

JUDGMENT OF THE COURT (Grand Chamber)

27 November 2007 *

In Case C-435/06,

REFERENCE for a preliminary ruling under Article 234 EC from the Korkein hallinto-oikeus (Finland), made by decision of 13 October 2006, received at the Court on 17 October 2006, in the proceedings

C

THE COURT (Grand Chamber),

composed of V. Skouris, President, P. Jann, C.W.A. Timmermans, A. Rosas and A. Tizzano, Presidents of Chambers, R. Schintgen, J.N. Cunha Rodrigues (Rapporteur), R. Silva de Lapuerta, J.-C. Bonichot, T. von Danwitz and A. Arabadjiev, Judges,

Advocate General: J. Kokott,

Registrar: R. Grass,

* Language of the case: Finnish.

having regard to the written procedure,

after considering the observations submitted on behalf of:

- Ms C, by M. Fredman, asianajaja,
- the Finnish Government, by A. Guimaraes-Purokoski, acting as Agent,
- the German Government, by M. Lumma, acting as Agent,
- the French Government, by G. de Bergues and A.-L. During, acting as Agents,
- the Netherlands Government, by H.G. Sevenster, acting as Agent,
- the Slovak Government, by J. Čorba, acting as Agent,
- the Swedish Government, by A. Kruse, acting as Agent,

- the Commission of the European Communities, by M. Wilderspin and. P. Aalto, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 20 September 2007,

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 2000 L 338, p. 1), as amended by Council Regulation (EC) No 2116/2004 of 2 December 2004 (OJ 2004 L 367, p. 1) ('Regulation No 2201/2003').
- ² The reference was made in the context of an appeal brought by Ms C, the mother of the children A and B, against the decision of the Oulun hallinto-oikeus (Administrative Court of Oulu, Finland) confirming the decision of the Finnish police ordering the handing over of her children to the Swedish authorities.

Legal context

Community law

- ³ Joint Declaration No 28 on Nordic Cooperation, annexed to the Treaty concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded (OJ 1994 C 241, p. 21, and OJ 1995 L 1, p. 1), provides:

‘The Contracting Parties record that Sweden, Finland and Norway, as members of the European Union, intend to continue, in full compliance with Community law and the other provisions of the Treaty on European Union, Nordic Cooperation amongst themselves as well as with other countries and territories.’

- ⁴ Recital 5 in the preamble to Regulation No 2201/2003 is worded as follows:

‘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.’

5 Article 1 of that regulation provides:

‘1. This Regulation shall apply, whatever the nature of the court or tribunal, in civil matters relating to:

...

(b) the attribution, exercise, delegation, restriction or termination of parental responsibility.

2. The matters referred to in paragraph 1(b) may, in particular, deal with:

(a) rights of custody and rights of access;

...

(d) the placement of the child in a foster family or in institutional care;

...’

6 Under Article 2 of Regulation No 2201/2003:

‘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;

...’

7 Article 8(1) of that 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.’

8 Under Article 16(1)(a) of the regulation:

‘A court shall be deemed to be seised:

- (a) at the time when the document instituting the proceedings or an equivalent document is lodged with the court, provided that the applicant has not subsequently failed to take the steps he was required to take to have service effected on the respondent.’

9 Article 59 of Regulation No 2201/2003 is worded as follows:

‘1. Subject to the provisions of Articles 60, 63, 64 and paragraph 2 of this Article, this Regulation shall, for the Member States, supersede conventions existing at the time of entry into force of this Regulation which have been concluded between two or more Member States and relate to matters governed by this Regulation.

2.(a) Finland and Sweden shall have the option of declaring that the Convention of 6 February 1931 between Denmark, Finland, Iceland, Norway and Sweden comprising international private law provisions on marriage, adoption and guardianship, together with the Final Protocol thereto, will apply, in whole or in part, in their mutual relations, in place of the rules of this Regulation. Such declarations shall be annexed to this Regulation and published in the *Official Journal of the European Union*. They may be withdrawn, in whole or in part, at any moment by the said Member States.

...’

