Reports of Cases

JUDGMENT OF THE COURT (Second Chamber)

26 April 2012 *

((Jurisdiction, recognition and enforcement of judgments in matrimonial matters and in the matters of parental responsibility — Regulation (EC) No 2201/2003 — Child habitually resident in Ireland, where the child has been placed in care on many occasions — Child's behaviour aggressive and placing herself at risk — Judgment ordering placement of the child in a secure care institution in England — Material scope of the regulation — Article 56 — Procedures for consultation and consent — Obligation to recognise or declare enforceable the decision to place the child in a secure care institution — Provisional measures — Urgent preliminary ruling procedure))

In Case C-92/12 PPU,

REFERENCE for a preliminary ruling under Article 267 TFEU from the High Court (Ireland), made by decision of 16 February 2012, received at the Court on 17 February 2012, in the proceedings

Health Service Executive

v

S.C.,

A.C.,

intervening party:

Attorney General,

THE COURT (Second Chamber),

composed of J.N. Cunha Rodrigues, President of the Chamber, U. Lõhmus, A. Rosas (Judge Rapporteur), A. Ó Caoimh and A. Arabadjiev, Judges,

Advocate General: J. Kokott,

Registrar: L. Hewlett, principal administrator,

having regard to the request by the national court of 16 February 2012, received at the Court on 17 February 2012, that the reference for a preliminary ruling be dealt with under an urgent procedure, in accordance with Article 104b of the Court's Rules of Procedure,

having regard to the decision of 28 February 2012 of the Second Chamber granting that request,

having regard to the written procedure and further to the hearing on 26 March 2012,

* Language of the case: English.

after considering the observations submitted on behalf of:

— the Health Service Executive, by A. Cox, advocate, F. McEnroy SC and S. McKechnie BL,

— S.C., by G. Durcan SC, B. Barrington BL and C. Ghent, advocate,

— A.C., by C. Stewart SC, F. McGath BL, N. McGrath, solicitor, and C. Dignam, advocate,

— Ireland, by E. Creedon, acting as Agent, and by C. Corrigan SC, C. Power BL, and K. Duggan,

— the German Government, by J. Kemper, acting as Agent,

— the United Kingdom Government, by H. Walker, acting as Agent, and M. Gray, Barrister,

— the European Commission, by M. Wilderspin and D. Calciu, acting as Agents,

after hearing the Advocate General,

gives the following

Judgment

1 This reference for a preliminary ruling concerns the interpretation of Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 (OJ 2003 L 338, p. 1) ('the Regulation'), in particular Articles 1, 28 and 56 thereof.

2 The reference has been made in proceedings between the Health Service Executive ('the HSE') and a child and her mother, concerning the placement of that child in a secure care institution situated in England.

Legal context

European Union law

3 Recitals 2, 5, 16 and 21 of the preamble to the Regulation are as follows:

'(2) The Tampere European Council endorsed the principle of mutual recognition of judicial decisions as the cornerstone for the creation of a genuine judicial area, and identified visiting rights as a priority.

…

(5) In order to ensure equality for all children, this Regulation covers all decisions on parental responsibility, including measures for the protection of the child, independently of any link with a matrimonial proceeding.

…

(16) This Regulation should not prevent the courts of a Member State from taking provisional, including protective measures, in urgent cases, with regard to persons or property situated in that State.

…

(21) The recognition and enforcement of judgments given in a Member State should be based on the principle of mutual trust and the grounds for non-recognition should be kept to the minimum required.'

4 The scope of the Regulation is defined in Article 1 thereof. Article 1(1)(b) provides that the Regulation is to apply, whatever the nature of the court or tribunal, in civil matters relating to the attribution, exercise, delegation, restriction or termination of parental responsibility. Article 1(2) of the Regulation lists the matters referred to in Article 1(1)(b), which include, under Article 1(2)(d), 'the placement of the child in a foster family or in institutional care'. Article 1(3)(g) of the Regulation states that the Regulation is not to apply to measures taken as a result of criminal offences committed by children.

5 Article 2 of the Regulation provides:

'For the purposes of this Regulation:

1. the term "court" shall cover all the authorities in the Member States with jurisdiction in the matters falling within the scope of this Regulation pursuant to Article 1;

…

4. the term "judgment" shall mean … a judgment relating to parental responsibility, pronounced by a court of a Member State, whatever the judgment may be called, including a decree, order or decision;

…

7. the term "parental responsibility" shall mean all rights and duties relating to the person or the property of a child which are given to a natural or legal person by judgment, by operation of law or by an agreement having legal effect. The term shall include rights of custody and rights of access;

…

9. the term "rights of custody" shall include rights and duties relating to the care of the person of a child, and in particular the right to determine the child's place of residence;

…'

6 Article 8(1) of the Regulation provides:

'The courts of a Member State shall have jurisdiction in matters of parental responsibility over a child who is habitually resident in that Member State at the time the court is seised.'

7 Under Article 15 of the Regulation, by way of exception and subject to certain conditions, a court of a Member State having jurisdiction as to the substance of the matter may transfer a case to a court of another Member State with which a child has a particular connection, if it considers that the latter court is better placed to hear the case and where it is in the best interests of the child.

8 Under Article 20 of the Regulation, in urgent cases, the courts of a Member State may take such provisional, including protective, measures in respect of persons in that State as may be available under the law of that Member State, even if, under the Regulation, a court of another Member State has jurisdiction as to the substance of the matter.

9 In Chapter III, Section 1 of the Regulation, Article 21 thereof, headed 'Recognition of a judgment' provides:

'(1) A judgment given in a Member State shall be recognised in the other Member States without any special procedure being required.

…

(3) Without prejudice to Section 4 of this Chapter, any interested party may, in accordance with the procedures provided for in Section 2 of this Chapter, apply for a decision that the judgment be or not be recognised.

The local jurisdiction of the court appearing in the list notified by each Member State to the Commission pursuant to Article 68 shall be determined by the internal law of the Member State in which proceedings for recognition or non-recognition are brought.

(4) Where the recognition of a judgment is raised as an incidental question in a court of a Member State, that court may determine that issue.'

10 Article 23 of the Regulation, headed 'Grounds for non-recognition of judgments relating to parental responsibility', lists the circumstances in which a judgment relating to parental responsibility is not to be recognised, one such circumstance being, under Article 23(g), if 'the procedure laid down in Article 56 has not been complied with'.

11 In Chapter III, Section 2 of the Regulation, Article 28 thereof, headed 'Enforceable judgments', provides:

'1. A judgment on the exercise of parental responsibility in respect of a child given in a Member State which is enforceable in that Member State and has been served shall be enforced in another Member State when, on the application of any interested party, it has been declared enforceable there.

