JUDGMENT OF THE COURT (Sixth Chamber)

30 March 1993 *

In Case C-168/91,

REFERENCE to the Court under Article 177 of the EEC Treaty by the Amtsgericht Tübingen (Federal Republic of Germany) for a preliminary ruling in the proceedings pending before that court concerning the civil status of

Christos Konstantinidis

on the interpretation of Articles 5, 7, 48, 52, 59 and 60 of the EEC Treaty,

THE COURT (Sixth Chamber),

composed of: C. N. Kakouris, President of the Chamber, G. F. Mancini, F. A. Schockweiler, M. Diez de Velasco and P. J. G. Kapteyn, Judges,

Advocate General: F. G. Jacobs,
Registrar: L. Hewlett, Administrator,

after considering the written observations submitted on behalf of:

— the German Government, by E. Röder, Ministerialrat in the Federal Ministry for the Economy, and C.-D. Quassowski, Regierungsdirektor in the same Ministry, acting as Agents,

* Language of the case: German.

— the Greek Government, by D. Raptis, State Legal Advisor, acting as Agent,

— the Commission of the European Communities, by D. Gouloussis, Legal Adviser, assisted by R. Hayder, of its Legal Service, acting as Agents,

having regard to the Report for the Hearing,

after hearing the oral observations of Christos Konstantinidis, the German Government, the Greek Government and the Commission at the hearing on 29 October 1992,

after hearing the Opinion of the Advocate General at the sitting on 9 December 1992,

gives the following

Judgment

1 By order of 27 June 1991, received at the Court on 1 July 1991, the Amtsgericht Tübingen (Local Court, Tübingen), Federal Republic of Germany, referred to the Court for a preliminary ruling under Article 177 of the EEC Treaty two questions on the interpretation of Articles 5, 7, 48, 52, 59 and 60 of the EEC Treaty.

2 Those questions were raised in civil status proceedings concerning Christos Konstantinidis to which the Standesamt (Registry Office), Altensteig, and Landratsamt Calw, Ordnungsamt (Registration Department of the Calw District Office) are also parties.

3 The applicant in the main proceedings is a Greek national residing in Altensteig, in the Federal Republic of Germany. He works there as a self-employed masseur and

assistant hydrotherapist. According to his Greek birth certificate, his first name is Χρήστος and his surname is Κωνσταντινίδης.

4 On 1 July 1983, he was married at the Registry Office in Altensteig. In the register of marriages, his name was spelt 'Christos Konst*adi*nidis'. On 31 October 1990, he applied to the Registry Office in Altensteig for the entry of his surname in that register to be rectified by changing it from 'Konst*adi*nidis' to 'Konst*anti*nidis' on the ground that the latter spelling indicated as accurately as possible to German speakers the correct pronunciation of his name in Greek and that it was, moreover, the way in which his name was transcribed in Roman characters in his Greek passport.

5 Since the entry of the applicant's name in the register of marriages should correspond to that appearing on his birth certificate, the Amtsgericht Tübingen, the court having jurisdiction to order the rectification of entries, obtained a translation of the birth certificate. The name was transcribed, in accordance with the administrative provisions in force and with the consistent case-law of the higher courts in Germany, by applying ISO Standard 18 as prescribed by Article 3 of the Convention on the Representation of Names and Surnames in Registers of Civil Status of 13 September 1973 (*Bundesgesetzblatt* 1976 II, p. 1473, hereinafter 'the Convention') which provides that names should be transliterated. The Convention entered into force in the Federal Republic of Germany on 16 February 1977 (*Bundesgesetzblatt* 1977 II, p. 254); the Hellenic Republic became a party to the Convention in 1987. If ISO Standard 18 is applied, the transcription of the applicant's name becomes 'Hréstos Kónstantinidés'.

6 The applicant objected to that transcription before the Amtsgericht Tübingen, arguing that it distorted the pronunciation of his name.

7 The District Office in Calw, to which the Registry Office in Altensteig is responsible, then made a separate application for the register of marriages to be rectified so that the applicant's name should appear as 'Hréstos Kónstantinidés' in accordance with ISO Standard 18.