10 According to Article 64 of that regulation:

‘1. The provisions of this Regulation shall apply only to legal proceedings instituted, to documents formally drawn up or registered as authentic instruments and to agreements concluded between the parties after its date of application in accordance with Article 72.

2. Judgments given after the date of application of this Regulation in proceedings instituted before that date but after the date of entry into force of [Council] Regulation (EC) No 1347/2000 [of 29 May 2000 on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility for children of both spouses (OJ 2000 L 160, p. 19)] shall be recognised and enforced in accordance with the provisions of Chapter III of this Regulation if jurisdiction was founded on rules which accorded with those provided for either in Chapter II or in Regulation ... No 1347/2000 or in a convention concluded between the Member State of origin and the Member State addressed which was in force when the proceedings were instituted.

...

- 11 In accordance with Article 72 thereof, Regulation No 2201/2003 ‘entered into force on 1 August 2004’ and applied from 1 March 2005, with the exception of Articles 67, 68, 69 and 70, which applied from 1 August 2004.

The national legal systems

- 12 The Swedish Care of Young Persons (Special Provisions) Act (lag med särskilda bestämmelser om vård av unga, SFS 1990 No 52) lays down measures for the protection of children, such as taking into care and placement against the will of the parents. If the health or development of the child is at risk, the social welfare board of the municipality may request the Länsrätt (County Administrative Court) to adopt appropriate measures. In urgent cases, that board may itself order those measures, subject to their confirmation by the Länsrätt.

- 13 Under Paragraph 1(1) of the Finnish Law on handing over persons to Iceland, Norway, Sweden or Denmark for the enforcement of a decision on taking into care or treatment (laki huolto- tai hoitoa koskevan päätöksen täytäntöönpanoa varten tapahtuvasta luovuttamisesta Islantiin, Norjaan, Ruotsiin tai Tanskaan (761/1970), 'Law 761/1970'), any person subject to a care or treatment measure pursuant to a decision of the authorities in Iceland, Norway, Sweden or Denmark, may, on request with a view to its enforcement, be transferred from the Republic of Finland to the State concerned.

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

- 14 On 23 February 2005, the Social Welfare Board of the town of L (Sweden) ordered the immediate taking into care of the children A and B, who were living in that town, with a view to placing them with a foster family. A, born in 2001, and B, born in 1999, both have Finnish nationality; A also has Swedish nationality.
- 15 On 1 March 2005, Ms C, accompanied by her children A and B, took up residence in Finland. Her move to that Member State was declared on 2 March 2005. The Finnish authorities registered her new residence on 10 March 2005, with effect from 1 March 2005.
- 16 The decision of the Social Welfare Board of the town of L was confirmed on 3 March 2005 by the Länsrätten i K län (County Administrative Court of K) (Sweden) before which the case had been brought for that purpose on 25 February 2005. That judicial confirmation procedure is required under Swedish law in all cases where a child is taken into care without the consent of the parents.

- 17 Having accepted that the case fell within the jurisdiction of the Swedish Courts, the Kammarrätten i M (Administrative Court of Appeal of M) (Sweden) dismissed the appeal brought by Ms C against the decision of the Länsrätten i K län.
- 18 The jurisdiction of the Swedish courts was confirmed, on 20 June 2006, by the Regeringsrätten (Supreme Administrative Court) (Sweden).
- 19 On the same day that the Länsrätten i K län delivered its decision, the Swedish police had requested the Finnish police of the town of H, where the two children were staying with their grandmother, to assist them in the enforcement of that decision. That request was submitted pursuant to Law 761/1970.
- 20 By decision of 8 March 2005, the Finnish police ordered the handing over of the children A and B to the Swedish authorities. Ms C brought an appeal against that decision before the Oulun hallinto-oikeus, which that court dismissed.
- 21 Ms C subsequently appealed to the Korkein hallinto-oikeus (Supreme Administrative Court) which considered that an interpretation of the scope of Regulation No 2201/2003 was necessary for it to decide the dispute in the main proceedings.
- 22 Pointing out that decisions on the taking into care and placement of children are governed, in Finland, by public law, the Korkein hallinto-oikeus raised the question whether such decisions fell within the definition of 'civil matters' in that regulation. Moreover, given that, in Finland, child protection necessitates the adoption of not just one decision, but a whole series of decisions, that court also raised the question whether the regulation covers both the taking into care and the placement of children or solely the placement decision.

