Provisional text

JUDGMENT OF THE COURT (First Chamber)
5 December 2019 (*)

(Reference for a preliminary ruling — Area of freedom, security and justice — Judicial cooperation in criminal matters — Mutual recognition — Financial penalties — Grounds for non-recognition and non-execution — Framework Decision 2005/214/JHA — Decision by an authority of the issuing Member State based on vehicle registration data — Notification of the penalties and the appeal procedures to the person concerned — Right to effective judicial protection)

In Case C-671/18,

REQUEST for a preliminary ruling under Article 267 TFEU from the Sąd Rejonowy w Chełmnie (District Court, Chełmno, Poland), made by decision of 16 October 2018, received at the Court on 29 October 2018, in the proceedings brought by

Centraal Justitieel Incassobureau, Ministerie van Veiligheid en Justitie (CJIB),

interested parties:

Z.P.,

Prokuratura Rejonowa w Chełmnie,

THE COURT (First Chamber),

composed of J.-C. Bonichot, President of the Chamber, R. Silva de Lapuerta (Rapporteur), Vice-President of the Court, M. Safjan, L. Bay Larsen and C. Toader, Judges,

Advocate General: P. Pikamäe,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

the Polish Government, by B. Majczyna, acting as Agent,

the Netherlands Government, by M.K. Bulterman and M.L. Noort, acting as Agents,

the Austrian Government, by G. Hesse and J. Schmoll, acting as Agents,

the European Commission, by R. Troosters and A. Szmytkowska, acting as Agents,

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

gives the following

Judgment

This request for a preliminary ruling concerns the interpretation of Article 7(2)(g) and Article 20(3) of Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties (OJ 2005 L 76, p. 16), as amended by Council Framework Decision 2009/299/JHA of 26 February 2009 (OJ 2009 L 81, p. 24) ('the Framework Decision').

The request has been made in proceedings brought by the Centraal Justitieel Incassobureau, Ministerie van Veiligheid en Justitie (CJIB) (Central Fine Collection Agency, Ministry of Justice and Security (CJIB), the Netherlands) ('the Central Fine Collection Agency') in order to obtain recognition and enforcement, in Poland, of a financial penalty imposed on Z.P. in the Netherlands in respect of a road traffic offence.

Legal context

European Union law

Recitals 1, 2, 4 and 5 of the Framework Decision state:

The European Council meeting in Tampere on 15 and 16 October 1999 endorsed the principle of mutual recognition, which should become the cornerstone of judicial cooperation in both civil and criminal matters within the Union.

The principle of mutual recognition should apply to financial penalties imposed by judicial or administrative authorities for the purpose of facilitating the enforcement of such penalties in a Member State other than the State in which the penalties are imposed.

…

This Framework Decision should also cover financial penalties imposed in respect of road traffic offences.

This Framework Decision respects fundamental rights and observes the principles recognised by Article 6 of the Treaty and reflected by the Charter of Fundamental Rights of the European Union …'

Article 1 of the Framework Decision, headed 'Definitions', provides:

'For the purposes of this Framework Decision:

"decision" shall mean a final decision requiring a financial penalty to be paid by a natural or legal person where the decision was made by:

a court of the issuing State in respect of a criminal offence under the law of the issuing State;

an authority of the issuing State other than a court in respect of a criminal offence under the law of the issuing State, provided that the person concerned has had an opportunity to have the case tried by a court having jurisdiction in particular in criminal matters;

an authority of the issuing State other than a court in respect of acts which are punishable under the national law of the issuing State by virtue of being infringements of the rules of law, provided that the person concerned has had an opportunity to have the case tried by a court having jurisdiction in particular in criminal matters;

a court having jurisdiction in particular in criminal matters, where the decision was made regarding a decision as referred to in point (iii);

"financial penalty" shall mean the obligation to pay:

a sum of money on conviction of an offence imposed in a decision;

…'

Article 3 of the Framework Decision, headed 'Fundamental rights', states:

'This Framework Decision shall not have the effect of amending the obligation to respect fundamental rights and fundamental legal principles as enshrined in Article 6 of the Treaty.'