2. However, in the United Kingdom, such a judgment shall be enforced in England and Wales, in Scotland or in Northern Ireland only when, on the application of any interested party, it has been registered for enforcement in that part of the United Kingdom.'

12 Article 31 of the Regulation provides:

'1. The court applied to [for a declaration of enforceability] shall give its decision without delay. Neither the person against whom enforcement is sought, nor the child shall, at this stage of the proceedings, be entitled to make any submissions on the application.

2. The application may be refused only for one of the reasons specified in Articles 22, 23 and 24.

3. Under no circumstances may a judgment be reviewed as to its substance.'

13 Article 33 of the Regulation establishes, inter alia, the right of either party to bring an appeal against the decision on the application for a declaration of enforceability. Article 33(5) states that an 'appeal against a declaration of enforceability must be lodged within one month of service thereof. If the party against whom enforcement is sought is habitually resident in a Member State other than that in which the declaration of enforceability was given, the time for appealing shall be two months and shall run from the date of service, either on him or at his residence.'

14 Article 34 of the Regulation, headed 'Courts of appeal and means of contest', provides that the judgment given on appeal may be contested only by the proceedings referred to in the list notified by each Member State to the Commission pursuant to Article 68 of the Regulation.

15 In Chapter III, Section 4 of the Regulation, under Articles 41 and 42 thereof respectively, the rights of access granted in an enforceable judgment given in a Member State and the return of a child entailed by an enforceable judgment given in a Member State are to be recognised and enforceable in another Member State without the need for a declaration of enforceability and without any possibility of opposing their recognition, provided that the judgment is accompanied by a certificate issued by the court in the Member State of origin.

16 Chapter IV of the Regulation, headed 'Cooperation between central authorities in matters of parental responsibility', contains Articles 53 to 58. Under Article 53 of the Regulation, each Member State is to designate one or more central authorities to assist with the application of the Regulation and is to specify the geographical or functional jurisdiction of each.

17 Article 55 of the Regulation, headed 'Cooperation on cases specific to parental responsibility', provides:

'The central authorities shall, upon request from a central authority of another Member State or from a holder of parental responsibility, cooperate on specific cases to achieve the purposes of this Regulation. To this end, they shall, acting directly or through public authorities or other bodies, take all appropriate steps in accordance with the law of that Member State in matters of personal data protection to:

…

(d) provide such information and assistance as is needed by courts to apply Article 56;

…'

18 Article 56 of the Regulation, headed 'Placement of a child in another Member State' provides:

'1. Where a court having jurisdiction under Articles 8 to 15 contemplates the placement of a child in institutional care or with a foster family and where such placement is to take place in another Member State, it shall first consult the central authority or other authority having jurisdiction in the latter State where public authority intervention in that Member State is required for domestic cases of child placement.

2. The judgment on placement referred to in paragraph 1 may be made in the requesting State only if the competent authority of the requested State has consented to the placement.

3. The procedures for consultation or consent referred to in paragraphs 1 and 2 shall be governed by the national law of the requested State.

4. Where the authority having jurisdiction under Articles 8 to 15 decides to place the child in a foster family, and where such placement is to take place in another Member State and where no public authority intervention is required in the latter Member State for domestic cases of child placement, it shall so inform the central authority or other authority having jurisdiction in the latter State.'

The legal framework in Ireland

19 The reply to a request for clarification sent to the referring court pursuant to Article 104(5) of the Court's Rules of Procedure and the observations submitted by A.C. indicate that, in Ireland, there is no legislative framework which establishes any jurisdiction to authorise or regulate the placement of a child for therapeutic or educational purposes in a secure care institution, whether within or outside Ireland. The High Court has however declared that it has jurisdiction to rule on applications for such placements in secure care institutions.

20 It is intended that a legislative framework will take the place of the principles developed in the case-law of the referring court. Such a system has been created by the Child Care (Amendment) Act 2011, but has not yet been brought into operation.

21 It is clear from the order for reference that, under Irish law, an application can be made to the High Court for the placement of a child in secure institutional care, for the protection of that child. In the exercise of its inherent and constitutional jurisdiction to respect, defend and vindicate a child's rights, the High Court may, exceptionally and for short periods, order that a child be placed in secure institutional care, for the child's protection and in the child's best interests, provided that such placement is justified on therapeutic grounds. To that end, the High Court may place a child in a secure care institution abroad. Such orders are made only on an interlocutory basis and are subject to regular, intensive review, normally on a monthly basis.

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

The facts which gave rise to the main proceedings

22 S.C. is a child of Irish nationality, who is habitually resident in Ireland. Her mother, A.C., lives in London (United Kingdom). The order for reference gives no information as to where the father resides.

23 In 2000 the child was placed in the voluntary care of the HSE, which is the statutory authority with responsibility for children taken into public care in Ireland. On 20 July 2000 the District Court granted the HSE a care order placing S.C. in its care until her 18th birthday, in accordance with Article 18 of the Child Care Act, 1991.

24 S.C. has been placed in care on many occasions since her early childhood, both with foster families and in open or secure care institutions in Ireland.

25 S.C. is particularly vulnerable and has exceptional protection needs. She has absconded on many occasions from where she has been placed and it is a feature of her behaviour that that there have been repeated episodes of risk-taking, violence, aggression and self-harm.

26 The most recent placement in a secure care institution in Ireland failed. The child isolated herself and refused to engage in her therapeutic care programme, so that her situation rapidly deteriorated. She absconded and attempted on several occasions to take her own life.

27 Clinical professionals are unanimously agreed that, for her own protection, the child should remain in a secure care institution so that she can be clinically assessed and receive appropriate therapeutic interventions. They considered however that there was no institution in Ireland which could meet S. C.'s specific needs.

28 Because of those particular circumstances, the HSE considered that the child's care, protection and welfare needs were such that as a matter of urgency it was obliged to seek a placement in a secure care institution situated in England. The choice of that institution seems to have been determined by the fact that S.C. continually expressed the wish to be close to her mother and by the fact that no other alternative placement could better meet S.C's specific needs.

29 As a matter of urgency, the HSE requested, by interlocutory application, that the High Court order S. C.'s placement in the chosen secure care institution, situated in England.

The procedure for consent to placement by the competent authority of the requested Member State, within the meaning of Article 56(2) of the Regulation

30 On 29 September 2011 the HSE informed the Irish Central Authority of the proceedings before the High Court seeking the placement of the child in another Member State pursuant to Article 56 of the Regulation. The HSE insisted that the consent required by Article 56 of the Regulation for the placement of S.C. be obtained from the Central Authority for England and Wales. The Irish Central Authority replied to the HSE that the request for consent under that article had been sent to the Central Authority for England and Wales.