23 Against that background, the Korkein hallinto-oikeus decided to stay proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

- ‘(1) (a) Does ... Regulation ... No 2201/2003 ... apply, in a case such as the present, to the enforcement of a public law decision in connection with child welfare, relating to the immediate taking into care of a child and his or her placement in a foster family outside the home, taken as a single decision, in its entirety;
- (b) or solely to that part of the decision relating to placement outside the home in a foster family, having regard to the provision in Article 1(2)(d) of the regulation;
- (c) and, in the latter case, is ... Regulation [No 2201/2003] applicable to a decision on placement contained in one on taking into care, even if the latter decision, on which the placement decision is dependent, is itself subject to legislation, based on the mutual recognition and enforcement of judgments and administrative decisions that has been harmonised in cooperation between the Member States concerned?
- (2) If the answer to Question 1(a) is in the affirmative, is it possible, given that ... Regulation [No 2201/2003] takes no account of the legislation harmonised by the Nordic Council on the recognition and enforcement of public law decisions on placement, as described above, but solely of a corresponding private law convention, nevertheless to apply this harmonised legislation based on the direct recognition and enforcement of administrative decisions as a form of cooperation between administrative authorities to the taking into care of a child?

- (3) If the answer to Question 1(a) is in the affirmative and that to Question 2 is in the negative, does ... Regulation [No 2201/2003] apply *ratio temporis* to a case, taking account of Articles 72 and 64(2) of ... [R]egulation [No 2201/2003] and the abovementioned harmonised Nordic legislation on public law decisions on taking into care, if in Sweden the administrative authorities took their decision both on immediate taking into care and on placement with a foster family on 23 February 2005 and submitted their decision on immediate taking into care to the Länsrätt for confirmation on 25 February 2005, and that court accordingly confirmed the decision on 3 March 2005?

The questions referred for a preliminary ruling

Question 1(a)

- ²⁴ By this question, the national court asks essentially whether Article 1(1) of Regulation No 2201/2003 is to be interpreted, first, as applying to a single decision which orders the immediate taking into care and placement of a child outside the original home in a foster family and, second, whether that decision falls within the definition of ‘civil matters’ for the purposes of that provision, where it was adopted in the context of rules of public law relating to child protection.
- ²⁵ As regards the decision to take a child into care, it is necessary to determine whether that decision relates to parental responsibility and whether, consequently, it comes within the scope of Regulation No 2201/2003.

26 In that respect, it should be noted that, according to Article 1(1)(b) thereof, Regulation No 2201/2003 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. Moreover, under Article 2(1) of that regulation, the term ‘court’ is to cover all the authorities in the Member States with jurisdiction in the matters falling within the scope of the regulation.

27 Under Article 2(7) of that same regulation, ‘parental responsibility’ encompasses 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, including rights of custody and rights of access.

28 Taking a child into care does not feature expressly amongst the matters which, according to Article 1(2) of the regulation, relate to parental responsibility.

29 That fact cannot, however, exclude a decision to take a child into care from the scope of Regulation No 2201/2003.

30 The use of the words ‘in particular’ in Article 1(2) of that regulation implies that the list contained in that provision is only to be used as a guide.

- 31 Moreover, it is clear from Recital 5 in the preamble to Regulation No 2201/2003 that, in order to ensure equality for all children, that regulation covers all decisions on parental responsibility, including measures for the protection of the child.
- 32 A decision to take a child into care, such as that at issue in the main proceedings, is inherently a public act the aim of which is to satisfy the need to protect and assist young persons.
- 33 In addition, it appears from the documents submitted to the Court that, in Finland, taking a child into care has the effect of conferring on the social welfare boards of that Member State the power to determine the child's place of residence. That measure is liable to affect the exercise of rights of custody which, according to Article 2(9) of Regulation No 2201/2003, specifically include the right to determine that place of residence. Therefore, that power concerns parental responsibility, since, according to Article 1(2)(a) of that regulation, rights of custody constitute one of the matters relating to that responsibility.
- 34 As regards placement, it should be noted that, in accordance with Article 1(2)(d) of Regulation No 2201/2003, the placement of the child in a foster family or in institutional care is one of the matters relating to parental responsibility.
- 35 As the Advocate General stated at point 28 of her Opinion, taking into care and placement are closely linked acts in the sense, first, that the decision to take into care can be adopted separately only as an interim measure and, secondly, that the placement of a child against the will of the parents is possible only after that child has been taken into care by the competent authority.

