Reports of Cases

JUDGMENT OF THE COURT (Tenth Chamber)

3 July 2025*

(Reference for a preliminary ruling – Judicial cooperation in criminal matters – Framework Decision 2008/675/JHA – Article 3(1) and (2) – Taking account of previous convictions handed down in another Member State in the course of new criminal proceedings – Legal effects equivalent to previous national convictions – Framework Decision 2009/315/JHA – Exchange of information extracted from the criminal record between Member States – Article 2(a) – Concept of criminal conviction – Administrative offences – Classification of offences under national law – Acts not constituting criminal offences under national law)

In Case C-263/24 [Smiliev],[i]

REQUEST for a preliminary ruling under Article 267 TFEU from the Rayonen sad Tutrakan (District Court, Tutrakan, Bulgaria), made by decision of 15 April 2024, received at the Court on 15 April 2024, in the criminal proceedings against

YE,

other party:

Rayonna prokuratura Silistra, Teritorialno otdelenie Tutrakan,

THE COURT (Tenth Chamber),

composed of D. Gratsias (Rapporteur), President of the Chamber, E. Regan and J. Passer, Judges,

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 European Commission, by H. Leupold, J. Vondung and I. Zaloguin, acting as Agents,

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

gives the following

* Language of the case: Bulgarian.

[i] The name of the present case is a fictitious name. It does not correspond to the real name of any of the parties to the proceedings.

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 3(1) of Council Framework Decision 2008/675/JHA of 24 July 2008 on taking account of convictions in the Member States of the European Union in the course of new criminal proceedings (OJ 2008 L 220, p. 32), read in conjunction with Article 2(a) of Council Framework Decision 2009/315/JHA of 26 February 2009 on the organisation and content of the exchange of information extracted from the criminal record between Member States (OJ 2009 L 93, p. 23), as amended by Directive (EU) 2019/884 of the European Parliament and of the Council of 17 April 2019 (OJ 2019 L 151, p. 143) ('Framework Decision 2009/315').

2 The request has been made in criminal proceedings brought against YE, a Bulgarian national, for driving a motor vehicle without the corresponding driving licence, within a period of less than one year after receiving an administrative penalty for the same acts.

Legal context

International law

3 Article 13 of the European Convention on Mutual Assistance in Criminal Matters (ETS No 30), signed at Strasbourg on 20 April 1959 ('the European Convention on Mutual Assistance'), provides, in paragraph 1 thereof:

'A requested Party shall communicate extracts from and information relating to judicial records, requested from it by the judicial authorities of a Contracting Party and needed in a criminal matter, to the same extent that these may be made available to its own judicial authorities in like case.'

European Union law

The Convention on Mutual Assistance between the Member States

4 Article 1 of the Convention established by the Council in accordance with Article 34 of the Treaty on European Union, on Mutual Assistance in Criminal Matters between the Member States of the European Union (OJ 2000 C 197, p. 3; 'the Convention on Mutual Assistance between the Member States'), entitled 'Relationship to other conventions on mutual assistance', is worded as follows:

'1. The purpose of this Convention is to supplement the provisions and facilitate the application between the Member States of the European Union, of:

(a) the [European Convention on Mutual Assistance];

…'

5 Article 6 of that convention, entitled 'Transmission of requests for mutual assistance', provides, in paragraph 1 thereof:

'Requests for mutual assistance … shall be made in writing, or by any means capable of producing a written record under conditions allowing the receiving Member State to establish authenticity. Such requests shall be made directly between judicial authorities with territorial competence for initiating and executing them, and shall be returned through the same channels unless otherwise specified in this Article.

…'

Framework Decision 2008/675

6 Recitals 2, 3, 5 to 8 and 13 of Framework Decision 2008/675 state as follows:

'(2) On 29 November 2000 the Council, in accordance with the conclusions of the Tampere European Council, adopted the programme of measures to implement the principle of mutual recognition of decisions in criminal matters …, which provides for the "adoption of one or more instruments establishing the principle that a court in one Member State must be able to take account of final criminal judgments rendered by the courts in other Member States for the purposes of assessing the offender's criminal record and establishing whether he has reoffended, and in order to determine the type of sentence applicable and the arrangements for enforcing it".

(3) The purpose of this Framework Decision is to establish a minimum obligation for Member States to take into account convictions handed down in other Member States. Thus this Framework Decision should not prevent Member States from taking into account, in accordance with their law and when they have information available, for example, final decisions of administrative authorities whose decisions can be appealed against in the criminal courts establishing guilt of a criminal offence or an act punishable under national law by virtue of being an infringement of the rules of law.

…

(5) The principle that the Member States should attach to a conviction handed down in other Member States effects equivalent to those attached to a conviction handed down by their own courts in accordance with national law should be affirmed, whether those effects be regarded by national law as matters of fact or of procedural or substantive law. However, this Framework Decision does not seek to harmonise the consequences attached by the different national legislations to the existence of previous convictions, and the obligation to take into account previous convictions handed down in other Member States exists only to the extent that previous national convictions are taken into account under national law.

(6) In contrast to other instruments, this Framework Decision does not aim at the execution in one Member State of judicial decisions taken in other Member States, but rather aims at enabling consequences to be attached to a previous conviction handed down in one Member State in the course of new criminal proceedings in another Member State to the extent that such consequences are attached to previous national convictions under the law of that other Member State.

Therefore this Framework Decision contains no obligation to take into account such previous convictions, for example, in cases where the information obtained under applicable instruments is not sufficient, where a national conviction would not have been possible regarding the act for which the previous conviction had been imposed or where the previously imposed sanction is unknown to the national legal system.

(7) The effects of a conviction handed down in another Member State should be equivalent to the effects of a national decision at the pre-trial stage of criminal proceedings, at the trial stage and at the time of execution of the sentence.