Article 5(1) of the Framework Decision provides, as regards the scope of that decision:

'The following offences, if they are punishable in the issuing State and as they are defined by the law of the issuing State, shall, under the terms of this Framework Decision and without verification of the double criminality of the act, give rise to recognition and enforcement of decisions:

…

conduct which infringes road traffic regulations, including breaches of regulations pertaining to driving hours and rest periods and regulations on hazardous goods,

…'

Article 6 of the Framework Decision stipulates:

'The competent authorities in the executing State shall recognise a decision which has been transmitted in accordance with Article 4 without any further formality being required and shall forthwith take all the necessary measures for its execution, unless the competent authority decides to invoke one of the grounds for non-recognition or non-execution provided for in Article 7.'

Article 7 of the Framework Decision, headed 'Grounds for non-recognition and non-execution' provides, in paragraph 2(g) and in paragraph 3:

'2. The competent authority in the executing State may also refuse to recognise and execute the decision if it is established that:

…

according to the certificate provided for in Article 4, the person concerned, in case of a written procedure, was not, in accordance with the law of the issuing State, informed personally or via a representative, competent according to national law, of his/her right to contest the case and of the time limits for such a legal remedy;

according to the certificate provided for in Article 4, the person did not appear in person at the trial resulting in the decision, unless the certificate states that the person, in accordance with further procedural requirements defined in the national law of the issuing State:

after being served with the decision and being expressly informed about the right to a retrial, or an appeal, in which the person has the right to participate and which allows the merits of the case, including fresh evidence, to be re-examined, and which may lead to the original decision being reversed:

expressly stated that he or she does not contest the decision,

or

did not request a retrial or appeal within the applicable time frame;

…

3. In the cases referred to in paragraphs 1 and 2(c), (g), (i) and (j), before deciding not to recognise and to execute a decision, either totally or in part, the competent authority in the executing State shall consult the competent authority in the issuing State, by any appropriate means, and shall, where appropriate, ask it to supply any necessary information without delay.'

Article 20(3) of the Framework Decision provides:

'Each Member State may, where the certificate referred to in Article 4 gives rise to an issue that fundamental rights or fundamental legal principles as enshrined in Article 6 of the Treaty may have been infringed, oppose the recognition and the execution of decisions. The procedure referred to in Article 7(3) shall apply.'

Netherlands law

It follows from Article 4(1) and (2) of the Wet administratiefrechtelijke handhaving verkeersvoorschriften (Law on the administrative enforcement of traffic regulations, 'the Highway Code') that administrative penalties are to be imposed by a decision the date of which is specified. Publication of that decision is required within a period of four months of the offending conduct by sending the decision to the address indicated by the person concerned. If that is not possible and the offending conduct has been committed with or by means of a motor vehicle in respect of which a registration number has been indicated, publication of the decision imposing the administrative penalty is required within four

months of the date on which the name and address of the holder of the registration number of that vehicle become known, by sending that decision to that address, it being understood that publication of that decision is required, at the latest, five years after the date on which the offending conduct took place.

It follows from Article 5 of the Highway Code that if it is established that the offending conduct has been committed with or by means of a motor vehicle that has been assigned a registration number, and it is not immediately possible to determine the identity of the driver of that vehicle, without prejudice to the provisions of Article 31(2) of that code, the administrative penalty shall be imposed on the person in whose name the registration number was listed in the register at the time when the offending conduct took place.

Under Article 8 of the Highway Code, the decision imposing the administrative penalty is to be annulled if the holder of the registration number of the motor vehicle in question contests that decision and, (a) plausibly demonstrates that the vehicle had been used by another person against his or her will and that he or she could not reasonably have prevented that use, (b) produces a written lease for a maximum period of three months concluded on a professional basis and on the basis of which the lessee of the vehicle, on the date of the offending conduct, can be identified, or (c) produces proof of discharge or a declaration on the basis of which it can be determined that, on the date of the offending conduct, he or she was no longer the owner or the person in possession of the motor vehicle concerned.

Article 6:7 of the Algemeen wet bestuursrecht (General Administrative Law Act) stipulates:

'The period for lodging an objection or appeal is six weeks.'

Article 6:8 of that act provides:

'The period shall commence the day after the publication of the decision in the prescribed forms.'

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

The Central Fine Collection Agency is part of the Ministry of Justice and Security of the Kingdom of the Netherlands and is responsible, inter alia, for the collection of fines in respect of road traffic offences.

On 9 November 2017, the Central Fine Collection Agency delivered a decision requiring Z.P. to pay a financial penalty in the amount of EUR 232 in respect of a road traffic offence committed by the driver of a vehicle registered in Poland in his name. Under Article 5 of the Highway Code, unless proven otherwise, liability rests with the person in whose name the vehicle is registered.

