Reports of Cases

ORDER OF THE COURT (Tenth Chamber)

2 June 2016*

(Reference for a preliminary ruling — Freedom of establishment — Fundamental rights — Respect for the right to property — Special succession scheme concerning agricultural holdings — Charter of Fundamental Rights of the European Union — Scope — Implementation of EU law — Lack — Facts in the main proceedings predating the accession of the Member State concerned to the European Union — Clear lack of jurisdiction of the Court)

In Case C-50/16,

REQUEST for a preliminary ruling under Article 267 TFEU from the Sąd Rejonowy w Koninie (Konin District Court, Poland), made by decision of 12 January 2016, received at the Court on 28 January 2016, in the proceedings brought by

Halina Grodecka

intervening parties:

Józef Konieczka and Others,

THE COURT (Tenth Chamber),

composed of F. Biltgen, President of the Chamber, A. Borg Barthet and M. Berger (Rapporteur), Judges,

Advocate General: M. Wathelet,

Registrar: A. Calot Escobar,

having decided, after hearing the Advocate General, to give a decision by reasoned order, in accordance with Article 53(2) of the Rules of Procedure of the Court,

makes the following

Order

1 This request for a preliminary ruling concerns the interpretation of Articles 2 TFEU and 8 TFEU, Article 1 of the First Additional Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950 ('Protocol No 1' and 'the ECHR' respectively), Article 14 of the ECHR and Article 17(1) of the Charter of Fundamental Rights of the European Union ('the Charter').

* Language of the case: Polish.

2 The request has been made in proceedings brought by Ms Halina Grodecka, relating to a request for a declaration of succession, following the death of Mr Kazimierz Konieczka on 10 October 2000.

Legal context

3 Article 1058 et seq. of the Kodeks cywilny (Civil Code), in the version applicable to the facts at issue in the main proceedings, provided for a special scheme for the legal transfer on succession of agricultural holdings consisting of agricultural land of an area greater than 1 ha. Thus, Article 1059 of the Civil Code provided, in essence, that only inheritors who, at the date of opening of the succession, worked in the agricultural production sector or had, in particular, professional training to exercise an agricultural production activity legally inherited the agricultural holding, to the exclusion of inheritors not satisfying those conditions. Article 1064 of that code provided that the definition, in particular, of professional training considered to be inherent in the exercise of an agricultural activity, making it possible to inherit an agricultural holding, was laid down by a Council of Ministers regulation.

4 Pursuant to Article 1063 of the Civil Code, an agricultural holding was passed on to inheritors, by application of general principles, only if neither the spouse of the deceased person nor any of the parents legally assigned to the succession did not satisfy the conditions laid down for inheriting such a holding.

5 Lastly, Article 925 of the Civil Code provides that the succession mass is to be passed on to the inheritor on the date of the death of the deceased person.

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

6 The dispute pending before the Sąd Rejonowy w Koninie (Konin District Court, Poland) relates to a request for a declaration of succession, submitted by Mrs Grodecka following the death of Mr Konieczka on 10 October 2000. The succession concerned consists, inter alia, of an agricultural holding of more than 1 ha.

7 It is apparent from the decision to refer that the declaration of succession procedure, based on the provisions applicable to the facts at issue in the main proceedings, seeks to establish, inter alia, the status as an agricultural holding of the succession mass or part of that mass and also the inheritor(s). The requirement that that status must be established concerns only successions whose opening, as in the present case, predates 14 February 2001, the date of the publishing of a judgment of the Trybunał Konstytucyjny (Constitutional Court, Poland) of 31 January 2001 declaring the provisions governing the special regime concerned, which were subsequently repealed, to be unconstitutional.

8 The national court entertains doubts as to the consistency of those provisions with Protocol No 1 and Article 17(1) of the Charter. Those provisions deprive inheritors of an inheritance which falls to them, by laying down material limitations to the inheritance bases relating to an agricultural holding. Thus, an inheritor not possessing the necessary qualifications to be able to inherit an agricultural holding is *de facto* expropriated by the Polish State from that part of the deceased person's inheritance.

9 In addition, according to the national court, the provisions at issue in the main proceedings might be contrary to Article 14 of the ECHR and to Article 8 TFEU, the issue arising being that of whether the fact of establishing a distinction between the inheritors assigned to the succession in accordance with the substantive criteria laid down by the national legislation concerned is justified.