31 On 25 October 2011 the International Child Abduction & Contact Unit (ICACU), acting on behalf of the Lord Chancellor, who is the Central Authority for England and Wales, and the Official Solicitor (the person in the Central Authority for England and Wales with administrative responsibility) sent to the Irish Central Authority a letter on notepaper bearing the heading of the secure care institution and the local authority of the town where that institution is located, which they represented to have been issued by that local authority. The letter stated that the secure care institution accepted the placement of S.C.

32 On 10 November 2011 the ICACU and the Official Solicitor sent to the Irish Central Authority a letter from the secure care institution whereby the latter confirmed that it was able to offer S.C. a placement as provided for in Article 56 of the Regulation. They stated that they were closing their file, the placement having been confirmed.

The High Court's placement order

33 On 2 December 2011 the High Court, invoking its jurisdiction to exercise parental responsibility, ruled that the welfare of S.C. compelled it to transfer the child, as a matter of urgency, to a secure institution in England providing therapeutic and educational care. The High Court therefore made an order placing S.C. in such a specialised institution in England, on a short-term interlocutory basis, with provision for regular reviews of her placement and welfare circumstances. Such a placement, which involves compulsory detention, is known in Irish law as 'secure care'.

34 In its interlocutory order, the referring court declared, inter alia, that the consent required by Article 56(2) of the Regulation had been given by the Central Authority for England and Wales and was not incompatible with either the Regulation or the law. The referring court stated that the question of bringing any proceedings in England and Wales for recognition and a declaration of enforceability of the placement order under the Regulation had not been addressed.

35 On the basis of that order, the HSE transferred S.C. to England, where the child has since resided, for secure care there. At the time of transfer, the HSE had not applied for the issue of a declaration of enforceability of the placement order in the United Kingdom.

The procedure before the referring court

36 The referring court has declared that all parties to the proceedings, except the child herself, are agreed that the placement in a secure care institution meets the child's specific needs. However, in the light of the parties' submissions and the expert evidence adduced before it, the referring Court had concerns on a number of matters.

37 First, the referring court considers that the issue of whether the order of 2 December 2011 is within the scope of the Regulation must be resolved, since it relates to a measure of deprivation of liberty.

38 Secondly, the referring court states that the evidence adduced before it does not clearly indicate which specific body is expressly designated, under English law, as the 'competent authority' for the purposes of Article 56 of the Regulation.

39 In an affidavit submitted to the referring court, the Central Authority for England and Wales indeed declared that it was not the 'competent authority' for the purposes of Article 56 of the Regulation and that there was no one specific competent authority for the purposes of that provision, since a range of bodies could perform that function.

40 The referring court states that, in practice, it appears that the consent required under that article is issued by the institution where the child is to be placed. A conflict of interest might arise if a court of one Member State could order that a child be placed in a care institution situated in another Member State where that institution itself is the 'competent authority', since it could derive profit from the placement. The referring court notes that, according to the expert called to give evidence before it, the consent required for Article 56 of the Regulation should issue from a public body.

41 Thirdly, the referring court has doubts as to recognition and the declaration of enforceability of the order for the placement of S.C.

42 The referring court observes that, if proceedings seeking recognition and a declaration of enforceability of an order placing a child in care had to be commenced and completed before that child could be placed by one Member State in another Member State, that could, in practice, in situations of urgency, cause the Regulation to be inoperable. On the other hand, if a child were to be placed in a care institution in the requested State before those proceedings were completed and if the placement order of the requesting State could have no legal effect before that completion, that could also jeopardise the interests of the child, particularly as regards her protection.

43 Having regard to the evidence adduced before it, it is unclear to the referring court whether the relevant authorities in the United Kingdom may lawfully take measures on the basis of the order of 2 December 2011, in particular prior to that order being declared to be enforceable. If such measures can be taken only by way of the grant, by the English courts, of provisional, protective measures under Article 20 of the Regulation, that would mean that important decisions with regard to the protection of S.C. could be taken, for a substantial period and at a critical time in regard to her placement and her detention, by a court which does not have jurisdiction where she is habitually resident. Such a situation would be contrary to one of the fundamental objectives of the Regulation.

44 The referring court seeks to ascertain what course of action to adopt in the event that it is evident that the detention is not in accordance with the Regulation and whether, if that is the case, S.C. is entitled simply to leave the institution where she is currently detained when it is agreed by all the parties, apart from the child herself, that it is in her best interests to remain there on a temporary basis.

45 Fourthly, the referring court states that the evidence adduced indicates that new consents under Article 56 of the Regulation and new applications for recognition and a declaration of enforceability of a placement order might be required on each renewal of the order placing the child in secure care.

46 In the opinion of the referring court, if such requirements were attached to the renewals of orders, that would have serious implications for the practical and effective operation of orders made by the referring court and on the possibility of continuing the placement of children such as S.C. A requirement that on each occasion of such renewal a new consent and a new declaration of recognition and enforceability be obtained would undermine the objectives of the placement system.

47 In order to assess how best to protect the interests of the child in the main proceedings and to decide whether her placement in the secure care institution situated in England should be continued, the High Court decided to stay proceedings and to refer the following questions to the Court for a preliminary ruling:

'(1) Does a judgment which provides for the detention of a child for a specified time in another Member State in an institution providing therapeutic and educational care come within the material scope of [the Regulation]?

(2) If the answer to Question one is yes, what obligations, if any, arise out of Article 56 of [the Regulation] as to the nature of the consultation and consent mechanism to ensure the effective protection of a child who is to be so detained?

(3) Where a court of a Member State has contemplated the placement of a child for a specified time in a residential care institution in another Member State and has obtained the consent of that State in accordance with Article 56 of [the Regulation], must the judgment of the court directing the placement of a child for a specified time in a residential care institution situate in another Member State be recognised and/or declared enforceable in that other Member State as a precondition to the placement being effected?

(4) Does a judgment of the court directing the placement of the child for a specified time in a residential care institution situate in another Member State and which has been consented to by that Member State in accordance with Article 56 of [the Regulation] have any legal effect in that other Member State prior to the grant of a declaration of recognition and/or enforceability upon the completion of the proceedings seeking such declaration of recognition and/or enforceability?

(5) Where a judgment of the court directing the placement of the child for a specified time in a residential care institution situate in another Member State under Article 56 of [the Regulation] is renewed for a further specified time, must the Article 56 consent of the other Member State be obtained upon the occasion of each renewal?

(6) Where a judgment of the court directing the placement of the child for a specified time in a residential care institution situate in another Member State under Article 56 of [the Regulation] is renewed for a further specified time must the judgment be recognised and/or enforced in that other Member State upon the occasion of each renewal?'

