ORDER OF THE COURT
28 MARCH 1984 [1]

Christoph von Gallera v Gisèle Maître (reference for a preliminary ruling from the Tribunal de Grande Instance, Versailles)

Case 56/84

Convention on Jurisdiction and the Enforcement of Judgments — Protocol on the interpretation by the Court of Justice of the Convention — National courts entitled to request the Court of Justice to give preliminary rulings — Court to which application has been made for enforcement — Not entitled

(Convention of 27 September 1968, Art. 32; Protocol of 3 June 1971, Art. 2; Rules of Procedure, Arts 92 (1) and 103 (2))

In Case 56/84

REFERENCE to the Court by the Tribunal de Grande Instance [Regional Court] Versailles, for a preliminary ruling in the case pending before that court between

CHRISTOPH VON GALLERA

and

1 — Language of the Case: French.

GISÈLE MAÎTRE

on the interpretation of Article 32 of the Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters,

THE COURT

composed of: J. Mertens de Wilmars, President, T. Koopmans, K. Bahlmann and Y. Galmot (Presidents of Chambers), P. Pescatore, Lord Mackenzie Stuart, A. O'Keeffe, G. Bosco, O. Due, U. Everling and C. Kakouris, Judges,

Advocate General: Sir Gordon Slynn
Registrar: P. Heim

makes the following

ORDER

1 By order of 17 January 1984, received at the Court on 1 March 1984, the First Chamber of the Tribunal de Grande Instance, Versailles, referred to the Court for a preliminary ruling a question on the interpretation of Article 32 of the Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters (hereinafter referred to as "the Convention").

2 Article 32 of the Convention, which deals comprehensively with the power to grant an order for enforcement in respect of decisions of the type covered by the Convention given in a Contracting State, provides that application must be made, "in France, to the Presiding Judge of the Tribunal de Grande Instance", which, in accordance with Article 34 of the Convention, must give

its decision without delay and without the party against whom enforcement is sought being entitled, at that stage of the proceedings, to make any submissions on the application.

3 In the main proceedings the First Chamber of the Tribunal de Grande Instance, Versailles, has before it an application for an order for the enforcement of a decision, dated 26 March 1979, of a court in Lauterbach, Federal Republic of Germany, ordering Gisèle Maître to pay, as a consequence of her divorce, maintenance in respect of her son Christoph von Gallera. During the proceedings before the aforementioned Chamber, no objection was raised as to its jurisdiction; however, the Chamber addressed itself to the question whether

"Article 32 of the Convention confers exclusive jurisdiction on the court which it designates in a Contracting State to hear applications for orders for the enforcement of judgments given in other Contracting States"

and whether it should therefore raise the matter of its lack of jurisdiction of its own motion. Referring to Article 177 of the EEC Treaty, the Tribunal de Grande Instance, Versailles, submitted that question of interpretation to the Court of Justice.

4 Unlike Article 177 of the EEC Treaty, which is not applicable in this case, Article 2 (1) and (2) of the Protocol concerning the interpretation of the Convention by the Court of Justice signed on 3 June 1971, reserves the power to request the Court of Justice to give preliminary rulings on questions of interpretation to the courts designated by name therein and to the "courts of the Contracting States when they are sitting in an appellate capacity".

5 The Tribunal de Grande Instance, Versailles, is not one of the courts set out in Article 2, and it is not sitting in an appellate capacity in the main proceedings. Thus, the Court of Justice manifestly has no jurisdiction to take cognizance of the present request for a preliminary ruling; consequently, it must avail itself of the possibility, provided for in Article 92 (1) of the Rules of Procedure, read together with Article 103 (2), of declaring the request inadmissible by order.

On those grounds,

THE COURT,

having heard the views of the Advocate General,

hereby rules:

The request for a preliminary ruling made by the Tribunal de Grande Instance, Versailles, by judgment of 17 January 1984 is inadmissible.

Luxembourg, 28 March 1984.

P. Heim
Registrar

J. Mertens de Wilmars
President