(8) Where, in the course of criminal proceedings in a Member State, information is available on a previous conviction in another Member State, it should as far as possible be avoided that the person concerned is treated less favourably than if the previous conviction had been a national conviction.

…

(13) This Framework Decision respects the variety of domestic solutions and procedures required for taking into account a previous conviction handed down in another Member State. The exclusion of a possibility to review a previous conviction should not prevent a Member State from issuing a decision, if necessary, in order to attach the equivalent legal effects to such previous conviction. …'

7 Article 1 of that framework decision, entitled 'Subject matter', provides, in paragraph 1 thereof:

'The purpose of this Framework Decision is to determine the conditions under which, in the course of criminal proceedings in a Member State against a person, previous convictions handed down against the same person for different facts in other Member States, are taken into account.'

8 Article 2 of the framework decision, which is entitled 'Definitions', states:

'For the purposes of this Framework Decision "conviction" means any final decision of a criminal court establishing guilt of a criminal offence.'

9 Article 3 of that Framework Decision, entitled 'Taking into account, in the course of new criminal proceedings, a conviction handed down in another Member State', provides, in paragraphs 1 to 3 thereof:

'1. Each Member State shall ensure that in the course of criminal proceedings against a person, previous convictions handed down against the same person for different facts in other Member States, in respect of which information has been obtained under applicable instruments on mutual legal assistance or on the exchange of information extracted from criminal records, are taken into account to the extent previous national convictions are taken into account, and that equivalent legal effects are attached to them as to previous national convictions, in accordance with national law.

2. Paragraph 1 shall apply at the pre-trial stage, at the trial stage itself and at the time of execution of the conviction, in particular with regard to the applicable rules of procedure, including those relating to provisional detention, the definition of the offence, the type and level of the sentence, and the rules governing the execution of the decision.

3. The taking account of previous convictions handed down in other Member States, as provided for in paragraph 1, shall not have the effect of interfering with, revoking or reviewing previous convictions or any decision relating to their execution by the Member State conducting the new proceedings.'

Framework Decision 2009/315

10 Recitals 6 and 10 of Framework Decision 2009/315 state:

'(6) [The] main aim [of this Framework Decision] is to improve the exchange of information on convictions …

…

(10) This Framework Decision should be without prejudice to the possibility of judicial authorities' directly requesting and transmitting information from criminal records pursuant to Article 13 in conjunction with Article 15(3), of the [European Convention on Mutual Assistance] and without prejudice to Article 6(1) of the [Convention on Mutual Assistance between the Member States].'

11 Article 1 of that framework decision, entitled 'Subject matter', provides:

'This Framework Decision:

(a) defines the conditions under which a convicting Member State shares information with other Member States on convictions;

(b) defines obligations for the convicting Member State and for the Member State of the convicted person's nationality (the "Member State of the person's nationality"), and specifies the methods to be followed when replying to a request for information extracted from criminal records;

(c) establishes a decentralised information technology system for the exchange of information on convictions based on the criminal records databases in each Member State, the European Criminal Records Information System (ECRIS).'

12 Article 2 of that framework decision, entitled 'Definitions', states:

'For the purposes of this Framework Decision:

'(a) "conviction" means any final decision of a criminal court against a natural person in respect of a criminal offence, to the extent these decisions are entered in the criminal record of the convicting Member State;

…

(c) "criminal record" means the national register or registers recording convictions in accordance with national law;

…’

13 Article 4 of that framework decision, entitled ‘Obligations of the convicting Member State’, states, in paragraph 2 thereof:

‘The central authority of the convicting Member State shall, as soon as possible, inform the central authorities of the other Member States of any convictions handed down within its territory against the nationals of such other Member States, as entered in the criminal record.

…’

14 Article 7 of Framework Decision 2009/315, entitled ‘Reply to a request for information on convictions’, provides, in paragraph 4 thereof:

‘Where information extracted from the criminal records on convictions handed down against a national of a Member State is requested under Article 6 from the central authority of a Member State other than the Member State of the person’s nationality, the requested Member State shall transmit such information to the same extent as provided for in Article 13 of the [European Convention on Mutual Assistance].’

Bulgarian law

The NK

15 Article 8(2) of the Nakazatelen Kodeks (Criminal Code; ‘the NK’) transposes Framework Decision 2008/675. Under that provision:

‘A conviction handed down in another Member State of the European Union, which is not subject to appeal, for an act which constitutes a criminal offence under the [NK] shall be taken into account in any criminal proceedings initiated against the same person in the Republic of Bulgaria.’

16 Article 66(1) of the NK is worded as follows:

‘Where the court imposes a custodial sentence of up to three years, it may suspend execution thereof for a period of three to five years if the person has not been convicted and had a custodial sentence imposed for a criminal offence of a general nature and if the court finds that, in order to achieve the objectives of the sentence, and, above all, for the rehabilitation of the person convicted, there is no need for the sentence to be executed.’

17 Article 78a of the NK provides, in paragraph 1 thereof:

‘A person of full age shall be released from criminal liability by the [competent] court and a fine of between [1 000 and 5 000 Bulgarian leva (BGN) (approximately EUR 500 to EUR 2 500)] shall be imposed on him or her if all the following conditions are met:

(a) … for the offence concerned, a custodial sentence not exceeding three years or another less severe penalty is provided for where committed intentionally, or a custodial sentence not exceeding five years or another less severe penalty is provided for where committed through negligence;

(b) the offender has neither been convicted of a criminal offence of a general nature nor released from criminal liability under the provisions of this section;

(c) the damage to property caused by the offence has been compensated.'