The urgent procedure

48 The High Court asked that this reference for a preliminary ruling be dealt with under the urgent procedure provided for in Article 104b of the Rules of Procedure.

49 The reasons given by the referring court for this request were, first, that this case concerns the detention of a child for her own protection, against her will, in a secure care institution. The referring court adds that the case also concerns the custody of a child who is habitually resident in Ireland and who has been placed by the referring court in a secure care institution situated in another Member State, in which its jurisdiction depends on whether the Regulation is applicable to that placement procedure and, consequently, on the answers to the questions referred. In its reply to a request for clarification, the referring court stressed that the child's situation calls for urgent measures. The child is approaching the age of majority, when she will no longer be subject to the child protection jurisdiction of the referring court, and her condition requires that she be placed in secure institutional care, for a short period, and that a programme involving structured and increasing liberty be introduced to enable her to be placed with her family in England.

50 In those circumstances, on 29 February 2012 the Second Chamber of the Court decided, on the Judge-Rapporteur's proposal and after hearing the Advocate General, to grant the referring court's request that the reference for a preliminary ruling be dealt with under the urgent procedure.

Preliminary observations

51 At the same time as making the order for reference, the referring court directed the HSE to make an application for the assistance of the Family Division of the High Court of Justice of England and Wales, under Article 20 of the Regulation, to ensure that the child was taken into care and protected in a secure care institution in England, pending the decision of the Court of Justice in this case.

52 On 24 February 2012 the Family Division of the High Court of Justice of England and Wales heard an application by the HSE for provisional and protective measures under Article 20 of the Regulation, concerning the placement of S.C. in England. On that date, that court granted the application. The High Court of Justice made an order, on an interim basis and pending any other order by it, that S.C. should reside in the secure care institution situated in England in order that she should receive there such care and treatment as she might need, and that the director and staff of that institution were authorised to take certain action, including, if necessary, to use reasonable force, to detain S.C. in that care institution or to return her there.

53 The HSE also requested that the judgment of the referring court of 2 December 2011 ordering the placement of S.C. in a secure care institution situated in England be declared enforceable in the United Kingdom, against S.C., represented by her guardian *ad litem*, against A.C., and against the local authority in England for the area where that secure care institution is situated. That application was also made on 24 February 2012.

54 By order dated 8 March 2012 the Family Division of the High Court of Justice of England and Wales declared that the order of the referring court of 2 December 2011 was registered and enforceable in England and Wales, in accordance with Article 28(2) of the Regulation. Notice of registration was sent to the HSE for service on the defendants in the main proceedings.

55 The referring court stated, in its reply to the request for clarification from the Court, that it renewed the placement order of 2 December 2011 on a number of occasions, namely on 6, 9, 16 and 21 December 2011; 11, 23 and 27 January 2012; 3, 7, 9, 16 and 24 February 2012, and 9 March 2012.

Consideration of the questions referred for a preliminary ruling

The first question

56 By its first question, the referring court seeks, in essence, to ascertain whether a judgment of a court of a Member State which orders the placement of a child in a secure institution providing therapeutic and educational care situated in another Member State and which entails that, for her own protection, the child is deprived of her liberty for a specified period, is within the material scope of the Regulation.

57 It follows from recital 5 in the preamble to the Regulation that, to ensure equal treatment for all children, the Regulation covers all decisions on parental responsibility, including measures for the protection of the child (Case C-435/06 *C* [2007] ECR I-10141, paragraphs 47 and 48).

58 Article 1(1)(b) of the Regulation provides that the Regulation is to apply, in civil matters, to 'the attribution, exercise, delegation, restriction or termination of parental responsibility'.

59 Article 2(7) of the Regulation defines 'parental responsibility' as 'all rights and duties relating to the person or the property of a child which are given to a natural or legal person by judgment, by operation of law or by an agreement having legal effect'. That concept, which is to be given a broad definition (*C*, paragraph 49), includes 'rights of custody and rights of access', rights of custody meaning rights and duties relating to the care of the person of a child, and, in particular, the right to determine the child's place of residence, in accordance with Article 2(9) of the Regulation. Under Article 2(8) of the Regulation, 'any person having parental responsibility over a child' is a holder of parental responsibility. It is of no consequence if rights of custody have been transferred, as in the main proceedings, to an administrative authority.

60 The concept of 'civil matters' for the purposes of Article 1(1)(b) of the Regulation must be interpreted as meaning that it may even include measures which, from the point of view of the legal system of a Member State, fall under public law (*C*, paragraph 51). The Court has thus ruled that a judgment in one Member State ordering that a child be taken into care and placed with a foster family residing within the jurisdiction of another Member State is covered by the term 'civil matters', where that decision was adopted in the context of public law rules relating to child protection (Case C-523/07 *A* [2009] ECR I-2805, paragraph 29).

61 Article 1(2)(d) of the Regulation provides that such matters may deal with 'the placement of the child in a foster family or in institutional care'.

62 Likewise, Article 56 of the Regulation expressly refers to the placement of a child in institutional care in another Member State.

63 Admittedly, Article 1(2)(d) and Article 56 of the Regulation do not expressly refer to judgments of the courts of a Member State ordering the placement of a child in institutional care in another Member State where that placement includes a period of deprivation of liberty for therapeutic and educational purposes. However, that circumstance does not exclude those judgments from the scope of the Regulation. It is clear from paragraph 30 of *C* that the list contained in Article 1(2) of the Regulation is not exhaustive and is to be used as a guide, as indicated by the use of the words 'in particular'.

64 As argued by all the parties and Governments which submitted observations to the Court, the concept of placement in institutional care must be interpreted as covering placement in a secure care institution. Any other interpretation would mean that the benefit of the Regulation would be lost to the particularly vulnerable children who need such a placement and would be contrary to the purpose of the Regulation, set out in recital 5, to ensure equality for all children.

65 Exclusions from the scope of the Regulation are specified in Article 1(3) thereof. Article 1(3)(g) excludes from the scope of the Regulation only 'measures taken as a result of criminal offences committed by children' and, consequently, measures of detention of a child imposed as punishment for the commission of a criminal offence. It follows that a placement accompanied by measures involving deprivation of liberty falls within the scope of the Regulation where that placement is ordered for the protection of the child, and not to punish the child.

66 Consequently, the answer to the first question referred is that a judgment of a court of a Member State which orders the placement of a child in a secure institution providing therapeutic and educational care situated in another Member State and which entails that, for her own protection, the child is deprived of her liberty for a specified period, is within the material scope of the Regulation.

