Reports of Cases

JUDGMENT OF THE COURT (Third Chamber)

4 June 2020*

(Reference for a preliminary ruling — Jurisdiction, recognition and enforcement of decisions in matters relating to maintenance obligations — Regulation (EC) No 4/2009 — Article 41(1) — Judicial cooperation in civil matters — Regulation (EU) No 1215/2012 — Article 24(5) — Maintenance order declared enforceable — Application opposing enforcement — Jurisdiction of the court of the Member State of enforcement)

In Case C-41/19,

REQUEST for a preliminary ruling under Article 267 TFEU from the Amtsgericht Köln (Local Court, Cologne, Germany), made by decision of 14 January 2019, received at the Court on 23 January 2019, in the proceedings between

FX

v

GZ, represented for legal purposes by her mother,

THE COURT (Third Chamber),

composed of A. Prechal, President of the Chamber, L.S. Rossi (Rapporteur), J. Malenovský, F. Biltgen and N. Wahl, Judges,

Advocate General: M. Bobek,

Registrar: M. Krausenböck, Administrator,

having regard to the written procedure and further to the hearing on 27 November 2019,

after considering the observations submitted on behalf of:

– FX, by H.W. Junker, Rechtsanwalt,

– GZ, represented for legal purposes by her mother, Mrs B.,

– the German Government, by J. Möller, M. Hellmann and U. Bartl, acting as Agents,

– the Polish Government, by B. Majczyna, R. Stańczyk and S. Żyrek, acting as Agents,

– the Portuguese Government, by L. Inez Fernandes, P. Barros da Costa, L. Medeiros and S. Duarte Afonso, acting as Agents,

* Language of the case: German.

– the European Commission, by M. Wilderspin and M. Heller, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 27 February 2020,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of, on the one hand, Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations (OJ 2009 L 7, p. 1) and, on the other hand, Article 24(5) of Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2012 L 351, p. 1).

2 The request has been made in proceedings between FX, domiciled in Germany, and his daughter GZ, a minor, represented for legal purposes by her mother and domiciled in Poland, as to whether the referring court has jurisdiction to adjudicate on FX's application opposing enforcement of the maintenance claim against him.

Legal context

European Union law

Regulation No 4/2009

3 Recitals 9 to 11, 30 and 44 of Regulation No 4/2009 read as follows:

'(9) A maintenance creditor should be able to obtain easily, in a Member State, a decision which will be automatically enforceable in another Member State without further formalities.

(10) In order to achieve this goal, it is advisable to create a Community instrument in matters relating to maintenance obligations bringing together provisions on jurisdiction, conflict of laws, recognition and enforceability, enforcement, legal aid and cooperation between Central Authorities.

(11) The scope of this Regulation should cover all maintenance obligations arising from a family relationship, parentage, marriage or affinity, in order to guarantee equal treatment of all maintenance creditors. For the purposes of this Regulation, the term "maintenance obligation" should be interpreted autonomously.

…

(30) In order to speed up the enforcement in another Member State of a decision given in a Member State bound by the [Protocol on the Law Applicable to Maintenance Obligations, signed on 23 November 2007 at the Hague, approved on behalf of the European Community by Council Decision 2009/941/EC of 30 November 2009 (OJ 2009 L 331, p. 17)] it is necessary to limit the grounds of refusal or of suspension of enforcement which may be invoked by the debtor on account of the cross-border nature of the maintenance claim. This limitation should not affect

the grounds of refusal or of suspension laid down in national law which are not incompatible with those listed in this Regulation, such as the debtor's discharge of his debt at the time of enforcement or the unattachable nature of certain assets.

…

(44) This Regulation should amend [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)] by replacing the provisions of that Regulation applicable to maintenance obligations. Subject to the transitional provisions of this Regulation, Member States should, in matters relating to maintenance obligations, apply the provisions of this Regulation on jurisdiction, recognition, enforceability and enforcement of decisions and on legal aid instead of those of Regulation (EC) No 44/2001 as from the date on which this Regulation becomes applicable.'

4 Article 1(1) of Regulation No 4/2009 provides:

'This Regulation shall apply to maintenance obligations arising from a family relationship, parentage, marriage or affinity.'