18 Article 343c of the NK is worded as follows:

'(1) Any person who drives a motor vehicle while banned from driving a motor vehicle, after having a penalty imposed on him or her for the same act in the context of an administrative procedure, shall be liable to a custodial sentence not exceeding three years and a fine of between [BGN 200 and 1 000 (approximately EUR 100 to 500)].

(2) Any person who, within one year of incurring a penalty under an administrative procedure for driving a motor vehicle without a corresponding driving licence, commits such an act shall incur a custodial sentence of between one year and three years and a fine of between [BGN 500 and BGN 1 200 (approximately EUR 250 to 600)].'

19 In accordance with Article 345 of the NK:

'(1) Any person who uses a licence plate issued for another motor vehicle or a licence plate not issued by the competent authorities shall be liable to a custodial sentence not exceeding one year or a fine of between [BGN 500 and BGN 1 000 (approximately EUR 250 to 500)].

(2) The penalty provided for in paragraph 1 shall also be applied to anyone who drives a motor vehicle which is not duly registered.'

The Nakazatelno-protsesualen kodeks

20 Under Article 247(1) of the Nakazatelno-protsesualen kodeks (Code of Criminal Procedure) (DV No 86 of 28 October 2005), proceedings at first instance are to be initiated by a bill of indictment or following a complaint lodged by the victim of the offence.

Naredba No 8 za funktsiite i organizatsiata na deynostta na byurata za sadimost

21 Article 40 of Naredba No 8 za funktsiite i organizatsiata na deynostta na byurata za sadimost (Regulation No 8 on the functions and organisation of the activities of the criminal records office) of 26 February 2008 provides, in paragraph 1 thereof:

'All convictions and administrative penalties handed down pursuant to Article 78a of the NK shall be entered in the list of convictions …'

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

22 YE incurred an administrative penalty, imposed by way of a ticket of 7 March 2023, which took effect on 4 May 2023, for driving a motor vehicle without a corresponding driving licence. In the present case, he is accused of having, on 25 October 2023, again committed the same acts, within a period of less than one year after having incurred a penalty under an administrative procedure for those acts, a criminal offence provided for in Article 343c(2) of the NK.

23 YE is being prosecuted before the Rayonen sad Tutrakan (District Court, Tutrakan, Bulgaria), which is the referring court. In the course of the judicial investigation, it was found that several convictions by national courts were handed down against YE on 2 November 2023 for the use of a false driving licence, an offence referred to in Article 316 of the NK, read in conjunction with Article 308(1) of the NK, on 7 December 2023 for an offence identical to that referred to in paragraph 22 of the present judgment, and on 19 January 2024, again, for the use of a false driving licence. Those convictions all amounted to a suspended prison sentence, imposed on the basis of Article 66(1) of the NK.

24 In addition, the referring court found, on the basis of information from ECRIS, that YE had also been convicted of infringements of road traffic legislation in other Member States.

25 Thus, by judgment of 15 November 2021, which became final on 3 January 2022, the politierechtbank Vilvoorde (Police Court, Vilvoorde, Belgium) handed down a number of convictions against YE relating to infringements of Belgian legislation committed on 14 June 2020 in Zaventem (Belgium).

26 First, for driving a vehicle that was not covered by compulsory insurance against civil liability and, secondly, for driving on the public highway a vehicle which was not registered or to which the registration plate issued at the time of registration was not affixed, YE was sentenced to a fine of EUR 800 or, failing payment thereof within the statutory period, to a ban on driving a motor vehicle for a period of 30 days, and withdrawal of the right to drive any motor vehicle for a period of one month.

27 Secondly, the court sentenced him to a fine of EUR 200 or, failing payment thereof within the statutory period, to a ban on driving a motor vehicle for a period of 30 days and also withdrawal of the right to drive any motor vehicle for a period of 15 days, for use of a mobile telephone as the driver of a vehicle on the public highway without that vehicle being stationary or parked.

28 Thirdly, the court sentenced him to a fine of EUR 200, or, failing payment thereof within the statutory period, to three days' imprisonment, for driving on the public highway in a vehicle registered in Belgium which did not have a valid roadworthiness test certificate, the relevant roadworthiness sticker and an identification report or a specification sheet or a visual inspection document for the vehicle corresponding to its use.

29 Furthermore, by judgment of 16 August 2023, which became final on 16 September 2023, the Amtsgericht Prüm (Local Court, Prüm, Germany) ordered YE to pay a fine of EUR 50 for driving a vehicle without a driving licence or after having been deprived of the right to drive.

30 By judgment of 15 December 2023, the referring court, taking into consideration YE's previous convictions, found him guilty of driving a vehicle without a driving licence and sentenced him to a term of imprisonment, without suspension, and a fine.

31 On 27 February 2024, that judgment was set aside by the Okrazhen sad Silistra (Provincial Court, Silistra, Bulgaria), which referred the case back to another formation of the referring court, ordering it to examine whether the penalties imposed by the Belgian court produced legal effects.

32 The referring court considers that the interpretation of Article 3(1) of Framework Decision 2008/675, read in conjunction with Article 2(a) of Framework Decision 2009/315, is necessary for the outcome of the case in the main proceedings. The recognition of the legal effects of both the

convictions handed down in Belgium and those handed down in Germany has an impact on the sentence liable to be imposed on the defendant, since those convictions had become final at the time of the acts at issue in the main proceedings and therefore constituted 'previous convictions' within the meaning of Article 3(1) of Framework Decision 2008/675.

33 The referring court states that it is, in principle, possible to release the defendant from criminal liability and to impose an administrative penalty on him if, in accordance with Article 78a(1)(b) of the NK, he was not convicted of a criminal offence 'of a general nature'. It would also be possible to suspend the enforcement of a custodial sentence on the basis of Article 66(1) of the NK if the defendant has not previously been sentenced for having committed a criminal offence of a general nature.