- 36 In those circumstances, the exclusion of a decision to take a child into care from the scope of Regulation No 2201/2003 would be likely to undermine the effectiveness of that regulation in Member States in which the protection of children, including their placement, requires the adoption of several decisions. Moreover since, in other Member States, such protection is afforded by means of a single decision, there is a risk that the equal treatment of the children concerned would be compromised.
- 37 It must be ascertained whether Regulation No 2201/2003 applies to decisions to take into care and place a child that are governed by public law.
- 38 Article 1(1) of Regulation No 2201/2003 sets out the principle that the scope of that regulation is confined to 'civil matters' without, however, defining the content and scope of that term.
- 39 In the context of the Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters (OJ 1978 L 304, p. 36), as amended by the Convention of 9 October 1978 on the Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland (OJ 1978 L 304, p. 1, and — amended version — p. 77), by the Convention of 25 October 1982 on the Accession of the Hellenic Republic (OJ 1982 L 388, p. 1) and by the Convention of 26 May 1989 on the Accession of the Kingdom of Spain and the Portuguese Republic (OJ 1989 L 285, p. 1) and by the Convention of 29 November 1996 on the Accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden (OJ 1997 C 15, p. 1) ('the Brussels

Convention'), the Court has been called upon to interpret the term 'civil and commercial matters' included in the first sentence of the first paragraph of Article 1 of that convention.

40 The Court has repeatedly held that, in order to ensure, as far as possible, that the rights and obligations which derive from the Brussels Convention for the Contracting States and the persons to whom it applies are equal and uniform, the terms of the provision should not be interpreted as a mere reference to the internal law of one or other of the States concerned. 'Civil and commercial matters' must be regarded as an independent concept to be interpreted by referring, first, to the objectives and scheme of the Brussels Convention and, second, to the general principles which stem from the corpus of the national legal systems (see Case C-292/05 *Lechouritou and Others* [2007] ECR I-1519, paragraph 29 and the case-law cited).

41 The Swedish Government accepts, like the appellant in the main proceedings, the other Member States which submitted observations and the Commission of the European Communities, that 'civil matters' within the meaning of Article 1(1) of Regulation No 2201/2003 must also be interpreted autonomously in Community law, but contends that a decision to take into care and place a child, which involves the exercise of public powers, does not fall within the scope of that regulation.

42 In support of that argument, the Swedish Government relies on the case-law of the Court according to which, although certain actions between a public authority and a person governed by private law may come within the scope of the Brussels Convention, it is otherwise where the public authority is acting in the exercise of its public powers (Case C-167/00 *Henkel* [2002] ECR I-8111, paragraphs 26 and 30, and Case C-266/01 *Préservatrice foncière TIARD* [2003] ECR I-4867, paragraph 22).

43 According to the Swedish Government, it is difficult to imagine a decision arising more manifestly from the exercise of public powers than a decision requiring that a child be taken into care, which could, in certain circumstances, even result in that child being deprived of his liberty.

44 That interpretation of Article 1(1) of Regulation No 2201/2003 cannot be accepted.

45 Since the term ‘civil matters’ is to be interpreted with regard to the objectives of Regulation No 2201/2003, if decisions on the taking into care and placement of a child, which in some Member States are governed by public law, were for that reason alone to be excluded from the scope of that regulation, the very purpose of mutual recognition and enforcement of decisions in matters of parental responsibility would clearly be compromised. In that context, it should be noted that it is apparent from Articles 1(1) and 2(1) of Regulation No 2201/2003 that neither the judicial organisation of the Member States nor the conferral of powers on administrative authorities can affect the scope of that regulation or the interpretation of ‘civil matters’.