It is apparent from the request for a preliminary ruling that the decision of 9 November 2017 requiring payment of the financial penalty was notified by placing it in Z.P.'s letter box and that the deadline for exercising the right to contest the case specified in that decision was 21 December of that year. That period for lodging an appeal began not as of the actual receipt of the decision, but as of the date of that decision.

In the absence of any appeal against the decision of 9 November 2017, that decision became final on 21 December 2017.

By letter of 24 May 2018, the Central Fine Collection Agency lodged a request for recognition and execution of the decision of 9 November 2017 at the Sąd Rejonowy w Chełmnie (District Court, Chełmno, Poland).

Z.P. submits before the Sąd Rejonowy w Chełmnie (District Court, Chełmno) that on the date of the contested offence, he had sold the vehicle in question and had informed his insurer of that fact. However, he admits that he did not inform the authority responsible for the registration of the vehicle of that sale. Furthermore, Z.P. maintains before the referring court that both the form in which the decision of 9 November 2017 was sent and the content thereof were incomprehensible to him and that he was not aware of the official nature of the document notified.

As Z.P. further maintains that he did not know on which date the decision of 9 November 2017 was notified, the referring court asked the Central Fine Collection Agency, in accordance with Article 7(3) of the Framework Decision, to specify that date. That agency responded that it did not have that information.

It is in that context that the referring court asks, first of all, whether Z.P. had the opportunity to have the case tried by a court and, accordingly, whether there are grounds for refusing to execute the decision of 9 November 2017, on the basis of the Framework Decision. In that regard, that court notes that failure to grant sufficient time to contest the case at the pre-litigation stage may undermine the right to an effective judicial remedy.

The referring court asks, next, whether the Framework Decision permits differential treatment of persons penalised, depending on whether the procedure for imposing the penalty is an administrative procedure, a procedure concerning a petty offence or a criminal procedure.

Finally, the referring court is uncertain whether the financial penalty imposed on the basis of the registration number of a vehicle and the information obtained in the context of cross-border data exchange concerning the registration of that vehicle is compatible with the principle whereby, under Polish law, criminal liability lies with the individual.

Under those circumstances, the Sąd Rejonowy w Chełmnie (District Court, Chelmno) decided to stay the proceedings and to refer the following questions to the Court for a preliminary ruling:

Should Article 7(2)(i)(iii) and Article 20(3) of [the Framework Decision] be interpreted as authorising a court to refuse to enforce a decision of an authority of an issuing State other than a court if it finds that the service of that decision was effected in such a way as to infringe a party's right to an effective defence before a court?

In particular, can a finding that, despite the service procedures in force in the issuing State and the time limits laid down for appealing a decision as referred to in Article 1(a)(ii) and (iii) of [the Framework Decision] having been observed, the party residing in the State enforcing the decision did not have a real and effective opportunity to protect his rights at the pre-litigation stage of the proceedings due to not having been given sufficient time to respond to the notification of the imposition of the penalty in a proper manner constitute grounds for refusal?

Under Article 3 of [the Framework Decision], can the scope of legal protection afforded to persons against whom a financial penalty is to be recognised depend on whether the procedure for imposing the penalty was an administrative procedure, a procedure concerning a petty offence or a criminal procedure?

In the light of the objectives and principles set out in [the Framework Decision], including Article 3 thereof, are the decisions of non-judicial authorities which are issued pursuant to the laws of the State issuing the decision concerned, under which the person in whose name a vehicle is registered is held liable for road traffic offences (that is to say, decisions issued solely on the basis of information obtained within the framework of the cross-border exchange of vehicle registration data and without any investigation being carried out in that case, including determining the actual offender), enforceable?'

Consideration of the questions referred

The first to third questions

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 7 August 2018, *Smith*, C-122/17, EU:C:2018:631, paragraph 34 and the case-law cited).

In that regard, it follows from the order for reference that the first question is based on the premiss that Article 7(2)(i)(iii) of the Framework Decision applies to the case in the main proceedings. However, it is apparent from the file before the Court that, in the present case, the proceedings have not reached the litigation stage, since the main proceedings concern merely the possibility of contesting the fine imposed by the administrative authority before the Netherlands public prosecution office, and not the possibility of bringing the case to court after that office has delivered its decision. As a result, in order to provide a useful answer to the referring court, an interpretation of Article 7(2)(g) of the Framework Decision must be given.