34 The referring court is uncertain as to the criteria enabling it to determine whether the offences committed by YE and penalised by the Belgian and German courts must be classified as criminal offences or administrative offences, for the purposes of taking them into account in the case in the main proceedings.

35 In the first place, it considers that Article 3(1) of Framework Decision 2008/675 must be interpreted as meaning that it is necessary to take into account convictions handed down for acts liable to a penalty and not only for criminal offences, the latter concept having a narrower meaning in Bulgarian law.

36 In support of that interpretation, the referring court states that it is true that the Bulgarian version of Article 2 of Framework Decision 2008/675 refers, for the purposes of defining the concept of 'conviction', to any final decision of a criminal court establishing the guilt of a person for a 'criminal offence' (in Bulgarian, '*prestaplenie*'). However, it notes that Article 2(a) of Framework Decision 2009/315, in the same language version, defines the term 'conviction' as any final decision of a criminal court handed down against a natural person for an 'act liable to a penalty' (in Bulgarian, '*nakazuemo deyanie*'). Similarly, the German- and Dutch-language versions of the latter provision use the terms '*Straftat*' and '*strafbaar feit*' respectively, which are similar.

37 In the second place, the referring court states that Bulgarian law draws a distinction between 'criminal' offences and 'administrative' offences, where the latter are not generally included in the criminal record and therefore are not to be classified as 'acts liable to a penalty' within the meaning of Article 2(a) of Framework Decision 2009/315 in the Bulgarian-language version. However, in accordance with Article 40(1) of Regulation No 8 of 26 February 2008, the criminal record is to list not only convictions for criminal offences, but also administrative penalties imposed pursuant to Article 78a of the NK. In addition, the referring court notes that Article 247 of the Code of Criminal Procedure draws a distinction between criminal offences 'of a general nature', that is to say, in respect of which proceedings are initiated by a bill of indictment by the public prosecutor, and 'private' offences, in respect of which the prosecution is brought following a complaint by the victim.

38 It observes that, by contrast, German and Belgian law use a different classification of acts liable to a penalty, the former distinguishing between two categories of acts, on the one hand, crimes ('*Verbrechen*') and, on the other hand, offences ('*Vergehen*'), and the latter providing for classification in three categories, crimes ('*misdaden*'), offences ('*wanbedrijven*') and minor offences ('*overtredingen*').

39 The information provided by ECRIS does not make it possible to determine the category for the acts covered by the previous convictions handed down in Belgium and Germany under the relevant national law, which, according to the referring court, prevents it from determining whether it must treat those acts, under Bulgarian law, as administrative or criminal offences and, in the latter case, whether they are criminal offences of a general or private nature.

40 In the third place, if those acts should be regarded as having an effect equivalent to that of acts included in the criminal record and in ECRIS under Bulgarian law, the referring court infers from this that it will be obliged to take the view that the convictions handed down by the Belgian and German courts can constitute, under Bulgarian law, only convictions for criminal offences or decisions releasing the offender from criminal liability, within the meaning of Article 78a of the NK. In that respect, on the one hand, it observes that those convictions were not entered in ECRIS as decisions releasing the offender from criminal liability. On the other hand, the categories of criminal offences concerned relate to offences which do not involve victims. The referring court thereby concludes that the acts at issue are criminal offences of a general nature, which precludes the application of Articles 66 and 78a of the NK in the case in the main proceedings.

41 In the event that it is not obliged to consider that the convictions in ECRIS are equivalent to convictions included in the Bulgarian criminal record, the referring court observes that there are no criteria that may be used to determine the categories covering the acts liable to a penalty of which the defendant was convicted in Belgium and Germany and that the taking account of convictions handed down in that regard will have to be determined on a case-by-case basis. In that context, it could be concluded that the penalties imposed by the foreign courts are convictions for administrative offences and therefore should not be taken into account.

42 However, the referring court is of the opinion that the entry of convictions in the criminal record for certain categories of offences is justified by the risk to public policy which, according to the legislature of the Member State concerned, those offences represent, an assessment which must be accepted by the other Member States. However, the obligation laid down in Article 3(1) of Framework Decision 2008/675 concerns the taking into account, by those Member States, of convictions which that Member State has decided to include in the criminal record, and therefore the taking into account of those convictions in the same manner as provided for in its national legislation as regards the effects of national convictions entered in its own criminal record.

43 In the fourth place, the referring court notes that Article 8(2) of the NK allows account to be taken of a conviction handed down in another Member State only in respect of acts constituting a criminal offence within the meaning of the Bulgarian Criminal Code. In addition, in accordance with recital 6 of Framework Decision 2008/675, the national court is not obliged to take account of a previous conviction handed down in another Member State where a national conviction would not be possible regarding the act for which the previous conviction had been imposed.

44 Therefore, according to the referring court, in the case in the main proceedings it was only possible to take into account the conviction handed down by the German court because it corresponds to a conviction for the criminal offence referred to in Article 343c of the NK and the conviction handed down by the Belgian court concerning the driving of an unregistered vehicle because it corresponds to a conviction for the criminal offence referred to in Article 345 of the NK. The other acts which are the subject of the convictions handed down by the latter court are not liable to a penalty as criminal offences under Bulgarian law, in particular the driving of a

vehicle which was not the subject of a roadworthiness test. The conviction handed down for the latter offence corresponds to a custodial sentence, which means that, if its effect were recognised, it would not be possible to impose a suspended sentence under Article 66 of the NK for the offence at issue in the main proceedings.

