



Reports of Cases

JUDGMENT OF THE COURT (Second Chamber)

27 March 2014*

(Citizenship of the Union — Principle of non-discrimination — Language rules applicable to civil proceedings)

In Case C-322/13,

REQUEST for a preliminary ruling under Article 267 TFEU from the Landesgericht Bozen (Italy), made by decision of 6 June 2013, received at the Court on 13 June 2013, in the proceedings

Ulrike Elfriede Grauel Rüffer

v

Katerina Pokorná,

THE COURT (Second Chamber),

composed of R. Silva de Lapuerta (Rapporteur), President of the Chamber, J.L. da Cruz Vilaça, G. Arestis, J.-C. Bonichot and A. Arabadjiev, Judges,

Advocate General: E. Sharpston,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

- Ms Pokorná, by M. Mairhofer and F. Bauer, Rechtsanwälte,
- the Italian Republic, by G. Palmieri, acting as Agent, and W. Ferrante, avvocato dello Stato,
- the European Commission, by E. Traversa and W. Bogensberger, acting as Agents,

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

gives the following

Judgment

- 1 The request for a preliminary ruling concerns the interpretation of Articles 18 TFEU and 21 TFEU.

* Language of the case: German.

- 2 The request has been made in proceedings between Ms Grauel Rüffer and Ms Pokorná concerning an action for damages following a skiing accident.

Legal context

- 3 The first paragraph of Article 122 of the Italian Code of Civil Procedure (Zivilprozessordnung) provides:

‘The Italian language is to be used in all proceedings.’

- 4 Article 156 of that code provides:

‘1. The documents in the proceedings may not be declared invalid on the ground of non-compliance with rules as to form if such invalidity is not provided for by law.

2. Such invalidity may nevertheless be declared if the formal requirements for the document that are necessary to achieve the object are not satisfied.

3. Invalidity may not be declared if the document achieves the object for which it is intended.’

- 5 In derogation from that rule, the German language may be used in court in the Province of Bolzano in criminal, civil and administrative law proceedings. The use of German before those courts is based on the provisions of Articles 99 and 100 of the Decree of the President of the Republic No 670 of 31 August 1972 authorising of the standardised text of constitutional laws concerning the special arrangements for Trentino-Alto Adige (‘the DPR No 670/1972’) as well as on the Decree of the President of the Republic No 574 of 15 July 1988 on the implementation of the special arrangements for the Trentino-Alto Adige with regard to the use of German or Ladin in relations between citizens and the public administration and in judicial proceedings (‘the DPR No 574/1988’).

- 6 Article 99 of the DPR No 670/1972 provides:

‘In the Region, the German language shall have a status that is equivalent to the Italian language, which is the official language of the State. In acts with the force of law and if the present statute provides for a bilingual text the Italian version shall be the authoritative text.’

- 7 Article 100 of Decree No 670/1972 provides:

‘German-speaking citizens of the Province of Bolzano may use their own language in relations with the courts and with the organs and offices of the public administration situated in the Province or which have regional responsibilities, as well as with public service contractors who provide public services in the Province.’

- 8 According to Article 1(1) of the DPR No 574/1988:

‘This Decree regulates the use of the German language in application of the provisions of Part XI of the special arrangements for Trentino-Alto Adige ... In the Region the German language shall have a status that is equivalent to the Italian language, which is the official language of the State:

- (a) in relations with the organs and offices of the public administration and with legal persons and public law establishments situated in the Province of Bolzano or which have regional competence, also with public service contractors who supply public services in the Province;

- (b) in relations with the courts and the ordinary courts, the administrative courts and the tax courts with their seat in the Province of Bolzano;
- (c) in relations with the Oberlandesgericht (Higher Regional Court), the Court of Assizes having appellate jurisdiction, the Juvenile Division of the Oberlandesgericht, the Public Prosecutor's Office attached to the Oberlandesgericht, the Juvenile Court, the Court of Supervision and the Office of Supervision, the Regional Commissioner for the Redemption of Common Usage Rights.