46 Consequently, the term ‘civil matters’ must be interpreted autonomously.

47 Only the uniform application of Regulation No 2201/2003 in the Member States, which requires that the scope of that regulation be defined by Community law and not by national law, is capable of ensuring that the objectives pursued by that regulation, one of which is equal treatment for all children concerned, are attained.

- 48 According to Recital 5 in the preamble to Regulation No 2201/2003, that objective can only be safeguarded if all decisions on parental responsibility fall within the scope of that regulation.
- 49 Parental responsibility is given a broad definition in Article 2(7) of the regulation, inasmuch as it includes 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.
- 50 As the Advocate General pointed out at point 44 of her Opinion, in this regard it does not matter whether parental responsibility is affected by a protective measure taken by the State or by a decision which is taken on the initiative of the person or persons with rights of custody.
- 51 The term ‘civil matters’ must be interpreted as capable of extending to measures which, from the point of view of the legal system of a Member State, fall under public law.
- 52 That interpretation is, moreover, supported by Recital 10 in the preamble to Regulation No 2201/2003, according to which that regulation is not intended to apply ‘to matters relating to social security, public measures of a general nature in matters of education or health ...’ Those exceptions confirm that the Community legislature did not intend to exclude all measures falling under public law from the scope of the regulation.

53 In the light of the foregoing considerations, the answer to Question 1(a) must be that Article 1(1) of Regulation No 2201/2003 is to be interpreted to the effect that a single decision ordering that a child be taken into care and placed outside his original home in a foster family is covered by the term ‘civil matters’, for the purposes of that provision, where that decision was adopted in the context of public law rules relating to child protection.

Question 1(b) and (c)

54 These questions were raised by the national court only in the event that, in its answer to Question 1(a), the Court interpreted the term ‘civil matters’ within the meaning of Article 1(1) of Regulation No 2201/2003 as not including a single decision ordering that a child be taken into care and placed outside his original home in a foster family, where that decision was adopted in the context of public law rules relating to child protection.

55 In the light of the answer to Question 1(a), it is not necessary to answer Questions 1(b) and (c).

Question 2

56 By this question, the national court asks essentially whether Regulation No 2201/2003 is to be interpreted as meaning that harmonised national legislation

on the recognition and enforcement of administrative decisions on taking into care and placement of persons, adopted in the context of cooperation between the Nordic States, can be applied to a decision to take a child into care which falls within the scope of that legislation, where the latter does not make provision for it.

- 57 In that regard, it should be pointed out that, according to settled case-law, a national court which is called upon, within the exercise of its jurisdiction, to apply provisions of Community law is under a duty to give full effect to those provisions, if necessary refusing of its own motion to apply any conflicting provision of national legislation (see, inter alia, Case 106/77 *Simmmenthal* [1978] ECR 629, paragraphs 21 to 24; Case C-213/89 *Factortame and Others* [1990] ECR I-2433, paragraphs 19 to 21; and Case C-119/05 *Lucchini* [2007] ECR I-6199, paragraph 61).
- 58 In accordance with Article 59(1) thereof, Regulation No 2201/2003 is to supersede, for the Member States, the conventions concluded between them which relate to matters governed by the regulation.
- 59 Under Article 59(2)(a) of the regulation ‘Finland and Sweden shall have the option of declaring that the Convention of 6 February 1931 between Denmark, Finland, Iceland, Norway and Sweden comprising international private law provisions on marriage, adoption and guardianship, together with the Final Protocol thereto, will apply, in whole or in part, in their mutual relations, in place of the rules of this Regulation.’
- 60 This is the only provision derogating from the rule set out in paragraph 58 of this judgment. It is, as such, to be interpreted strictly.

- 61 Cooperation between the Nordic States on the recognition and enforcement of administrative decisions on the taking into care and placement of persons does not appear amongst the exceptions listed exhaustively in Regulation No 2201/2003.
- 62 Harmonised national legislation, such as Law 761/1970, cannot therefore be applied to a decision to take into care and place a child that falls within the scope of Regulation No 2201/2003.
- 63 That conclusion is not invalidated by Joint Declaration No 28 on Nordic Cooperation.
- 64 According to that declaration, those States which are members of Nordic Cooperation and members of the Union have undertaken to continue that cooperation, in compliance with Community law.
- 65 Accordingly, that cooperation must respect the principles of the Community legal order.
- 66 The answer to Question 2 must therefore be that Regulation No 2201/2003 is to be interpreted as meaning that harmonised national legislation on the recognition and enforcement of administrative decisions on the taking into care and placement of persons, adopted in the context of Nordic Cooperation, may not be applied to a decision to take a child into care that falls within the scope of that regulation.