5 Article 2 of that regulation provides:

'1. For the purposes of this Regulation:

1. the term "decision" shall mean a decision in matters relating to maintenance obligations given by a court of a Member State, whatever the decision may be called, including a decree, order, judgment or writ of execution …

…

4. the term "Member State of origin" shall mean the Member State in which … the decision has been given …

5. the term "Member State of enforcement" shall mean the Member State in which the enforcement of the decision … is sought;

…'

6 Article 3 of that regulation states:

'In matters relating to maintenance obligations in Member States, jurisdiction shall lie with:

(a) the court for the place where the defendant is habitually resident, or

(b) the court for the place where the creditor is habitually resident …

…'

7 Under Article 8(1) of the regulation, the article being entitled 'Limit on proceedings':

'Where a decision is given in a Member State or a … Contracting State [of the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, concluded on 23 November 2007 at the Hague, approved on behalf of the European Union by Council Decision 2011/432/EU of 9 June 2011 (OJ 2011 L 192, p. 39)] where the creditor is habitually resident,

proceedings to modify the decision or to have a new decision given cannot be brought by the debtor in any other Member State as long as the creditor remains habitually resident in the State in which the decision was given.'

8 Chapter IV of Regulation No 4/2009, entitled 'Recognition, enforceability and enforcement of decisions', is divided into three sections and applies, inter alia, to the enforcement of decisions in matters relating to maintenance obligations. According to Article 16 of Regulation No 4/2009, Section 1, which covers Articles 17 to 22 of the regulation, applies to decisions given in a Member State bound by the Protocol on the Law Applicable to Maintenance Obligations; Section 2, which includes Articles 23 to 38 of the regulation, applies to decisions given in a Member State not bound by that protocol; while Section 3, which covers Articles 39 to 43 of the regulation, contains provisions that apply to all decisions.

9 Article 41 of Regulation No 4/2009, entitled 'Proceedings and conditions for enforcement', which is in Section 3 of Chapter IV of the regulation, states as follows:

'1. Subject to the provisions of this Regulation, the procedure for the enforcement of decisions given in another Member State shall be governed by the law of the Member State of enforcement. A decision given in a Member State which is enforceable in the Member State of enforcement shall be enforced there under the same conditions as a decision given in that Member State of enforcement.

…'

10 Article 42 of that regulation provides:

'Under no circumstances may a decision given in a Member State be reviewed as to its substance in the Member State in which recognition, enforceability or enforcement is sought.'

11 Under Article 64(2) of Regulation No 4/2009:

'The right of a public body to act in place of an individual to whom maintenance is owed or to seek reimbursement of benefits provided to the creditor in place of maintenance shall be governed by the law to which the body is subject.'

Regulation No 1215/2012

12 Recital 10 of Regulation No 1215/2012 states:

'The scope of this Regulation should cover all the main civil and commercial matters apart from certain well-defined matters, in particular maintenance obligations, which should be excluded from the scope of this Regulation following the adoption of Regulation [No 4/2009].'

13 Article 1 of Regulation No 1215/2012 provides:

'1. This Regulation shall apply in civil and commercial matters whatever the nature of the court or tribunal. …

2. This Regulation shall not apply to:

…

(e) maintenance obligations arising from a family relationship, parentage, marriage or affinity;

…’

14 Article 24 of Regulation No 1215/2012, which is in Section 6 of Chapter II of the regulation, that section being entitled ‘Exclusive jurisdiction’, states:

‘The following courts of a Member State shall have exclusive jurisdiction, regardless of the domicile of the parties:

…

(5) in proceedings concerned with the enforcement of judgments, the courts of the Member State in which the judgment has been or is to be enforced.’

German law

The ZPO

15 Paragraph 767 of the Zivilprozessordnung (Code of civil procedure), in its version applicable to the dispute in the main proceedings (BGBl. 2007 I, p. 1781; ‘the ZPO’), entitled ‘Application opposing enforcement’, states:

‘(1) Debtors are required to raise objections that concern the claim itself as established by the judgment by bringing a corresponding action before the court of first instance dealing with the case.