...'

9 Article 20 of the DPR No 574/1988 provides:

'1. In civil proceedings each party shall have the right to choose the language in which he drafts his documents. That choice shall be indicated in the drafting in one or other language of the document instituting proceedings or of the defence or equivalent documents.

2. Should the document instituting proceedings and the defence or equivalent documents be drafted in the same language, then the proceedings shall be monolingual. Otherwise, the proceedings shall be bilingual.

3. In bilingual proceedings each party shall use the language he has chosen. Judicial orders shall be issued and written in both languages, unless the party with an interest in that requirement waives it before the hearing in which the order is applied for. The parties' documents shall be written in Italian or German, and there is no *ex officio* obligation to translate them at the expense of the court. In bilingual proceedings, parties who do not reside or do not have their seat in the Province of Bolzano can ask the court, within the period of 30 days following the transmission or lodging of documents, to have these wholly or partially translated into the other language at the expense of the court. The court may exclude from translation, in whole or in part, documents lodged by the parties which are regarded as clearly irrelevant.'

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

- 10 The file before the Court states that, on 22 February 2009, Ms Grauel Rüffer, a German national domiciled in Germany, fell on a ski run situated in the Province of Bolzano and injured her right shoulder. She claims that that fall was caused by Ms Pokorná, a Czech national domiciled in the Czech Republic. Ms Grauel Rüffer claims compensation from Ms Pokorná for the damage sustained.
- 11 In the proceedings brought before the referring court the notice of proceedings, served on 24 April 2012, was drafted in German at the request of Ms Grauel Rüffer. Ms Pokorná, who received a Czech translation of that notice of proceedings on 4 October 2012, submitted her defence in German on 7 February 2013 and raised no objection as to the choice of German as the language of the case.
- 12 At the first hearing, the referring court, having regard to a judgment delivered on 22 November 2012 by the Corte suprema di cassazione (Italy) (Judgment No 20715), raised the question of choice of the language, that is German or Italian, in which the proceedings should be continued.
- 13 In that judgment, the Corte suprema di cassazione held that the provisions of the DPR No 574/1988 applied only to Italian citizens residing in the Province of Bolzano.
- 14 The referring court observes that in accordance with that judgment, the defendant in the main proceedings could not, by choosing German as the language of the case, cure the invalidity of the originating application resulting from the use of that language. Therefore, the originating application and the subsequent procedural document, that is to say, the defence, required to be declared invalid.

- 15 However, that court considers that European Union law might preclude the application of the national provisions at issue in the main proceedings in accordance with the interpretation given by the Corte suprema di cassazione. The question arises as to whether Italian citizens residing in the Province of Bolzano have the choice of using German before a court hearing a civil action, or whether that choice must also be offered to Italian citizens who do not reside in that province or to nationals of Member States of the European Union other than the Italian Republic residing in that province or, as in the case in the main proceedings, to nationals of such Member States who do not reside in that province.
- 16 According to the referring court, it is true that the provisions relating to the use of the German language pursue the objective consisting in the protection of the German-speaking ethnic and cultural minority residing in the Province of Bolzano. Nevertheless, that objective is not obstructed in any way by the fact the rules at issue may apply to citizens of Member States other than the Italian Republic who exercise their right to freedom of movement.
- 17 In those circumstances the Landesgericht Bozen decided to stay the proceedings before it and to refer the following questions to the Court for a preliminary ruling:

‘Does the interpretation of Articles 18 and 21 TFEU preclude the application of provisions of national law, such as those at issue in the main proceedings, which grant the right to use the German language in civil proceedings pending before the courts in the province of Bolzano only to Italian citizens domiciled in the Province of Bolzano, but not to nationals of other EU Member States, whether or not they are domiciled in that province?’