Question 3

- 67 By this question, the national court asks essentially whether Regulation No 2201/2003 is to be interpreted as applying *ratione temporis* in a case such as that in the main proceedings.
- 68 It is clear from Articles 64(1) and 72 of Regulation No 2201/2003 that the regulation applies only to legal proceedings instituted, to documents formally drawn up or registered as authentic instruments and to agreements concluded between the parties after 1 March 2005.
- 69 Moreover, Article 64(2) of that regulation provides that '[j]udgments given after the date of application of this Regulation in proceedings instituted before that date but after the date of entry into force of Regulation ... No 1347/2000 shall be recognised and enforced in accordance with the provisions of Chapter III of this Regulation if jurisdiction was founded on rules which accorded with those provided for either in Chapter II or in Regulation ... No 1347/2000 or in a convention concluded between the Member State of origin and the Member State addressed which was in force when the proceedings were instituted'.
- 70 In a case such as that in the main proceedings, Regulation No 2201/2003 applies only if the three cumulative conditions listed in the preceding paragraph of this judgment are fulfilled.
- 71 As regards the first of those conditions, it should be noted that, according to the national court, which alone has jurisdiction to assess the facts of the case in the main proceedings, the decision the enforcement of which is at issue in the main proceedings is that of the Länsrätten i K län of 3 March 2005. It was therefore delivered after the date on which Regulation No 2201/2003 came into force.

- 72 With regard to the second condition laid down, it appears from the order for reference that the procedure for taking the children A and B into care was initiated 'in autumn 2004', in other words before Regulation No 2201/2003 applied but after the entry into force of Regulation No 1347/2000, which, pursuant to Article 46 thereof, was on 1 March 2001. It is for the national court to verify whether that was actually the case.
- 73 As regards the third condition referred to in paragraph 69 of this judgment, the following observations must be made.
- 74 In accordance with Article 8(1) of Regulation No 2201/2003, the courts of a Member State are to 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.
- 75 By decision of 20 June 2006, the Regeringsrätten confirmed, on the basis of national law, the jurisdiction of the Swedish courts in the case. That court was of the view that, at the date when the social welfare board initiated an inquiry into the family situation of the children A and B, they were resident in Sweden, within the geographical jurisdiction of the Länsrätten i K län.
- 76 It follows that, for the purposes of Article 64(2) of Regulation No 2201/2003, the rules of jurisdiction applied on the basis of national law accord with those provided for by that regulation. Consequently, the third condition laid down is fulfilled.

- 77 In view of the foregoing, the answer to Question 3 must be that, subject to the factual assessment, which is a matter for the national court alone, Regulation No 2201/2003 must be interpreted as applying *ratione temporis* in a case such as that in the main proceedings.

Costs

- 78 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 (Grand Chamber) hereby rules:

1. **Article 1(1) 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, as amended by Council Regulation (EC) No 2116/2004 of 2 December 2004, is to be interpreted to the effect that a single decision ordering a child to be taken into care and placed outside his original home in a foster family is covered by the term ‘civil matters’ for the purposes of that provision, where that decision was adopted in the context of public law rules relating to child protection.**

2. **Regulation No 2201/2003, as amended by Regulation No 2116/2004, is to be interpreted as meaning that harmonised national legislation on the recognition and enforcement of administrative decisions on the taking into care and placement of persons, adopted in the context of Nordic Cooperation, may not be applied to a decision to take a child into care that falls within the scope of that regulation.**

3. **Subject to the factual assessment which is a matter for the national court alone, Regulation No 2201/2003, as amended by Regulation No 2116/2004, is to be interpreted as applying *ratione temporis* in a case such as that in the main proceedings.**

[Signatures]