10 In those circumstances, the Sąd Rejonowy w Koninie (Konin District Court) decided to stay the proceedings and to refer the following question to the Court for a preliminary ruling:

‘Must Articles 2 TFEU and 8 TFEU, Article 1 of Protocol No 1, Article 14 of the ECHR, Article 17(1) of the Charter enshrining the principles of the primacy of law, equality, non-discrimination and the protection of property be interpreted as precluding national provisions limiting the transfer on succession of agricultural holdings where the inheritor, of Polish nationality or a foreign national, does not satisfy certain substantive criteria laid down by the law and explained in an implementing act?’

The jurisdiction of the Court

11 By its question the referring court essentially asks whether EU law precludes national provisions limiting the transfer on succession of an agricultural holding where the inheritor does not satisfy certain substantive criteria relating to its ability to manage such a holding.

12 Under Article 53(2) of the Rules of Procedure of the Court, where it is clear that the Court has no jurisdiction to hear and determine a case, the Court may, after hearing the Advocate General, at any time decide to give a decision by reasoned order without taking further steps in the proceedings.

13 That provision should be applied in the present case.

14 First, it should be recalled that the Court has jurisdiction to interpret EU law, so far as concerns the application of EU law in a new Member State, only as from the date of that Member State’s accession to the European Union (see, to that effect, judgments of 15 June 1999 in *Andersson and Wåkerås-Andersson*, C-321/97, EU:C:1999:307, paragraph 31; 10 January 2006 in *Ynos*, C-302/04, EU:C:2006:9, paragraph 36, and order of 5 November 2014 in *VG Vodoopskrba*, C-254/14, unpublished, EU:C:2014:2354, paragraph 10).

15 However, it is apparent from the decision to refer that the facts in the main proceedings predate the accession of the Republic of Poland to the European Union, namely on 1 May 2004. The deceased person whose succession is the subject of the dispute in the main proceedings died on 10 October 2000. Pursuant to Article 925 of the Civil Code, the passing on of the succession mass to the inheritor took effect on that date.

16 Secondly, as regards more specifically the interpretation sought of Articles 2 TFEU and 8 TFEU and Article 17 of the Charter, it is apparent from Article 51(1) of the Charter that the provisions of that Charter are addressed to the Member States only when they are implementing Union law. Article 6(1) TEU and Article 51(2) of the Charter state that the provisions of the Charter are not to extend in any way to the competences of the Union as defined in the Treaties.

17 The main proceedings are in relation to a request for a declaration of succession, on the basis of material and procedural provisions of Polish law, without any element of the decision to refer permitting the conclusion that those provisions implement EU law within the meaning of Article 51(1) of the Charter, or even that they concern an ‘activity’ of the European Union within the meaning of Article 8 TFEU.

18 Consequently, the Court has no jurisdiction to answer the question referred in so far as it relates to the interpretation of Articles 2 TFEU and 8 TFEU and Article 17 of the Charter (see, to that effect, judgment of 22 December 2010 in *Omalet*, C-245/09, EU:C:2010:808, paragraph 18, and order of 30 May 2013 in *Fierro and Marmorale*, C-106/13, unpublished, EU:C:2013:357, paragraphs 11 to 14 and the case-law cited).

19 As regards, lastly, the interpretation sought of Article 1 of Protocol No 1 and of Article 14 of the ECHR, it is admittedly true that those provisions are coterminous, in part, with Article 17 of the Charter dedicated to the protection of property rights, and with Article 21 of the Charter concerning the prohibition of discrimination. However, as has already been noted in paragraph 17 of the present order, the decision to refer contains no evidence in the order for reference to indicate that the order for reference does not contain any specific information enabling the subject-matter of the dispute in the main proceedings to be considered to be connected with EU law. In that situation, the Court of Justice has no jurisdiction to rule on a reference for a preliminary ruling (see, to that effect, order of 1 March 2011 in *Chartry*, C-457/09, EU:C:2011:101, paragraphs 25 and 26 and the case-law cited).

20 In the light of all the foregoing considerations, it must be held, on the basis of Article 53(2) of the Rules of Procedure of the Court, that the Court has no jurisdiction to reply to the question put by the Sąd Rejonowy w Koninie (Konin District Court).

Costs

21 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 (Tenth Chamber) hereby orders:

The Court of Justice of the European Union has no jurisdiction to reply to the question put by the Sąd Rejonowy w Koninie (Konin District Court, Poland).

[Signatures]