(2) Such objections by way of an action may admissibly be raised only in so far as the grounds on which they are based did not arise until after the close of the hearing that was the last opportunity, pursuant to the stipulations of the present Code, for objections to be raised, and thus can no longer be raised by entering a challenge.

(3) In the action that he or she is to bring, the debtor must raise all objections that he or she could have raised at the time when he or she brought the action.’

The FamFG

16 Paragraph 120 of the Gesetz über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit (Law on proceedings in family matters and matters subject to non-contentious proceedings; ‘the FamFG’), entitled ‘Enforcement’, states:

‘(1) Enforcement in cases concerning marital and family dispute matters shall take place in accordance with the provisions of [the ZPO] concerning compulsory enforcement.

…’

The AUG

17 Paragraph 40 of the Auslandsunterhaltsgesetz (Law on the recovery of maintenance in relations with foreign States) of 23 May 2011 (BGBl. 2011 I, p. 898; ‘the AUG’), provides:

‘(1) If enforcement is to be authorised in accordance with the decision, the court shall rule that an order for enforcement must be issued in respect of the decision …’

18 Paragraph 66 of the AUG, entitled 'Application opposing enforcement', states:

'(1) If a foreign decision is enforceable in accordance with [Regulation No 4/2009] without *exequatur* proceedings or is declared enforceable in accordance with that regulation …, the debtor may raise objections to the claim itself in proceedings brought in accordance with Paragraph 120(1) of [the FamFG], in conjunction with Paragraph 767 of [the ZPO]. If the decision is a judicial decision, this shall apply only to the extent to which the reasons on which the objections are based did not arise until after the decision had been issued.

…

(3) The application made in accordance with Paragraph 120(1) of [the FamFG], in conjunction with Paragraph 767 of [the ZPO], shall be lodged with the court which has ruled on the application for issuance of the order for enforcement. …'

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

19 By decision of the Sąd Okręgowy w Krakowie (Regional Court, Krakow, Poland) of 26 May 2009, FX was ordered to make monthly maintenance payments of around EUR 100 for the benefit of his daughter GZ, a minor, retroactively from June 2008.

20 Further to GZ's application of 20 July 2016, the Amtsgericht Köln (Local Court, Cologne, Germany), by order of 27 July 2016, decided that an order for enforcement was to be issued in respect of the aforementioned decision of the Sąd Okręgowy w Krakowie (Regional Court, Krakow).

21 On the basis of that order declared enforceable, GZ, represented for legal purposes by her mother, initiated enforcement proceedings against FX in Germany. Challenging those proceedings, FX lodged before the Amtsgericht Köln (Local Court, Cologne) on 5 April 2018 an application opposing enforcement, pursuant to Paragraph 767 of the ZPO.

22 In support of his application, FX submits that the maintenance debt at issue in the main proceedings was discharged either directly until 2010 or, since December 2010, through the Maintenance Fund (Poland), to which FX claims to have reimbursed the sums paid to GZ to the extent of his financial capacity. FX maintains that, in any event, the debt has been predominantly settled.

23 The referring court has doubts, in the first place, as to whether the application opposing enforcement that FX lodged before it falls within its international jurisdiction.

24 On the one hand, the referring court states that if that application is to be treated as a matter relating to maintenance obligations within the meaning of Article 1 of Regulation No 4/2009, it has no international jurisdiction under that regulation and accordingly the Polish courts would have exclusive jurisdiction to examine FX's objection that the maintenance debt at issue in the main proceedings has been discharged.

25 In that regard, the referring court notes that part of the German literature takes the view that an application opposing enforcement under Paragraph 767 of the ZPO is in fact to be treated as a matter relating to maintenance obligations within the meaning of Regulation No 4/2009 in so far as the objections raised in such an application, in particular those relating to the fulfilment or subrogation of that claim, are ultimately directed against the order for enforcement as such rather than the manner of the enforcement, which is to be assessed purely under enforcement law. Similarly, the referring court points out that that application opposing enforcement functionally corresponds to an application seeking reduction of the maintenance claim in respect of which an order for enforcement has been issued, which modification application, under Article 8 of Regulation No 4/2009, is subject to the

jurisdictional principles set out therein. In the referring court's view, that interpretation, which is supported by part of the German literature and which the referring court is inclined towards, is the only one compatible with the objective pursued by that regulation, namely guaranteeing the protection and jurisdictionally privileged status of the maintenance creditor, without, accordingly, the creditor having to defend himself, before the courts of the Member State of enforcement of the claim for which an order of enforcement has been issued, against an application opposing enforcement concerning substantive objections to that claim.