By its first to third questions, which should be examined together, the referring court asks, in essence, whether, first, Article 7(2)(g) and Article 20(3) of the Framework Decision must be interpreted as meaning that, where a decision requiring payment of a financial penalty has been notified in accordance with the national legislation of the issuing Member State indicating the right to contest the case and the time limits for such a legal remedy, the authority of the Member State of execution may refuse to recognise and execute that decision if it transpires that the person concerned has not had sufficient time to contest that decision and, secondly, whether the fact that the procedure imposing the financial penalty in question is administrative in nature has any effect on the obligations of the competent authorities of the Member State of execution.

It must be noted, as a preliminary point, that, as is apparent in particular from Articles 1 and 6, and from recitals 1 and 2, the Framework Decision is intended to establish an effective mechanism for cross-border recognition and execution of final decisions requiring a financial penalty to be paid by a natural person or a legal person following the commission of one of the offences listed in Article 5 of the Framework Decision (judgment of 14 November 2013, *Baláž*, C-60/12, EU:C:2013:733, paragraph 27).

It is true that, in the case where the certificate referred to in Article 4 of the Framework Decision, which accompanies the decision requiring payment of a financial penalty, suggests that fundamental rights or fundamental legal principles as enshrined in Article 6 TEU may have been infringed, the competent authorities of the executing State may refuse to recognise and execute such a decision where one of the grounds for non-recognition and non-execution listed in Article 7(1) and (2) of the Framework Decision arises, and may also so refuse under Article 20(3) of that decision (judgment of 14 November 2013, *Baláž*, C-60/12, EU:C:2013:733, paragraph 28).

In view of the fact that the principle of mutual recognition, which underpins the Framework Decision, means that, in accordance with Article 6 of that decision, the Member States are, as a rule, obliged to recognise a decision requiring payment of a financial penalty which has been transmitted in accordance with Article 4 of the Framework Decision without any further formality being required, and to take without delay all the measures necessary for its enforcement, the grounds for refusal to recognise or enforce such a decision must be interpreted restrictively (judgment of 14 November 2013, *Baláž*, C-60/12, EU:C:2013:733, paragraph 29 and the case-law cited).

In the present case, it is apparent from the order for reference that on 24 May 2018 the Central Fine Collection Agency lodged a request with the referring court for the recognition and execution of a decision requiring Z.P. to pay a financial penalty in respect of conduct which infringes road traffic regulations. That request was accompanied by a certificate drafted in Polish, as required by Article 4 of the Framework Decision, and the decision requiring payment of the financial penalty. That certificate indicated that the person concerned, Z.P., had been afforded the possibility of having the case tried by a court with jurisdiction in criminal matters, as required by Article 1(a)(iii) of the Framework Decision.

In that context, as it follows from paragraph 31 of the present judgment, the competent authority of the Member State of execution is required, in principle, to recognise and execute the decision transmitted and may refuse, by way of derogation from the general rule, solely on one of the grounds for non-recognition or non-execution expressly provided for by the Framework Decision.

As regards, in the first place, the ground for refusal to recognise and execute a decision requiring payment of a financial penalty provided for in Article 7(2)(g) of the Framework Decision, that ground concerns the case where the person concerned has not been informed, 'in accordance with the law of the issuing State', of his or her right to contest the case and of the time limits for such a legal remedy.

By thus referring to the legislation of the Member States, the EU legislature left it to the Member States to decide on the manner in which the person concerned is to be informed of his right to contest the case, of the period for such a legal remedy and of when that period begins, provided that the notification is effective and the exercise of the rights of

the defence is guaranteed (see, by analogy, judgment of 22 March 2017, *Tranca and Others*, C-124/16, C-188/16 and C-213/16, EU:C:2017:228, paragraph 42).

In that regard, it is apparent from the order for reference that the decision of 9 November 2017 requiring Z.P. to pay a financial penalty was notified in accordance with Netherlands legislation and that that decision informed him of the right to contest the case, which must be exercised by 21 December of that year at the latest.

It must be noted that, in accordance with Article 3 of the Framework Decision, that decision may not have the effect of amending the obligation to respect fundamental rights and fundamental legal principles as enshrined in Article 6 TEU, which is why Article 20(3) of the Framework Decision also provides that the competent authority of the Member State of execution may refuse to recognise and execute a decision requiring payment of a financial penalty in the event of infringement of fundamental rights or fundamental legal principles defined by Article 6 of the Treaty.