45 Consequently, the referring court considers that there is no conflict between Article 8(2) of the NK and Article 3(1) of Framework Decision 2008/675. Such an interpretation would make it possible, on the one hand, to ensure that the defendant will not be liable to a more severe penalty than if he had been convicted of the same act by the national court and, on the other hand, to avoid in practice conviction for an act which is not subject to prosecution in the executing State.

46 In those circumstances, the Rayonen sad Tutrakan (District Court, Tutrakan) decided to stay the proceedings and to refer to the Court the following questions for a preliminary ruling:

‘(1) Are Article 3(1) of [Framework Decision 2008/675] in conjunction with Article 2(a) of [Framework Decision 2009/315] to be interpreted as meaning that taking account of previous convictions handed down against the same person in other Member States means that the court before which new criminal proceedings are brought against the same person (the executing court) is obliged to take the view that the previous convictions recorded in [ECRIS] and handed down in other Member States concern the same categories of punishable acts, which are classified in national law according to the danger to the public which they pose and are subject to entry in the criminal record of the State of the executing court? Where there are several categories of punishable acts, which are subject to entry in the criminal record under the national law of the executing court, the legal consequences of which in case of conviction are different, does it fall to the national court before which criminal proceedings are brought against a particular person to assess in each individual case into which category, under the national classification, the acts which gave rise to the previous convictions handed down in other Member States fall? In which cases must such an assessment be made?

(2) Is Article 3(1) of [Framework Decision 2008/675] to be interpreted as meaning that it permits national legislation under which a court is obliged to disregard the previous convictions handed down in another Member State of the European Union in respect of acts which do not constitute criminal offences under the national law of the executing court?’

Procedure before the Court

47 By decision of the President of the Court of 24 June 2024, the present case was given priority pursuant to Article 53(3) of the Rules of Procedure.

48 By order of the President of the Court of 29 July 2024, the referring court’s request that the present case be dealt with under the expedited procedure provided for in Article 105 of the Rules of Procedure was refused.

Consideration of the questions referred

49 It is appropriate to begin the examination of the questions referred for a preliminary ruling with the second question.

The second question

50 By its second question, the referring court asks, in essence, whether Article 3(1) of Framework Decision 2008/675 must be interpreted as precluding national legislation under which, in order to rule on criminal proceedings, the court having jurisdiction may not take into consideration previous convictions handed down in another Member State against the person who is the subject of those proceedings for acts which do not constitute criminal offences under national law.

51 According to Article 1(1) of Framework Decision 2008/675, the purpose of that framework decision is to determine the conditions under which, in the course of criminal proceedings in a Member State against a person, previous convictions handed down against the same person for different facts in other Member States are taken into account.

52 To that end, Article 3(1) of that framework decision, read in the light of recital 5 of that framework decision, obliges Member States to ensure that, when such criminal proceedings are brought, previous convictions handed down in other Member States, in respect of which information has been obtained under applicable instruments on mutual legal assistance or on the exchange of information extracted from criminal records, are taken into account to the extent that previous national convictions are taken into account under national law, and that the legal effects attached to them are equivalent to those attached to previous national convictions, in accordance with national law, whether in relation to questions of fact or questions of substantive or procedural law (judgment of 21 September 2017, *Beshkov*, C-171/16, EU:C:2017:710, paragraph 26).

53 However, it is also apparent from recital 5 of that framework decision that it does not seek to harmonise the consequences attached by the different national legislations to the existence of previous convictions, and the obligation to take into account previous convictions handed down in other Member States exists only to the extent that previous national convictions are taken into account under national law. As emphasised in recital 3 of Framework Decision 2008/675, the obligation for Member States, laid down in Article 3(1) of that framework decision, to take account, in the course of new criminal proceedings, of convictions handed down in other Member States is minimal.

54 In addition, as recital 6 of that framework decision expressly states, in contrast to other instruments, that framework decision does not aim at the execution in one Member State of judicial decisions taken in other Member States, but rather aims at enabling consequences to be attached to a previous conviction handed down in one Member State in the course of new criminal proceedings in another Member State to the extent that such consequences are attached to previous national convictions under the law of that other Member State. Therefore that framework decision contains no obligation to take into account such previous convictions, for example, in cases where the information obtained under applicable instruments is not sufficient, where a national conviction would not have been possible regarding the act for which the previous conviction had been imposed or where the previously imposed sanction is unknown to the national legal system.

55 It is therefore apparent from the wording of Article 3(1) of Framework Decision 2008/675, read in the light of recitals 3, 5 and 6 of that framework decision, that that provision does not require Member States to take into account, in criminal proceedings, previous convictions handed down against the person concerned in another Member State, where those convictions have been handed down for acts which do not constitute criminal offences under national law and cannot therefore be the subject, under that law, of a criminal conviction.

56 Accordingly, that provision does not prohibit a Member State from laying down, in its national legislation, a provision requiring the courts having jurisdiction not to take into consideration previous convictions handed down in another Member State against the person subject to criminal proceedings for acts which do not constitute criminal offences under national law.

57 In the present case, it does not preclude the referring court, in accordance with its national law, from taking into account only the previous conviction handed down against the defendant in the main proceedings in Germany for driving a vehicle without a driving licence and that imposed on him in Belgium for driving an unregistered vehicle, given that, according to the information provided by that court, only those convictions relate to acts which constitute, under that national law, criminal offences liable, as such, to a conviction.

58 In the light of the foregoing, the answer to the second question is that Article 3(1) of Framework Decision 2008/675 must be interpreted as not precluding national legislation under which, in order to rule on criminal proceedings, the court having jurisdiction may not take into consideration previous convictions handed down in another Member State against the person who is the subject of those proceedings for acts which do not constitute criminal offences under national law and cannot therefore be the subject, under that law, of a criminal conviction.