8 The Amtsgericht Tübingen considered that the proceedings raised problems of interpretation of Community law and decided to refer the following questions to the Court for a preliminary ruling:

'1. Is it an encroachment, contrary to Articles 5 and 7 of the Treaty establishing the European Economic Community, on the rights of a national of a Member State of the European Communities who is an employed or self-employed person covered by Articles 48, 52 and 59 et seq. of the said Treaty for him to be obliged to allow his name to be entered in the registers of civil status of his host country, another Member State, against his express wishes, in a spelling differing from the phonetic transcription, whereby its pronunciation is modified and distorted?

Specifically, does the fact that the Greek name Christos Konstantinidis (in a direct phonetic transcription) thus becomes "Hréstos Kónstantinidés" constitute such an encroachment?

2. Does such a fact constitute an interference with the freedom of establishment and freedom to provide services laid down in Articles 52, 59 and 60 of the Treaty establishing the European Community?'

9 Reference is made to the Report for the Hearing for a fuller account of the facts of the case in the main proceedings, the applicable legislation and the observations submitted to the Court, which are mentioned or discussed hereinafter only in so far as is necessary for the reasoning of the Court.

10 As a preliminary point, it is to be noted that, as appears from the order for reference, the applicant in the main proceedings is a Greek national working in the Federal Republic of Germany as a self-employed masseur and assistant hydrotherapist.

11 In those circumstances, the national court's two questions are to be regarded as seeking to ascertain, in substance, whether Article 52 of the Treaty is to be

interpreted as meaning that it is contrary to that provision for the name of a Greek national who has settled in another Member State in order to pursue an occupation as a self-employed person to be entered in the registers of civil status of that State in a spelling differing from the phonetic transcription, whereby its pronunciation is modified and distorted.

12 In answering that question, it must first be borne in mind that, as the Court has stated on numerous occasions, Article 52 of the Treaty constitutes one of the fundamental legal provisions of the Community. By prohibiting any discrimination on grounds of nationality resulting from national laws, regulations or practices, that article seeks to ensure that, as regards the right of establishment, a Member State accords to nationals of other Member States the same treatment as it accords to its own nationals (judgment in Case 197/84 *Steinhauser* v *City of Biarritz* [1985] ECR 1819, paragraph 14).

13 It must therefore be determined whether national rules relating to the transcription in Roman characters of the name of a Greek national in the registers of civil status of the Member State in which he is established are capable of placing him at a disadvantage in law or in fact, in comparison with the way in which a national of that Member State would be treated in the same circumstances.

14 There is nothing in the Treaty to preclude the transcription of a Greek name in Roman characters in the registers of civil status of a Member State which uses the Roman alphabet. It is therefore for the Member State in question to adopt legislative or administrative measures laying down the detailed rules for such transcription, in accordance with the prescriptions of any international conventions relating to civil status to which it is a party.

15 Rules of that kind are to be regarded as incompatible with Article 52 of the Treaty only in so far as their application causes a Greek national such a degree of inconvenience as in fact to interfere with his freedom to exercise the right of establishment enshrined in that article.

16 Such interference occurs if a Greek national is obliged by the legislation of the State in which he is established to use, in the pursuit of his occupation, a spelling of his name derived from the transliteration used in the registers of civil status if that spelling is such as to modify its pronunciation and if the resulting distortion exposes him to the risk that potential clients may confuse him with other persons.

17 It should therefore be stated in reply to the national court that Article 52 of the Treaty must be interpreted as meaning that it is contrary to that provision for a Greek national to be obliged, under the applicable national legislation, to use, in the pursuit of his occupation, a spelling of his name whereby its pronunciation is modified and the resulting distortion exposes him to the risk that potential clients may confuse him with other persons.

Costs

18 The costs incurred by the German Government, the Greek Government and the Commission of the European Communities, which have submitted observations to the Court, are not recoverable. Since these proceedings are, for the parties to the main proceedings, a step in the proceedings pending before the national court, the decision on costs is a matter for that court.

On those grounds,

THE COURT (Sixth Chamber),

in answer to the questions referred to it by the Amtsgericht Tübingen, by order of 27 June 1991, hereby rules:

Article 52 of the Treaty must be interpreted as meaning that it is contrary to that provision for a Greek national to be obliged, under the applicable national legislation, to use, in the pursuit of his occupation, a spelling of his name whereby its pronunciation is modified and the resulting distortion exposes him to the risk that potential clients may confuse him with other persons.

Kakouris Mancini

Schockweiler Diez de Velasco Kapteyn

Delivered in open court in Luxembourg on 30 March 1993.

J.-G. Giraud C. N. Kakouris

Registrar President of the Sixth Chamber