

2. Must Articles 1, 3 and 22 of the Schengen Borders Code ^(?) be interpreted as not precluding the regulations of a Member State (in the present case, Articles 18 and 22 of the Ministerial Decree of 30 June 2020 on urgent measures to limit the spread of the coronavirus COVID-19 (as amended by Articles 3 and 5 respectively of the Ministerial Decree of 10 July 2020)) which impose an exit ban on non-essential travel from Belgium to countries within the EU and the Schengen Area and an entry ban from those countries to Belgium which may not only be checked and sanctioned, but may also be enforced ex officio by the Minister, the mayor and the police commander?

-
- (¹) Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ 2004 L 158, p. 77).
- (²) Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ 2006 L 105, p. 1).

Request for a preliminary ruling from the Fővárosi Törvényszék (Hungary) lodged on 1 March 2022 — Criminal proceedings against Accused Person 5

(Case C-147/22)

(2022/C 213/37)

Language of the case: Hungarian

Referring court

Fővárosi Törvényszék

Parties to the main proceedings

Accused Person 5

Questions referred

1. Does the *ne bis in idem* principle, laid down in Article 50 of the Charter of Fundamental Rights of the European Union [(‘the Charter’)] and in Article 54 of the Convention Implementing the Schengen Agreement [(‘CISA’)], preclude the pursuit of criminal proceedings instituted in one Member State against the same person and for the same acts as formed the subject of criminal proceedings instituted in another Member State which have already been finally terminated by a decision of the public prosecutor ordering the discontinuance of the pre-trial investigation?
 2. Is the fact that, even though the decision of the public prosecutor ordering the discontinuance of the criminal proceedings (pre-trial investigation) in one Member State leaves open the possibility for the pre-trial investigation to be re-opened up until such time as prosecution of the criminal offence becomes time-barred, the public prosecutor’s office did not consider there to be grounds for reopening the aforementioned pre-trial investigation of its own motion, compatible with the *ne bis in idem* principle laid down in Article 50 of the [Charter] and in Article 54 of the [CISA], and does that fact permanently preclude the institution of new criminal proceedings in [another] Member State against the same person and for the same acts?
 3. Is a pre-trial investigation discontinued in respect of an accused person who was not questioned in his capacity as a person under judicial investigation in connection with a criminal offence relating to the co-accused persons, but in respect of whom measures of investigation were carried out in his capacity as an accused person, and in relation to whom the discontinuance of the pre-trial investigation was based on investigative information provided following a request for legal cooperation, as well as on the provision of bank account information and on the questioning of the co-accused persons in their capacity as persons under judicial investigation, compatible with the *ne bis in idem* principle laid down in Article 50 of the [Charter] and in Article 54 of the [CISA], and can such a pre-trial investigation be regarded as being sufficiently thorough and exhaustive?
-