The first question

59 It should be noted as a preliminary point that, according to settled case-law, in the procedure laid down by Article 267 TFEU providing for cooperation between national courts and the Court of Justice, it is for the latter to provide the national court with an answer which will be of use to it and enable it to decide the case before it. To that end, the Court should, where necessary, reformulate the questions referred to it. The Court may also find it necessary to consider provisions of EU law which the national court has not referred to in its questions (judgment of 5 December 2019, *Centraal Justitieel Incassobureau (Recognition and enforcement of financial penalties)*, C-671/18, EU:C:2019:1054, paragraph 26 and the case-law cited).

60 In the present case, first, it should be noted that, by its first question, the referring court seeks, in essence, to determine whether it must classify the acts which gave rise to the previous convictions to which the defendant in the main criminal proceedings was subject in other Member States in the light of the types of acts liable to a penalty under its national law, which distinguishes those acts according to their nature as administrative offences or criminal offences and classifies criminal offences in two categories, the first relating to criminal offences ‘of a general nature’, in respect of which criminal proceedings are brought by means of an indictment issued by the public prosecutor, and the second to criminal offences ‘of a private nature’, in respect of which those proceedings are brought following a complaint by the victim.

61 Secondly, it should be noted that Article 3(2) of Framework Decision 2008/675 specifies the scope of Article 3(1) of that framework decision, to which the first question refers, by stating that that paragraph is to apply at the pre-trial stage, at the trial stage itself and at the time of execution of the conviction, in particular with regard to the applicable rules of procedure, including those relating to provisional detention, the definition of the offence, the type and level of the sentence, and the rules governing the execution of the decision. By that first question, the referring court asks specifically about the classification of the offences of which the person against whom the criminal proceedings before it are brought was previously convicted in other Member States, including in the light of the effects of such a classification on the decision that it is likely to take against him.

62 Consequently, it must be held that, by its first question, the referring court asks, in essence, whether Article 3(1) and (2) of Framework Decision 2008/675, read in conjunction with Article 2(a) of Framework Decision 2009/315, must be interpreted as meaning that it is for the national court having jurisdiction, for the purposes of taking account of previous convictions handed down in another Member State against a person subject to criminal proceedings, to assess whether the acts which gave rise to those convictions registered in ECRIS must be classified, in the light of the classification under national law, as criminal offences or administrative offences and, in the first case, whether they are criminal offences of a general or private nature, where the legal consequences provided for by national law differ according to the category to which the act giving rise to a previous conviction belongs.

63 As recalled in paragraph 52 above, Article 3(1) of Framework Decision 2008/675 requires Member States to ensure, on the one hand, that, in the course of criminal proceedings against a person, previous 'convictions' handed down in another Member State are taken into account to the extent that they are taken into account under national law and, on the other hand, that they are recognised as having legal effects 'equivalent' to those attached to previous national convictions, in accordance with national law. Furthermore, it is apparent from the wording of Article 3(2) of that framework decision, reproduced in paragraph 61 of the present judgment, that that obligation applies, inter alia, as regards the definition of the offence and the type and level of the sentence.

64 In that context, the first question requires determination of the scope, first, of the concept of 'conviction', within the meaning of Article 2 of Framework Decision 2008/675, and, secondly, of the term 'equivalent', within the meaning of Article 3(1) of that framework decision, in order to define the obligations of national courts, laid down by the latter provision, as regards taking account of 'previous convictions handed down in another Member State' and the recognition, in respect of those convictions, of 'legal effects' 'equivalent [to those] attached … to previous national convictions, in accordance with national law'.

65 In the first place, under Article 2 of that framework decision, for the purposes of that decision, '"conviction" means any final decision of a criminal court establishing guilt of a criminal offence'.

66 At the outset, it should be noted that the fact, noted by the referring court, that Article 2(a) of Framework Decision 2009/315, in its Bulgarian-language version, defines the term 'conviction' with reference to the concept of 'act liable to a penalty' does not necessarily mean, contrary to what that court states, that the latter concept should be used for the purposes of the definition of the term 'conviction', within the meaning of Article 2 of Framework Decision 2008/675, despite the reference in the latter provision to the concept of 'criminal offence', on the ground that that concept has a narrower meaning in Bulgarian than the concept of 'act liable to a penalty'.

67 In that regard, in accordance with the Court's settled case-law, the wording used in certain language versions of a provision of EU law cannot serve as the sole basis for the interpretation of that provision or be given priority over the other language versions. The need for uniform application and, therefore, for uniform interpretation of an EU act precludes one version of the text being considered in isolation, but requires that the provision at issue be interpreted by reference to the general scheme and purpose of the rules of which it forms part, in the light, in particular, of the versions in all languages (judgment of 5 December 2024, *Network One Distribution*, C-506/23, EU:C:2024:1003, paragraph 27 and the case-law cited).

68 In the present case, it should be noted that, in most language versions of both Article 2 of Framework Decision 2008/675 and Article 2(a) of Framework Decision 2009/315, the wording of those provisions refers to the concept of 'criminal offence'. That is the case, in particular, for the German- and Dutch-language versions of those two provisions, which use the terms '*Straftat*' and '*strafbaar feit*' respectively, which correspond to that concept and not to the more general term 'act liable to a penalty'.

69 The interpretation to the effect that the concept of 'conviction', within the meaning of Article 2 of Framework Decision 2008/675, is defined by reference only to criminal offences is supported by recital 3 of Framework Decision 2008/675. It is apparent from that recital that that concept does not include final decisions of an administrative authority finding a person liable for a 'criminal offence' or an 'an act punishable under national law by virtue of being an infringement of the rules of law'. In so doing, the EU legislature intended to introduce a distinction between criminal offences and acts punishable under national law which are not criminal in nature.