The second question

67 By its second question, the referring court seeks to ascertain the extent of the obligations stemming from Article 56 of the Regulation in relation to the nature of consultation and the mechanism for obtaining consent to the placement of a child where, as in the main proceedings, that placement involves deprivation of liberty.

68 The referring court considers that, in principle, it is not the role of a court of a Member State to look behind the consent to a placement given in another Member State. Since this case concerns the protection of the best interests of a child who has been placed in a secure care institution situated in a Member State other than that of the court which has contemplated the placement and who is in a particularly vulnerable situation, the referring court raises the question, in the light of Article 24 of the Charter of Fundamental Rights of the European Union ('the Charter'), whether Article 56 must be interpreted as requiring every court or tribunal of a Member State which intends to place a child in institutional care in another Member State to verify that it has received a valid consent from the competent authority in that Member State.

69 In that context, the referring court seeks to ascertain whether a competent authority for the purposes of giving consent must be a body which is expressly designated by a measure adopted by its Member State and which is capable of ensuring that an independent assessment is made of whether the contemplated placement will provide the child with the appropriate care and protection and whether it will be effected in the child's best interests. The referring court considers, in any event, that the competent authority cannot be the institution where the placement is contemplated.

70 In that regard, it must be observed that Article 56(1) of the Regulation states that consultation of the central authority of the requested Member State or other authority having jurisdiction [*une autre autorité compétente*] in that Member State is mandatory where public authority intervention is required for domestic cases of child placements. Where no such intervention is required, there is merely an obligation, under Article 56(4) of the Regulation, to inform the central authority of the requested Member State or other authority having jurisdiction in that Member State.

71 In the present case, the United Kingdom Government has stated that the intervention of a public body is required in domestic cases of child placements which are, moreover, comparable to the placement at issue in the main proceedings.

72 Under Article 56(2) of the Regulation, a judgment on the placement of a child in another Member State may be made only if the 'competent authority' [*autorité compétente*] of the requested State has consented to the placement.

73 It follows from the wording 'central authority or other authority having jurisdiction', in Article 56(1) of the Regulation, that the central authority can be an authority having jurisdiction. The concept of 'competent authority' referred to in Article 56(2) of the Regulation therefore covers either the 'central authority' or any 'other authority having jurisdiction' under Article 56(1). It follows that Article 56 of the Regulation permits the establishment of a decentralised system in which there are a number of competent authorities.

74 Article 56 of the Regulation must be read together with Articles 53 to 55 thereof.

75 Article 53 of the Regulation provides that each Member State is to designate central authorities 'to assist with the application of this Regulation' and is to specify their geographical or functional jurisdiction. Article 54 thereof sets out the general functions of central authorities and states that they are to take measures to improve the application of the Regulation.

76 Article 55 of the Regulation provides that the central authorities, upon request from another central authority of another Member State or from a holder of parental responsibility, are to cooperate on specific cases to achieve the purposes of the Regulation. Under Article 55(d) the central authorities are to take, directly or through public authorities or other bodies, all appropriate steps to provide such information and assistance as is needed by courts to apply Article 56 of the Regulation.

77 Apart from the obligations set out in Articles 53 to 56 of the Regulation, the Member States have a margin of discretion as regards the consent procedure.

78 That is because Article 56(3) of the Regulation expressly provides that the procedures for the obtaining of consent are to be governed by the national law of the requested Member State.

79 However, as emphasised in particular by A.C. and the Commission, the requested State must ensure that its national legislation does not undermine the objectives of the Regulation or render it ineffective.

80 The aim of Article 56(2) of the Regulation is, first, to enable the competent authorities of the requested State to give or refuse their consent to the possible admission of the child concerned and, secondly, to allow the courts of the requesting State to be satisfied, before taking the decision to place a child in institutional care, that measures will be taken in the requested State to permit placement in that State.

81 As is clear from the actual wording of Article 56(2) of the Regulation, the placement must have the consent of the competent authority in the requested Member State before the court of the requiring Member State makes the placement order. The fact that consent is mandatory is underlined by the fact that Article 23(g) of the Regulation provides that a judgment relating to parental responsibility is not to be recognised if the procedure laid down in Article 56 has not been complied with.

82 Member States are therefore required to establish clear rules and procedures for the purposes of the consent referred to in Article 56 of the Regulation, in order to ensure legal certainty and expedition. The procedures must, inter alia, enable the court which contemplates the placement easily to identify the competent authority and the competent authority to grant or refuse its consent promptly.

83 In that regard, the importance of the role of the central authorities under Article 55 of the Regulation must be emphasised. It is essential, if the purposes of the Regulation are to be achieved, that the central authorities, upon request from a central authority of another Member State or from a holder of parental responsibility, cooperate so as, inter alia, to ensure that the courts of the requesting Member State have precise, clear information in order to apply Article 56 of the Regulation.

84 As regards the concept of the competent authority of a Member State for the purposes of the consent to a placement order made by a court of another Member State, it must be observed that the term 'authority' designates, as a general rule, an authority governed by public law.

85 All the parties and Governments which submitted observations concur in that interpretation.

86 Moreover, that interpretation is clear from the very wording of Article 56 of the Regulation. Some language versions of the Regulation state that the consent of a State authority is required. Other language versions use concepts which suggest that the entity responsible for the consent has the characteristics of a State authority. Further, Article 56(1) of the Regulation refers to the 'public authorities' whose intervention is required for domestic cases of child placements in a Member State.

87 However, account must be taken of the fact that the Member States have different conceptions of what is or is not within the scope of public law, since Article 56(3) of the Regulation refers, in respect of the procedures for the obtaining of consent, to the national law of the requested Member State.

88 In any event, it should be observed that a consent emanating from an institution which admits children in return for payment cannot, by itself, constitute the consent of a competent authority within the meaning of Article 56(2) of the Regulation. An independent assessment of whether the proposed placement is appropriate constitutes an essential measure for the protection of the child, in particular if that placement involves deprivation of liberty. An institution which profits from the placement is not in a position to make an independent determination in that regard.

89 Because of the particular circumstances of the main proceedings, as set out in paragraphs 38 to 40 of this judgment, the referring court was unsure whether, where the court which contemplated the placement relied on an apparent consent but was unable to determine whether that consent did indeed emanate from the competent authority, an irregularity could be corrected even when, in the interests of the child, the placement had already been carried out.

90 At the hearing, it was stated that it was desirable, in the best interests of the child, that such a posteriori correction of an irregularity be possible where it is shown that steps were taken to obtain the consent, but where the court ordering the placement is uncertain whether the consent required by Article 56 of the Regulation has been validly granted by the competent authority of the requested Member State. It would be a matter of simply correcting one or other aspect of the procedure.