In that regard, the principle of the effective judicial protection of individuals' rights under EU law, referred to in the second subparagraph of Article 19(1) TEU, is a general principle of EU law stemming from the constitutional traditions common to the Member States, which has been enshrined in Articles 6 and 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950 ('the ECHR'), and which is now reaffirmed by Article 47 of the Charter (judgment of 27 February 2018, *Associação Sindical dos Juízes Portugueses*, C-64/16, EU:C:2018:117, paragraph 35).

Ensuring actual and effective receipt of decisions, that is to say their notification to the person concerned, and sufficient time to bring an appeal against such decisions and prepare that appeal is a requirement that is necessary to ensure respect for the right to effective judicial protection (see, to that effect, judgments of 26 September 2013, *PPG and SNF* v *ECHA*, C-625/11 P, EU:C:2013:594, paragraph 35, and of 2 March 2017, *Henderson*, C-354/15, EU:C:2017:157, paragraph 72).

In that regard, it must be pointed out that a six-week period, such as that at issue in the main proceedings, is sufficient for the person concerned to be able to decide whether to bring an appeal against the decision requiring payment of a financial penalty.

It is true that it is apparent from the order for reference that, in the present case, there are doubts as to the exact date on which the decision of 9 November 2017 was notified, that decision having been notified by placing it in the addressee's letter box, and therefore, as to the date on which the period for contesting the decision concerning him began.

Nonetheless, nothing in the order for reference indicates that, in the main proceedings, Z.P. did not have sufficient time to prepare his defence and, in any event, it is for the referring court to verify, having regard to the circumstances of the case, that the person concerned was in fact provided with the decision requiring payment of a financial penalty and sufficient time to prepare his defence.

If that is the case, in accordance with the principle of mutual recognition, which underpins the Framework Decision, as it follows from paragraph 31 above, the competent authority of the Member State of execution is obliged to recognise a decision requiring payment of a financial penalty which has been transmitted in accordance with Article 4 of the Framework Decision without any further formality being required, and to take forthwith all the measures necessary for its enforcement.

On the other hand, if, having regard to the information available, the competent authority of the Member State of execution determines that the certificate provided for in Article 4 of the Framework Decision suggests that fundamental rights or fundamental legal principles may have been infringed, that authority may oppose the recognition and execution of the decision transmitted. Before doing so, that authority is required to request all the necessary information from the authority of the issuing Member State, in accordance with Article 7(3) of the Framework Decision.

In order to ensure the effectiveness of the Framework Decision and, in particular, respect for fundamental rights, the authority of the Member State issuing the penalty is obliged to provide that information (see, by analogy, judgment of 25 July 2018, *Generalstaatsanwaltschaft (Conditions of detention in Hungary)*, C-220/18 PPU, EU:C:2018:589, paragraph 64).

As regards, in the second place, the question whether the fact that the procedure imposing the financial penalty is administrative in nature could affect the obligations incumbent on the competent authorities of the Member State of execution, it must be pointed out that, in accordance with recital 2 of the Framework Decision, that decision aims to apply the principle of mutual recognition to financial penalties imposed both by judicial authorities and administrative authorities.

Thus, it follows from Article 1 of the Framework Decision that the decision requiring payment of a financial penalty may be issued not only by a court of the issuing Member State in respect of a criminal offence under the law of the issuing Member State, but also by an authority of the issuing Member State other than a court in respect of both criminal offences and acts which are punishable under the national law of the issuing State by virtue of being infringements of the rules of law, provided that the person concerned has had, in both cases, the opportunity to have the case tried before a court having jurisdiction in particular in criminal matters.

In addition, Article 5(1) of the Framework Decision expressly provides that that decision also applies to financial penalties imposed in respect of offences relating to 'conduct which infringes road traffic regulations', regarding which the Court has, moreover, previously observed that such offences are not subject to homogenous treatment in the various Member States, some of which classify them as administrative offences while others treat them as criminal offences (judgment of 14 November 2013, *Baláž*, C-60/12, EU:C:2013:733, paragraphs 34 and 46).

Accordingly, the fact that the penalty at issue in the main proceedings is administrative in nature has no bearing on the obligations incumbent on the competent authorities of the Member State of execution.

In the light of those considerations, the answer to the first to third questions is that Article 7(2)(g) and Article 20(3) of the Framework Decision must be interpreted as meaning that where a decision requiring payment of a financial penalty has been notified in accordance with the national legislation of the issuing Member State, indicating the right to contest the case and the time limit for such a legal remedy, the authority of the Member State of execution may not refuse to recognise and execute that decision provided that the person concerned has had sufficient time to contest that decision, which is for the national court to verify, and the fact that the procedure imposing the financial penalty in question is administrative in nature is not relevant in that regard.

