that regulation any general provision for such interruption or suspension.

67 Furthermore, as regards certain frequent cases where it is materially impossible to implement the transfer decision, that legislature has confined itself, in Article 29(2) of that regulation, to providing that the time limit for transfer may be extended to a maximum of one year if it has not been possible to carry out the transfer because the person concerned has been imprisoned, or to a maximum of 18 months if the person concerned absconds.

68 In addition to the fact that that provision envisages not the interruption or suspension of the time limit for transfer but its extension, it should be noted that that extension is of an exceptional nature and must therefore be interpreted strictly, which precludes its application by analogy to other cases in which it is impossible to implement the transfer decision (see, to that effect, judgments of 19 March 2019, *Jawo*, C-163/17, EU:C:2019:218, paragraph 60, and of 31 March 2022, *Bundesamt für Fremdenwesen und Asyl and Others (Committal of an asylum seeker to a psychiatric hospital)*, C-231/21, EU:C:2022:237, paragraphs 54 and 56).

69 The Court has moreover held that the six-month time limit for transfer provided for in Article 29(1) of the Dublin III Regulation must be applied in situations where the person concerned

cannot be transferred because of his or her state of health (see, to that effect, judgment of 16 February 2017, *C. K. and Others*, C-578/16 PPU, EU:C:2017:127, paragraph 89) or because of his or her compulsory placement in a hospital psychiatric department (see, to that effect, judgment of 31 March 2022, *Bundesamt für Fremdenwesen und Asyl and Others (Committal of an asylum seeker to a psychiatric hospital)*, C-231/21, EU:C:2022:237, paragraph 62).

70 Consequently, the competent authorities cannot validly rely on the regime applicable under national law in cases where it is materially impossible to implement a transfer decision in order to justify the application of Article 27(4) of the Dublin III Regulation and thus prevent the application of the time limit for transfer laid down, with a view to ensuring speediness in the processing of applications for international protection, in Article 29(1) of that regulation.

71 In the light of the foregoing, the answer to the first and second questions in Joined Cases C-245/21 and C-248/21 is that Article 27(4) and Article 29(1) of the Dublin III Regulation must be interpreted as meaning that the time limit for transfer provided for in the latter provision is not interrupted where the competent authorities of a Member State adopt, on the basis of Article 27(4), a revocable decision to suspend the implementation of a transfer decision on the ground that such implementation is materially impossible because of the COVID-19 pandemic.

The third questions

72 In view of the answer given to the first and second questions in Joined Cases C-245/21 and C-248/21, there is no need to answer the third questions in those cases, since they were put by the referring court in the event of an affirmative answer to those first and second questions.

Costs

73 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national 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 (First Chamber) hereby rules:

Article 27(4) and Article 29(1) 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 time limit for transfer provided for in the latter provision is not interrupted where the competent authorities of a Member State adopt, on the basis of Article 27(4) of that regulation, a revocable decision to suspend the implementation of a transfer decision on the grounds that such implementation is materially impossible due to the COVID-19 pandemic.

[Signatures]

* Language of the case: German.