26 On the other hand, the referring court observes that the German legislature, conversely, is evidently of the opinion that the courts of the Member State of enforcement of a maintenance claim have jurisdiction to adjudicate on an application opposing enforcement, such as that provided for in Paragraph 767 of the ZPO, in which the debtor is authorised to raise objections to the claim itself. According to the referring court, the prevailing view in Germany is furthermore that such an application opposing enforcement does not come under matters relating to maintenance obligations within the meaning of Regulation No 4/2009 on the ground that, inter alia, the legal protection objective sought is directed solely against the enforcement of the claim, whereas the continuance of the original order remains untouched.

27 If that second position is to prevail, the referring court asks, in the second place, whether FX's application opposing enforcement is then to be treated as 'proceedings concerned with the enforcement of judgments' within the meaning of Article 24(5) of Regulation No 1215/2012.

28 According to the referring court, the judgments of 4 July 1985, *AS-Autoteile Service* (220/84, EU:C:1985:302) and of 13 October 2011, *Prism Investments* (C-139/10, EU:C:2011:653) are not capable, by themselves, of providing an answer to that question. Indeed, they were delivered in the regulatory framework preceding the entry into force of Regulation No 4/2009. In addition, pursuant to Article 1(2)(e) of Regulation No 1215/2012, that regulation does not apply to maintenance obligations.

29 In those circumstances, the Amtsgericht Köln (Local Court, Cologne) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) Does an application opposing enforcement made pursuant to Paragraph 767 [of the ZPO] against a foreign maintenance order constitute a matter relating to maintenance obligations within the meaning of [Regulation No 4/2009]?

(2) If not, does an application opposing enforcement made pursuant to Paragraph 767 [of the ZPO] against a foreign maintenance order constitute proceedings concerned with the enforcement of judgments within the meaning of Article 24(5) of [Regulation No 1215/2012]?'

Consideration of the questions referred

30 By its questions, which it is appropriate to examine together, the referring court asks, in essence, whether an application opposing enforcement lodged by a maintenance debtor against the enforcement of a decision given by a court of the Member State of origin and which established that claim falls within the scope of Regulation No 4/2009 or that of Regulation No 1215/2012 and the international jurisdiction of the courts of the Member State of enforcement.

31 In that regard, it is important, in the first place, to note that it is apparent in particular from recitals 10 and 11, Article 1(1) and Article 2 of Regulation No 4/2009 that the latter constitutes an instrument of the European Union bringing together, inter alia, the provisions on jurisdiction, conflicts of laws and the recognition, enforceability and enforcement of judicial decisions in matters relating to maintenance obligations arising from a family relationship, parentage, marriage or affinity.

32 By that instrument, the EU legislature intended to replace the provisions on maintenance obligations in Regulation No 44/2001 with provisions which, in view of the particularly urgent nature of maintenance claims, simplify the procedure before the enforcing court, thus making it quicker (judgment of 9 February 2017, *S.*, C-283/16, EU:C:2017:104, paragraph 32). To that end, Regulation No 4/2009 includes Chapter IV, a chapter entitled 'Recognition, enforceability and enforcement of decisions' which governs, inter alia, the enforcement of decisions of the courts of the Member States in matters relating to maintenance obligations.

33 Regulation No 4/2009 thus constitutes *lex specialis* in matters relating, in particular, to jurisdiction, applicable law and the recognition and enforcement of judicial decisions in the specific field of maintenance obligations, which is confirmed, moreover, by Regulation No 1215/2012, which repealed Regulation No 44/2001. It follows clearly from Article 1(2)(e) of Regulation No 1215/2012, read in the light of recital 10 thereof, that maintenance obligations arising from a family relationship, parentage, marriage or affinity following the adoption of Regulation No 4/2009 are excluded from the material scope of the former.