70 That interpretation is also confirmed by the objectives of Framework Decision 2008/675 and Framework Decision 2009/315, which are inseparably linked. The competent authorities of the Member States must cooperate diligently and uniformly in exchanging information on criminal convictions, in order to avoid national judicial authorities before which new criminal proceedings are brought against persons who have previously been convicted of other offences by the courts of other Member States giving judgment without being able to take those previous convictions into account (see, to that effect, judgment of 5 July 2018, *Lada*, C-390/16, EU:C:2018:532, paragraph 47).

71 It follows from the foregoing that the concept of 'conviction', within the meaning of Article 2 of Framework Decision 2008/675, read in the light of recital 3 of that framework decision, which is consistent with that referred to in Article 2(a) of Framework Decision 2009/315, refers to a final decision of a criminal court establishing the guilt of a person on account of the commission of a 'criminal offence' and not, more generally, of an 'act liable to a penalty' or an 'act punishable under national law by virtue of being an infringement of the rules of law'. Similarly, as has already been stated in paragraph 69 of the present judgment, that concept does not include final decisions of the administrative authorities, irrespective of the nature of the act for which they have established the liability of the person concerned.

72 It follows that the obligation on Member States referred to in Article 3(1) of Framework Decision 2008/675 concerns only final decisions handed down by a criminal court of another Member State which establish the guilt of the person concerned for a criminal offence. Furthermore, as is expressly stated in the wording of that provision, that obligation is limited to convictions in respect of which information has been obtained under applicable instruments on mutual legal assistance or on the exchange of information extracted from criminal records.

73 It must, however, be stated that, in accordance with Article 2 of that framework decision, as interpreted in paragraph 71 of the present judgment, that obligation includes final decisions of a criminal court, such as those provided for in Article 78a(1)(b) of the NK, which, after establishing the guilt of the defendant for a criminal offence, release him or her from criminal liability and impose on him or her an administrative penalty, in place of a criminal penalty, in so far as it has been possible to obtain information on those decisions.

74 It follows that, for the purposes of taking account of previous convictions handed down in another Member State, within the meaning of Article 3(1) of that framework decision, it is for the court having jurisdiction to determine, first, whether previous final decisions handed down in another Member State by a criminal court, of which it has been informed, have recognised the guilt of the person concerned in respect of the commission of a criminal offence.

75 In that regard, as the referring court itself suggests, in essence, the fact that such a final decision is entered in the criminal record of the person concerned in the convicting Member State and is therefore brought to the attention of the courts of the other Member States via ECRIS indicates, in principle, that that decision meets the criterion referred to in the preceding paragraph, it being noted, moreover, that the concept of 'conviction', within the meaning of Article 2(a) of Framework Decision 2009/315, also includes such a criterion.

76 In so far as the referring court states that the information on the previous convictions of the defendant in the main proceedings, which comes from ECRIS, does not enable it to determine the category of acts covered by those convictions, it must be pointed out that, as stated in recital 10 of Framework Decision 2009/315, that framework decision should be without prejudice to the possibility of judicial authorities' directly requesting and transmitting information from criminal records pursuant to Article 13 in conjunction with Article 15(3) of the European Convention on Mutual Assistance and without prejudice to Article 6(1) of the Convention on Mutual Assistance between the Member States, which lays down detailed rules for the submission and transmission of a request for mutual legal assistance in accordance with the abovementioned provisions of the European Convention on Mutual Assistance.

77 Consequently, where a court of a Member State considers that, for the purposes of applying Article 3(1) of Framework Decision 2008/675, the information available in ECRIS is not sufficient, it is for that court to verify directly with the courts which handed down the previous convictions whether indeed those convictions constitute convictions within the meaning of Article 2 of that framework decision.

78 In the second place, as regards the scope of the obligation on each Member State to ensure that previous convictions handed down in other Member States have effects 'equivalent' to those attached to previous national convictions handed down in the Member State concerned, in accordance with its national law, within the meaning of Article 3(1) of that framework decision, in conjunction with Article 3(2) of that framework decision, that principle must be determined in the light of the principle of mutual recognition of judgments and judicial decisions in criminal matters, enshrined in Article 82(1) TFEU, which Framework Decision 2008/675, as stated in recital 2 thereof, is intended to implement.

79 It is apparent from the Court's case-law that that principle precludes, inter alia, when taking into account, in the context of that framework decision, a previous conviction by a court in another Member State, that conviction from being reviewed (see, to that effect, judgment of 5 July 2018, *Lada*, C-390/16, EU:C:2018:532, paragraph 38 and the case-law cited).

80 For that reason, Article 3(3) of that framework decision expressly proscribes such a review, since previous convictions handed down in other Member States must be taken into account in the terms in which they were handed down (see, to that effect, judgment of 5 July 2018, *Lada*, C-390/16, EU:C:2018:532, paragraph 39 and the case-law cited).

81 That said, as stated in recital 13 of Framework Decision 2008/675, that decision respects the variety of domestic solutions and procedures required for taking into account a previous conviction handed down in another Member State. The exclusion of a possibility to review a previous conviction should not prevent a Member State from issuing a decision, if necessary, in order to attach the equivalent legal effects to that conviction.

82 In particular, as stated in recital 8 of that framework decision, where, in the course of criminal proceedings in a Member State, information is available on a previous conviction in another Member State, it should as far as possible be avoided that the person concerned is treated less favourably than if the previous conviction had been a national conviction.

83 It follows that the court hearing criminal proceedings in a Member State must satisfy itself that the offence which resulted in a previous conviction handed down in another Member State and the sentence imposed as a result of that conviction are not attributed legal effects having more serious consequences for the defendant's situation than if that conviction had been handed down by a national court.