The question referred for a preliminary ruling

- 18 By its question, the referring court asks essentially whether Articles 18 TFEU and 21 TFEU must be interpreted as precluding national rules which grant the right to use a language other than the official language of the State in civil proceedings brought before the courts of a Member State which are situated in a specific territorial entity of that State only to citizens of the former who are domiciled in that same territorial entity.
- 19 In order to answer that question, it must be recalled, first of all, that, as regards the same provisions, the Court, in *Bickel and Franz* (C-274/96 EU:C:1998:563, paragraphs 19 and 31), held that the right conferred by national rules to have criminal proceedings conducted in a language other than the principal language of the State concerned falls within the scope of European Union law, which precludes national rules which confer on citizens whose language is that particular language and who are resident in a defined area, the right to require that criminal proceedings be conducted in that language, without conferring the same right on nationals of other Member States travelling or staying in that area, whose language is the same.
- 20 The considerations which led the Court, in *Bickel and Franz* (EU:C:1998:563) to acknowledge that a citizen of the European Union, who is a national of a Member State other than the Member State concerned, is entitled, in criminal proceedings, to rely on language rules such as those at issue in the main proceedings on the same basis as the nationals of the latter Member State, and, therefore, may address the court seised in one of the languages provided for by those rules, must be understood as applying to all judicial proceedings brought within the territorial entity concerned, including, civil proceedings.
- 21 If it were otherwise, a German-speaking citizen of a Member State other than the Italian Republic, who travels and stays in the Province of Bolzano would be treated less favourably in comparison with a German-speaking Italian national who resides in that province. While such an Italian national may

bring proceedings before a court in civil proceedings and have the proceedings take place in German, that right would be refused to a German-speaking citizen of a Member State other than the Italian Republic, travelling in that province.

- 22 As regards the observation of the Italian Government, according to which there is no reason to extend the right to use the ethnic and cultural minority language concerned to a citizen of a Member State other than the Italian Republic who is present on an infrequent and temporary basis in that region, since the measures are available to him which guarantee that he will be able to exercise his rights of defence in an appropriate manner, even where he is without any knowledge of the official language of the host State, it must be observed that the same argument was put forward by the Italian Government in the case which gave rise to the judgment in *Bickel and Franz* (EU:C:1998:563, paragraph 21) and that the Court dismissed it in paragraphs 24 to 26 thereof, holding that the rules at issue in the main proceedings ran counter to the principle of non-discrimination.
- 23 Such legislation could be justified only if it were based on objective considerations independent of the nationality of the persons concerned and proportionate to the legitimate aim of the national provisions (*Bickel and Franz* EU:C:1998:563, paragraph 27).
- 24 In the first place, as regards the argument raised by the Italian Government that the application of the language policy at issue in the main proceedings to citizens of the European Union would have the result of encumbering the proceedings in terms of organisation and time limits, it must be pointed out that that assertion is expressly contradicted by the referring court, according to which the judges in the Province of Bolzano are perfectly able to conduct judicial proceedings in either Italian or in German, or in both languages.
- 25 In the second place, as regards the observation made by that government relating to the extra costs which would be incurred by the Member State concerned, the application of those language rules to citizens of the European Union, it is settled case-law that aims of a purely economic nature cannot constitute pressing reasons of public interest justifying a restriction of a fundamental freedom guaranteed by the Treaty (see Case C-109/04, *Krannemann*, EU:2005:187, paragraph 34 and the case-law cited).
- 26 Accordingly, the national rules at issue in the main proceedings cannot be regarded as justified.
- 27 It follows from all of the foregoing considerations that the answer to the question referred is that Articles 18 TFEU and 21 TFEU must be interpreted as precluding national rules, such as those at issue in the main proceedings, which grant the right to use a language other than the official language of that State in civil proceedings brought before the courts of a Member State which are situated in a specific territorial entity, only to citizens of that State who are domiciled in the same territorial entity.

Costs

- 28 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.

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

Articles 18 TFEU and 21 TFEU must be interpreted as precluding national rules, such as those at issue in the main proceedings, which grant the right to use a language other than the official language of that State in civil proceedings brought before the courts of a Member State which are situated in a specific territorial entity, only to citizens of that State who are domiciled in the same territorial entity.

[Signatures]