34 Therefore, as noted by the Advocate General, in essence, in points 39 and 40 of his Opinion, a dispute such as that in the main proceedings, brought before the court of a Member State (the Member State of enforcement), which seeks enforcement of a decision declared enforceable in that Member State and given by a court in another Member State (the Member State of origin), in matters relating to maintenance obligations arising from a family relationship, falls within the scope of Regulation No 4/2009, in particular that of Chapter IV thereof.

35 The fact that a national court is, like the referring court, hearing an application opposing enforcement of the decision given by a court of the Member State of origin which established a maintenance claim does not alter that assessment. As held by the Court, the application opposing enforcement under Paragraph 767 of the ZPO has a close link with the procedure for enforcement (see, to that effect, judgment of 4 July 1985, *AS-Autoteile Service*, 220/84, EU:C:1985:302, paragraph 12). Therefore, when such an application is connected with an action seeking enforcement of a decision in matters relating to maintenance obligations, it falls within the scope of Regulation No 4/2009, just as the latter does.

36 With regard, in the second place, to the referring court's doubts as to whether, being a court of the Member State of enforcement of the maintenance claim, it has international jurisdiction to adjudicate on an application opposing enforcement such as that at issue in the main proceedings, it is important to note that, while Regulation No 4/2009, in Chapter IV thereof, contains a series of provisions on the enforcement of decisions on matters relating to maintenance obligations, none of those provisions explicitly concerns jurisdiction at the stage of enforcement.

37 Nonetheless, among the provisions of Section 3 of Chapter IV of Regulation No 4/2009, that section being entitled 'Common provisions', Article 41(1) thereof states that (i) subject to the provisions of that regulation, the procedure for the enforcement of decisions given in another Member State is to be governed by the law of the Member State of enforcement and (ii) a decision given in a Member State which is enforceable in the Member State of enforcement is to be enforced there under the same conditions as a decision given in that Member State of enforcement.

38 It therefore follows implicitly and necessarily from that provision of Regulation No 4/2009 that an application that has a close link with the procedure for the enforcement of a decision given by a court of the Member State of origin and which established a maintenance claim, such as the application opposing enforcement at issue in the main proceedings, falls within the jurisdiction of the courts of the Member State of enforcement, as does the application for enforcement of that decision.

39 In that regard, it would be inter alia contrary to the objectives of simplicity and speed mentioned in paragraph 32 above, and pursued by Regulation No 4/2009 in particular by means of the system of which Article 41(1) thereof forms part, for the competent court of the Member State of enforcement,

before which a maintenance creditor brought an action to have a decision declared enforceable be enforced in that Member State, to have to find in any event that it has no jurisdiction to adjudicate on an application opposing enforcement, in favour of the jurisdiction of the Member State of origin, on the ground that the latter, being a court of the creditor's Member State of residence, is better placed to ensure the latter's protection under Article 3(b) of Regulation No 4/2009.

40 On the one hand, the Court has held that proximity between the competent court and the maintenance creditor is not the sole objective pursued by Regulation No 4/2009 (judgment of 18 December 2014, *Sanders and Huber*, C-400/13 and C-408/13, EU:C:2014:2461, paragraph 40). That regulation seeks also to guarantee the proper administration of justice, not only from the point of view of optimising the organisation of the courts but also from that of the interests of the litigant, whether claimant or defendant, to benefit, inter alia, from easier access to justice and predictable rules on jurisdiction (see, to that effect, judgment of 8 December 2014, *Sanders and Huber*, C-400/13 and C-408/13, EU:C:2014:2461, paragraph 29).

41 On the other hand, the obligation imposed on the court of the Member State of enforcement to decline in any event jurisdiction to adjudicate on an application opposing enforcement, such as that at issue in the main proceedings, in favour of the court of the Member State of origin which established the maintenance claim would not result in facilitating as far as possible the recovery of international maintenance claims, in accordance with one of the main objectives pursued by Regulation No 4/2009 but, on the contrary, it would result in an excessively long and cumbersome procedure and cause the parties to waste a considerable amount of time and additional expenses (see, to that effect, judgment of 18 December 2014, *Sanders and Huber*, C-400/13 and C-408/13, EU:C:2014:2461, paragraph 41).