91 The Commission referred to a possible situation where the court which has ordered the placement has thought that it had obtained the consent required by Article 56 of the Regulation, but, because of some misunderstanding, has made an order which goes beyond the consent granted by the competent authority of the requested Member State. In such a case, the Commission would see no objection to an interpretation of the Regulation as meaning that the court dealing with the enforcement proceedings should stay those proceedings and that the consent under Article 56 of the Regulation could be obtained at that time.

92 In that regard, it is important that, where a court in a requesting Member State has ruled on placement in reliance on an apparent consent from the competent authority, but where the information concerning the consent procedure under Article 56 of the Regulation raises doubts as to whether the requirements of that article have been fully complied with, there should exist the possibility that that court can correct the situation a posteriori in order to ensure that the consent was validly granted.

93 On the other hand, if consultation between the central authorities concerned or the consent of a competent authority of the requested Member State are completely lacking, the procedure for the obtaining of consent should be recommenced and the court of the requesting Member State should make a fresh placement order after it has determined that the consent has been validly obtained.

94 It should be added that, in this case, the United Kingdom Government stated at the hearing that, contrary to what is stated in the order for reference, the secure care institution at issue in this case is not an institution governed by private law and is managed by the local authority, so that the consent required by Article 56 of the Regulation was validly given.

95 The answer to the second question referred is therefore that the consent referred to in Article 56(2) of the Regulation must be given, prior to the making of the judgment on placement of a child, by a competent authority, governed by public law. The fact that the institution where the child is to be placed gives its consent is not sufficient. In circumstances such as those of the main proceedings, where a court of a Member State which made the judgment on placement is uncertain whether a consent was validly given in the requested Member State, because it was not possible to identify with certainty the competent authority in the latter State, an irregularity may be corrected in order to ensure that the requirement of consent imposed by Article 56 of the Regulation has been fully complied with.

The third and fourth questions

96 By its third and fourth questions, which must be examined together, the referring court seeks, in essence, to ascertain whether a judgment of a court of a Member State ordering the compulsory placement of a child in a secure care institution situated in another Member State must, before it can be enforced in the requested Member State, be recognised and declared to be enforceable in that Member State. The referring court also asks whether such a placement order has legal effects in the requested Member State prior to its being declared to be enforceable.

97 In reply to questions put by the Court pursuant to the second paragraph of Article 24 of the Statute of the Court of Justice of the European Union and Article 54a of the Rules of Procedure, the United Kingdom Government stated that the order of 2 December 2011 was registered and declared to be enforceable in the United Kingdom by an order made on 8 March 2012 by the Principal Registry of the Family Division of the High Court of Justice of England and Wales.

98 The HSE, S.C., A.C., Ireland and the German Government argue that Article 21 of the Regulation establishes in all Member States a presumption in favour of recognition of judgments given by the courts or tribunals of a Member State. Accordingly, where a court of a Member State has contemplated the placement of a child, for a specified period, in a care institution situated in another

Member State and has obtained the consent of the latter State in accordance with Article 56 of the Regulation, the bringing of proceedings for a declaration that the judgment on placement is enforceable is not then a prerequisite to its having effect in the Member State requested, particularly in a situation such as that in the main proceedings.

99 The United Kingdom Government and the Commission consider, on the other hand, that such a judgment has no effect until it has been declared to be enforceable by a court of the requested Member State.

Recognition

100 In accordance with Article 21 of the Regulation, a judgment given in a Member State is to be recognised in the other Member States without any special procedure being required.

101 As is stated in recital 2 of the preamble to the Regulation, the principle of mutual recognition of judicial decisions is the cornerstone for the creation of a genuine judicial area (Case C-256/09 *Purrucker* [2010] ECR I-7353, paragraph 70).

102 According to recital 21 of the preamble to the Regulation, that recognition should be based on the principle of mutual trust.

103 It is that mutual trust which has enabled a compulsory system of jurisdiction to be established, which all the courts within the purview of the Regulation are required to respect, and as a corollary the waiver by Member States of the right to apply their internal rules on recognition and enforcement of foreign judgments in favour of a simplified mechanism for the recognition and enforcement of decisions handed down in matters of parental responsibility (*Purrucker*, paragraph 72). As is stated in Article 24 of the Regulation, the courts of the other Member States may not review the assessment made by the first court of its jurisdiction. Further, Article 26 of the Regulation provides that under no circumstances may a judgment be reviewed as to its substance.

104 The grounds for non-recognition of judgments relating to parental responsibility are exhaustively listed in Article 23 of the Regulation. Under Article 23(g), a judgment handed down in matters of parental responsibility is not to be recognised if the procedure laid down in Article 56 of the Regulation has not been complied with.

105 A judgment made by a court of a Member State ordering the placement of a child in institutional care in another Member State is entitled to recognition in the latter State, unless and until an order of non-recognition has been made in that other Member State.

106 It is not apparent from the documents before the Court that any interested party has applied for a decision of non-recognition of the judgment on placement, pursuant to Article 21(3) of the Regulation.

The need for a declaration of enforceability

107 Under Article 28(1) of the Regulation, ‘a judgment on the exercise of parental responsibility in respect of a child given in a Member State which is enforceable in that Member State and has been served shall be enforced in another Member State when, on the application of any interested party, it has been declared enforceable there’.

108 In the United Kingdom, registration for enforcement in England and Wales, in Scotland or in Northern Ireland, according to where the judgment is to be enforced, takes the place of a declaration of enforceability, in accordance with Article 28(2) of the Regulation.

109 S.C. claims that it is not a general requirement of the Regulation that a coercive measure applicable to a child must be declared to be enforceable. Such a declaration of enforceability is required only for the purposes of coercive enforcement of a judgment against adults. In the main proceedings, both S.C.'s guardian *ad litem* and her mother, who is a party to the proceedings, have indicated their agreement with the placement. The German Government adopted a similar approach at the hearing, arguing that measures intended to ensure the implementation of a decision taken contrary to the wishes of a child do not fall within the scope of the concept of enforcement.

110 In that regard, it must be recalled that a judgment ordering the placement of a child in a secure care institution is a judgment made in the exercise of parental responsibility. In the main proceedings, the child opposed the judicial decision ordering her placement in such an institution because she was, against her will, deprived of her liberty. The referring court states, moreover, that if S.C. were to abscond from the secure care institution where she is placed the assistance of the United Kingdom authorities would be required in order to take her back by force to that institution, for her own protection.

111 A judgment ordering a placement in a secure care institution concerns the fundamental right to liberty recognised in Article 6 of the Charter as possessed by 'everyone', and, consequently, also by a 'child'.

112 It must be added that, in situations where persons exercising parental responsibility have consented to the placement of a child in secure institutional care, the position of those persons may alter if the circumstances change.