The fourth question

By its fourth question, the referring court asks, in essence, whether Article 20(3) of the Framework Decision must be interpreted as meaning that the competent authority of the Member State of execution may refuse to recognise and execute a decision requiring payment of a financial penalty in respect of road traffic offences where such a penalty has been imposed on the person in whose name the vehicle in question is registered on the basis of a presumption of liability laid down in the national legislation of the issuing Member State.

In the present case, under the Netherlands legal system, according to Article 5 of the Highway Code, if the offence has been committed using a motor vehicle that has been assigned a registration number, and it is not possible to determine immediately the identity of the driver of that vehicle, the administrative penalty is imposed on the person in whose name that registration number was listed in the register at the time of the offending conduct.

The referring court is uncertain whether that provision is compatible with the principle of the presumption of innocence enshrined in Article 48 of the Charter of Fundamental Rights, which corresponds to Article 6(2) of the ECHR.

In that regard, it follows from the case-law of the European Court of Human Rights concerning Article 6(2) of the ECHR, case-law which the Court of Justice takes into consideration pursuant to Article 52(3) of the Charter of Fundamental Rights, for the purposes of interpreting Article 48 of that Charter, that a person's right in a criminal case to be presumed innocent and to require the prosecution to bear the onus of proving the allegations against him or her is not absolute, since presumptions of fact or of law operate in every criminal-law system and are not prohibited in principle by the ECHR, as long as States remain within reasonable limits, taking into account the importance of what is at stake and maintaining the rights of the defence (decision of the ECtHR of 19 October 2004, *Falk v. the Netherlands*, CE:ECHR:2004:1019DEC006627301).

In that decision, the European Court of Human Rights held that Article 5 of the Netherlands Highway Code is compatible with the presumption of innocence, in so far as a person who is fined under that article can challenge the fine before a trial court with full competence in the matter and that, in any such proceedings, the person concerned is not left without any means of defence in that he or she can raise arguments based on Article 8 of the Highway Code.

In the present case, it is apparent from the file before the Court that, according to Article 8 of the Netherlands Highway Code, the decision imposing an administrative penalty must be annulled if the holder of the registration number of the vehicle in question proves, inter alia, that a third party used that vehicle against his or her will and that the holder could not reasonably have prevented that person from doing so or if the holder presents a certificate demonstrating that he or she was not the owner of the vehicle or was not in possession of the vehicle on the date of the offending conduct.

Since the presumption of liability laid down in the Netherlands Highway Code may be rebutted and it is established that Z.P. did in fact have a legal basis under Netherlands law for having the financial penalty at issue in the main proceedings annulled, Article 5 of the Code cannot impede recognition and execution of that decision.

In the light of those considerations, the answer to the fourth question is that Article 20(3) of the Framework Decision must be interpreted as meaning that the competent authority of the Member State of execution may not refuse to recognise and execute a decision requiring payment of a financial penalty in respect of road traffic offences where such a penalty has been imposed on the person in whose name the vehicle in question is registered on the basis of a presumption of liability laid down in the national legislation of the issuing Member State, provided that that presumption may be rebutted.

Costs

Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (First Chamber) hereby rules:

Article 7(2)(g) and Article 20(3) of Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties, as amended by Council Framework Decision 2009/299/JHA of 26 February 2009, must be interpreted as meaning that where a decision requiring payment of a financial penalty has been notified in accordance with the national legislation of the issuing Member State, indicating the right to contest the case and the time limit for such a legal remedy, the authority of the Member State of execution may not refuse to recognise and execute that decision provided that the person concerned has had sufficient time to contest that decision, which is for the national court to verify, and the fact that the procedure imposing the financial penalty in question is administrative in nature is not relevant in that regard.

Article 20(3) of Framework Decision 2005/214, as amended by Framework Decision 2009/299 must be interpreted as meaning that the competent authority of the Member State of execution may not refuse to recognise and execute a decision requiring payment of a financial penalty in respect of road traffic offences where such a penalty has been imposed on the person in whose name the vehicle in question is

registered on the basis of a presumption of liability laid down in the national legislation of the issuing Member State, provided that that presumption may be rebutted.

[Signatures]

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* Language of the case: Polish.