42 It follows that a court of the Member State of enforcement hearing an action for enforcement of a decision given by a court of the Member State of origin and which established a maintenance claim has jurisdiction under Regulation No 4/2009, in particular Article 41(1) thereof, to adjudicate on an application opposing enforcement where that application has a close link with the action for enforcement brought before it.

43 It should be added in that regard that in the dispute in the main proceedings, the application opposing enforcement is based on the applicant's assertion that he has already predominantly discharged the maintenance debt at issue either directly or indirectly through the Maintenance Fund.

44 While it is a matter for the Court to provide guidance on interpreting Regulation No 4/2009 which may be of assistance to the referring court in connection with such a ground of opposition, it is for that court alone to assess the facts and the evidence adduced by the parties to the main proceedings in support of their claims.

45 As noted by the Advocate General in point 78 of his Opinion, the satisfaction of a debt is one of the grounds typically taken into account at the stage of enforcement, as made clear, moreover, in the second sentence of recital 30 of Regulation No 4/2009, which states that the debtor's discharge of his or her debt at the time of enforcement is one of the grounds of refusal or of suspension of enforcement laid down in national law which are not incompatible with that regulation.

46 Where a decision was given in a Member State in which the creditor is habitually resident, such a ground, relied on by the debtor in support of an application opposing enforcement before the court of the Member State of enforcement, does not seek to modify that decision or to have a new decision given in the latter Member State, within the meaning of Article 8 of Regulation No 4/2009, nor does it seek to have the decision reviewed as to the substance in that Member State, within the meaning of Article 42 thereof.

47 An application opposing enforcement which is based on that ground has a close link with the procedure for enforcement in that it seeks only to challenge the amount up to which the decision which established the maintenance claim may still be enforced, on the basis of evidence produced by the debtor as to the alleged discharge of the debt and the admissibility and validity of which are a matter for the court of the Member State of enforcement to assess.

48 In addition, in the dispute in the main proceedings, it is clear from the provisions of Paragraph 66 of the AUG that the maintenance debtor can raise objections only on the basis of events that occurred after the adoption of the decision which established the maintenance claim. Such provisions thus prevent events invoked by the maintenance debtor before the court of the Member State of origin, or which could have been invoked, from being validly presented in support of an application opposing enforcement.

49 Furthermore, as observed by the Advocate General, in essence, in points 79 to 81 of his Opinion, the assessment in paragraphs 46 and 47 above is not invalidated by the involvement, in the dispute in the main proceedings, of a public body such as the Maintenance Fund, which becomes the substitute debtor in respect of the maintenance creditor.

50 In such a case, the involvement of such a body, which, moreover, is envisaged in Article 64(2) of Regulation No 4/2009, concerns only the manner in which the maintenance debt is discharged and the evidence adduced by the debtor before the court of the Member State of enforcement in support of his submission that he has discharged the debt indirectly. Such an involvement has no bearing on the substance of the decision given by the court of the Member State of origin which established the maintenance claim.

51 Having regard to all of the foregoing, the answer to the questions referred is that:

– Regulation No 4/2009 is to be interpreted as meaning that an application opposing enforcement brought by the maintenance debtor against enforcement of a decision given by a court of the Member State of origin and which established that debt, which has a close link with the procedure for enforcement, falls within its scope and is within the international jurisdiction of the courts of the Member State of enforcement.

– Pursuant to Article 41(1) of Regulation No 4/2009 and to the relevant provisions of national law, it is for the referring court, being a court of the Member State of enforcement, to adjudicate on the admissibility and the validity of the evidence adduced by the maintenance debtor, seeking to support the submission that he has predominantly discharged his debt.

Costs

52 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 (Third Chamber) hereby rules:

Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations is to be interpreted as meaning that an application opposing enforcement brought by the maintenance debtor against enforcement of a decision given by a court of the Member State of origin and which established that debt, which has a close link with the procedure for enforcement, falls within its scope and is within the international jurisdiction of the courts of the Member State of enforcement.

Pursuant to Article 41(1) of Regulation No 4/2009 and to the relevant provisions of national law, it is for the referring court, being a court of the Member State of enforcement, to adjudicate on the admissibility and the validity of the evidence adduced by the maintenance debtor, seeking to support the submission that he has predominantly discharged his debt.

[Signatures]