113 It follows that, in order to ensure that the system intended by the Regulation operates properly, the use of coercion against a child in order to implement a judgment of a court of a Member State ordering her placement in a secure care institution in another Member State presupposes that the judgment has been declared to be enforceable in the latter State.

114 The referring court and the HSE, S.C., Ireland and the German Government have however expressed their concern, having regard to the particular urgency in the main proceedings, about the loss of time inherent in the pursuit of enforcement proceedings. A placement in England was contemplated only because the possibility of a suitable placement in Ireland did not exist and could not have been further delayed because of the acute danger that the child concerned would suffer physical injury.

115 Their argument rests, in essence, on the view that the implementation in one Member State of a placement ordered in another Member State cannot, on grounds of urgency and the best interests of the child, be dependent on a declaration by the requested State that the placement order made in the requesting State is enforceable. To require a declaration of enforceability would threaten the effectiveness of cross-border placements.

116 However, it must be observed that the European Union legislature, in Chapter III, Section 4, of the Regulation, expressly waived, in the interests of expedition, the imposition of the requirement of a declaration of enforceability in respect of two categories of judgments, namely certain judgments concerning rights of access and certain judgments which require the return of the child. Such a declaration is replaced, to a certain extent, by a certificate issued by the judge of origin which must accompany, in those cases, a judgment falling within either of the two categories of judgments.

117 Consequently, the issue of the certificate in the Member State of origin, referred to in Article 42(1) of the Regulation, is to be recognised and is to be automatically enforceable in another Member State, there being no possibility of opposing its recognition (Case C-491/10 PPU *Aguirre Zarraga* [2010] ECR I-14247, paragraph 48).

118 It is clear from the Regulation that only the two categories of judgments expressly referred to may, subject to certain conditions, be enforced in a Member State even though they have not been declared to be enforceable in that State. Consequently, the procedure for seeking recognition and enforcement must be adopted in the case of other judgments in matters of parental responsibility which require enforcement in another Member State.

119 Accordingly, circumstances associated with particular urgency cannot, by themselves, lead to the possibility that enforcement measures can be taken in another Member State on the basis of a decision ordering placement in secure institutional care which has not yet been recognised as being enforceable.

120 The consent procedure provided for in Article 56(2) of the Regulation cannot take the place of a declaration of enforceability. That is because the objectives of those two procedures are different. Whereas the purpose of obtaining consent under Article 56(2) is to remove obstacles which might stand in the way of a cross-border placement, the function of a declaration of enforceability is to permit enforcement of an order of placement in secure institutional care. Further, Article 56 of the Regulation does not require the intervention of a court; the competent authority may be an administrative body.

121 Without prejudice to any amendments which the European Union legislature might, where appropriate, decide to make to the Regulation in order to meet the concerns expressed by several of the parties who made submissions at the hearing, in relation to the loss of time inherent in the pursuit of enforcement proceedings, it is necessary, in order to ensure the effectiveness and proper operation of the Regulation, to consider what options are made available by the Regulation, so that effective solutions can be found in the event that a cross-border placement has to be particularly expeditious.

122 In that regard, it is stated in Article 31(1) of the Regulation that the court applied to for a declaration of enforceability is to give its decision without delay, and neither the person against whom enforcement is sought nor the child can, at that stage of the proceedings, make any submissions. The application may be refused only on one of the grounds for non-recognition laid down in Articles 22 to 24 of the Regulation. Under no circumstances may a judgment be reviewed as to its substance.

123 Article 33 of the Regulation provides that the decision on the application for a declaration of enforceability may be appealed by either party within the period of one month from the date of service of that declaration. Where the party against whom enforcement is sought is habitually resident in a Member State other than that in which the declaration of enforceability was given, that period is to be extended to two months and is to run from the date when service is effected. Article 34 of the Regulation provides that the judgment given on the appeal may be contested only by the proceedings referred to in the list notified by each Member State to the Commission pursuant to Article 68 of the Regulation.

124 It was stated, at the hearing, that the length of the procedures referred to by Articles 33 and 34 of the Regulation could be considerable and thereby damage the effectiveness and useful effect of the Regulation.

125 In that regard, in order to ensure that the requirement under Article 31 of the Regulation that there be no delay cannot be undermined by the suspensive effect of an appeal brought against a decision on a declaration of enforceability, it is appropriate, as observed by the Advocate General in her view, and as proposed by the Commission at the hearing, that the Regulation be interpreted as meaning that a placement order is to become enforceable at the point in time when the court of the requested Member State declares, in accordance with Article 31, that that order is enforceable.

126 The wording of the Regulation does not preclude such an interpretation. Article 28(1) of the Regulation provides that judgments on the exercise of parental responsibility given in a Member State are to be enforced in another Member State when, on the application of any interested party, it has been declared enforceable there.

127 For the purposes of the interpretation and application of the Regulation, decisions should be made that respect the criterion of the best interests of the child, in the light of Article 24 of the Charter. The best interests of the child may require, in cases of cross-border placements in which there is exceptional urgency, that there should be available a flexible solution as regards the length of the procedure of recognition for enforcement, if, were such a solution not to be available, the passage of time would jeopardise the underlying objective of the judgment ordering the cross-border placement.

128 Further, the Court has ruled that, contrary to the procedure laid down in Articles 33 to 35 of the Regulation in respect of the application for a declaration of enforceability, judgments issued in accordance with Section 4 of Chapter III thereof (rights of access and return of the child) may be declared enforceable by the court of origin irrespective of any possibility of appeal, whether in the Member State of origin or in that of enforcement (Case C-195/08 PPU *Rinau* [2008] ECR I-5271, paragraph 84).

129 It follows from the foregoing that, in order not to deprive the Regulation of its effectiveness, the decision of the court of the requested Member State on an application for a declaration of enforceability must be taken with particular expedition, and appeals brought against such a decision of the court of the requested Member State must not have a suspensive effect.

130 Moreover, Article 20(1) of the Regulation provides that the courts of a Member State where a child is present may, subject to certain conditions, take such provisional, including protective, measures as may be available under the law of that State, even if, under the Regulation, a court of another Member State had jurisdiction as to the substance of the matter. In that it is an exception to the system of jurisdiction laid down by the Regulation, that provision must be interpreted strictly (Case C-403/09 PPU *Detiček* [2009] ECR I-12193, paragraph 38).

131 Such measures are applicable to children who have their habitual residence in one Member State but stay temporarily or intermittently in another Member State and are in a situation likely seriously to endanger their welfare, including their health or their development, thereby justifying the immediate adoption of protective measures. The provisional nature of such measures arises from the fact that, pursuant to Article 20(2) of the Regulation, they cease to apply when the court of the Member State having jurisdiction as to the substance of the matter has taken the measures it considers appropriate (*A*, paragraph 48).