84 From that point of view, in order to be able to recognise the previous conviction handed down in another Member State as having legal effects 'equivalent' to those which would have been produced by a national conviction, it is necessary for the referring court to be able to assess, inter alia, the category to which the criminal offence penalised by that previous conviction belongs and which determined the nature and level of that penalty. The determination of such equivalence may require, inter alia, a comparison between the definitions of criminal offences provided for by the criminal legislation of the Member State in which that previous conviction was imposed and those existing in the national legislation, in particular where, under that legislation, the legal effects attaching to convictions handed down for the offence in question may differ according to the category to which that offence belongs.

85 It follows that the adoption of a decision enabling legal effects equivalent to those which would be attached to a previous national conviction to be attached to a previous conviction in another Member State requires an examination on a case-by-case basis in the light of the specific circumstances of the case, which cannot, however, lead to a reclassification of the offence committed and the sentence imposed (see, to that effect, judgment of 5 July 2018, *Lada*, C-390/16, EU:C:2018:532, paragraph 45 and the case-law cited).

86 More specifically, it must be inferred from the considerations set out in paragraphs 65 to 85 of the present judgment that, where the information available to the criminal court having jurisdiction shows that the defendant has been the subject, in another Member State, of convictions, within the meaning of Article 2 of Framework Decision 2008/675, namely final decisions establishing his or her guilt for a criminal offence, that court is required to recognise the effects of those decisions as equivalent to those attaching to national convictions handed down on account of the commission of a criminal offence belonging to an equivalent category and giving rise to a sentence of a comparable nature and level. However, that recognition must not result in the person concerned being treated less favourably in the proceedings in question than if the decisions had been handed down by a national court.

87 In that context, the criminal court having jurisdiction cannot reclassify the criminal offence of which the defendant was convicted in another Member State with the effect of conferring on it the nature of an administrative offence. Not only would such a reclassification have the effect of entailing a review of the previous conviction, which is expressly prohibited by Article 3(3) of that

framework decision, but, ultimately, it would amount, in breach of the obligation laid down in Article 3(1) of that framework decision, to not ensuring that that conviction has effects equivalent to a national conviction.

88 However, as is apparent from paragraph 73 of the present judgment, Framework Decision 2008/675 requires that, where national law provides for account to be taken of previous final decisions of a criminal court which have established the guilt of the defendant for a criminal offence, but which have imposed on him, instead of a criminal penalty, a penalty of an administrative nature, the court having jurisdiction is to apply the relevant provisions of that national law to such decisions delivered in another Member State, provided that it has sufficient information in that regard.

89 Turning now to determining whether, in accordance with the classification provided for by its national law, the criminal offences to which previous convictions handed down in other Member States relate constitute criminal offences 'of a general nature' or criminal offences 'of a private nature', where, depending on the category to which they belong, the legal consequences under national law are different, it is for the referring court to determine whether the criminal proceedings in those other Member States were brought on the initiative of the competent authority or following a complaint by the victim before a court.

90 In the present case, as the referring court itself observed, the offences which gave rise to the convictions in Belgium and Germany did not involve a victim. In so far as those offences do in fact constitute criminal offences under the legislation of the Member State concerned, it will be for that State to confer on those convictions effects equivalent to those of previous national convictions for criminal offences 'of a general nature'.

91 In the light of the foregoing, the answer to the first question is that Article 3(1) and (2) of Framework Decision 2008/675, read in conjunction with Article 2(a) of Framework Decision 2009/315, must be interpreted as meaning that it is for the national court having jurisdiction, for the purposes of taking account of previous convictions handed down in another Member State against the person subject to the criminal proceedings before that national court, to assess whether the acts which gave rise to the previous final decisions of the courts of the other Member State, of which it became aware, were classified, in the light of the classification under the law of the other Member State, as criminal offences. Under Article 3(1) and (2) of Framework Decision 2008/675, that court is required to take into account only those decisions and to confer on them legal effects equivalent to those which would be attached to previous national convictions on account of the commission of a criminal offence belonging to an equivalent category and giving rise to a sentence of a comparable nature and level. However, taking this into account must not result in the person concerned being treated less favourably in the proceedings in question than if the decisions had been handed down by a national court.

Costs

92 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 (Tenth Chamber) hereby rules:

1. **Article 3(1) of Council Framework Decision 2008/675/JHA of 24 July 2008 on taking account of convictions in the Member States of the European Union in the course of new criminal proceedings**

   must be interpreted as not precluding national legislation under which, in order to rule on criminal proceedings, the court having jurisdiction is obliged to disregard the previous convictions handed down in another Member State in respect of the person who is the subject of those proceedings for acts which do not constitute criminal offences under national law and cannot therefore be the subject, under that law, of a criminal conviction.

2. **Article 3(1) and (2) of Framework Decision 2008/675, read in conjunction with Article 2(a) of Council Framework Decision 2009/315/JHA of 26 February 2009 on the organisation and content of the exchange of information extracted from the criminal record between Member States, as amended by Directive (EU) 2019/884 of the European Parliament and of the Council of 17 April 2019,**

   must be interpreted as meaning that it is for the national court having jurisdiction, for the purposes of taking account of previous convictions handed down in another Member State against the person subject to the criminal proceedings before that national court, to assess whether the acts which gave rise to the previous final decisions of the courts of the other Member State, of which it became aware, were classified, in the light of the classification under the law of the other Member State, as criminal offences.

   Under Article 3(1) and (2) of Framework Decision 2008/675, that court is required to take into account only those decisions and to confer on them legal effects equivalent to those which would be attached to previous national convictions on account of the commission of a criminal offence belonging to an equivalent category and giving rise to a sentence of a comparable nature and level. However, taking this into account must not result in the person concerned being treated less favourably in the proceedings in question than if the decisions had been handed down by a national court.

[Signatures]