132 In the main proceedings, on the application of the HSE, the Family Division of the High Court of Justice of England and Wales made an order under Article 20 of the Regulation imposing the provisional and protective measures needed to effect the placement for the protection of S.C. until the conclusion of the procedure for obtaining a declaration of enforceability of the order of 2 December 2011.

133 The answer to the third and fourth questions referred is that the Regulation must be interpreted as meaning that a judgment of a court of a Member State which orders the compulsory placement of a child in a secure care institution situated in another Member State must, before its enforcement in the requested Member State, be declared to be enforceable in that Member State. In order not to deprive the Regulation of its effectiveness, the decision of the court of the requested Member State on the application for a declaration of enforceability must be made with particular expedition and appeals brought against such a decision of the court of the requested Member State must not have a suspensive effect.

The fifth and sixth questions

134 By its fifth and sixth questions, which should be examined together, the referring court asks whether, whenever a court of a Member State which has ordered the placement of a child in institutional care in another Member State for a specified period, under Article 56 of the Regulation, adopts a new decision aimed at extending the duration of the placement, it is on each occasion necessary to obtain the consent of the competent authority in the requested Member State referred to in Article 56(2) of the Regulation and a declaration of enforceability under Article 28 of the Regulation.

135 Since the referring court wishes to order the placement in question for as short a period as possible and to renew, when necessary, the placement order for equally brief periods, it considers that it cannot be necessary to undertake, on each renewal, consent and enforcement procedures in respect of those orders.

136 The HSE, S.C., and Ireland consider that, even if the application of Article 28 of the Regulation may be necessary in a situation such as that in the main proceedings, it is not necessary to obtain a new declaration of enforceability of the placement order in respect of each order extending the period of placement provided that the declaration of enforceability of the initial placement order is applicable to the decision extending or renewing that initial order.

137 The German Government, the United Kingdom Government and the Commission argue, on the other hand, that any order extending the initial placement order must both obtain the consent of the competent authority of the requested Member State, unless the initial consent issued by that authority is so worded as to encompass any extensions, and, in any event, also be declared enforceable in the requested Member State as if it were a fresh order.

138 In that regard, it must be recalled that, as stated in paragraph 81 of this judgment, a court of a Member State can give a judgment ordering the placement of a child in a care institution situated in another Member State only if the competent authority in the requested State has first consented to that placement. It follows that, where the competent authority of the requested Member State has given its consent to a placement by the court having jurisdiction which is limited in time, that placement cannot be extended unless that authority has given a further consent.

139 Accordingly, where, as in the main proceedings, the placement is contemplated for a very brief period, the consent given to that placement cannot on the expiry of the prescribed period of that placement have any effect, unless any extensions of that period have been authorised.

140 Consequently, a court of a Member State which contemplates the placement of a child in a secure care institution situated in another Member State could, while respecting the purpose of such placements — which is to provide for detention for a limited period and examination, at closely spaced intervals, of whether the detention should or should not be continued — request the consent for an adequate length of time, in order to eliminate the disadvantages associated with a series of consents of short duration, without prejudice to that court being entitled, within the period covered by the consent, to reduce the length of the placement, according to the best interests of the child.

141 As regards the enforcement procedure, it must be observed that, where an order of a court of a Member State placing a child in a care institution situated in another Member State is declared to be enforceable, measures of enforcement can be based on the order declared enforceable only within the limiting conditions of that decision itself.

142 In that regard, in the context of 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), the Court has ruled that there is no reason for granting to a judgment, when it is enforced, rights which it does not have in the Member State of origin or effects that a similar judgment given directly in the requested Member State would not have (Case C-420/07 *Apostolides* [2009] ECR I-3571, paragraph 66, and Case C-139/10 *Prism Investments* [2011] ECR I-9511, paragraph 38).

143 If it is clear from the judgment on placement that the placement was ordered only for a specified period of time, that judgment, were it to be declared to be enforceable, could not serve as the basis for compulsory enforcement of a placement for a period of time longer than that stated in that judgment.

144 It follows that each new placement order requires a new declaration of enforceability.

145 If necessary, the court ordering the placement none the less has the option, just as it has the option mentioned in paragraph 140 of this judgment, of contemplating a placement order for a suitable period of time, in order to eliminate the disadvantages associated with a series of declarations of enforceability of short duration, and of examining, at closely spaced intervals, whether it is appropriate, within the period covered by the declaration of enforceability, to review the placement order.

146 The answer to the fifth and sixth questions referred, therefore, is that, where a consent to placement under Article 56(2) of the Regulation has been given for a specified period of time, that consent does not apply to orders which are intended to extend the duration of the placement. In such circumstances, an application for a new consent must be made. A judgment on placement made in a Member State, declared to be enforceable in another Member State, can be enforced in that other Member State only for the period stated in the judgment on placement.

Costs

147 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 (Second Chamber) hereby rules

1. **A judgment of a court of a Member State which orders the placement of child in a secure institution providing therapeutic and educational care situated in another Member State and which entails that, for her own protection, the child is deprived of her liberty for a specified period, falls within the material scope of Council Regulation No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000.**

2. **The consent referred to in Article 56(2) of Regulation No 2201/2003 must be given, prior to the making of the judgment on placement of a child, by a competent authority, governed by public law. The fact that the institution where the child is to be placed gives its consent is not sufficient. In circumstances such as those of the main proceedings, where a court of a Member State which made the judgment on placement is uncertain whether a consent was validly given in the requested Member State, because it was not possible to identify with certainty the competent authority in the latter State, an irregularity may be corrected in order to ensure that the requirement of consent imposed by Article 56 of the Regulation No 2201/2003 has been fully complied with.**

3. **Regulation No 2201/2003 must be interpreted as meaning that a judgment of a court of a Member State which orders the compulsory placement of a child in a secure care institution situated in another Member State must, before its enforcement in the requested Member State, be declared to be enforceable in that Member State. In order not to deprive that regulation of its effectiveness, the decision of the court of the requested Member State on the application for a declaration of enforceability must be made with particular expedition and appeals brought against such a decision of the court of the requested Member State must not have a suspensive effect.**

4. **Where a consent to placement under Article 56(2) of Regulation No 2201/2003 has been given for a specified period of time, that consent does not apply to orders which are intended to extend the duration of the placement. In such circumstances, an application for a new consent must be made. A judgment on placement made in a Member State, declared to be enforceable in another Member State, can be enforced in that other Member State only for the period stated in the judgment on placement.**

Signatures