Reports of Cases

JUDGMENT OF THE COURT (Eighth Chamber)

7 June 2012*

(Reference for a preliminary ruling — Non-recognition in national law of the right to a judicial remedy in respect of decisions imposing a financial penalty and the deduction of points for certain breaches of road traffic regulations — Purely internal situation — Inadmissibility of the reference)

In Case C-27/11,

REFERENCE for a preliminary ruling under Article 267 TFEU from the Administrativen sad Sofia-grad (Bulgaria), made by decision of 27 December 2010, received at the Court on 17 January 2011, in the proceedings

Anton Vinkov

v

Nachalnik Administrativno-nakazatelna deynost,

THE COURT (Eighth Chamber),

composed of A. Prechal, President of the Chamber, C. Toader (Rapporteur) and E. Jarašiūnas, Judges,

Advocate General: J. Kokott,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

— the Netherlands Government, by C. Wissels and B. Koopman, acting as Agents,

— the European Commission, by R. Troosters and V. Savov, acting as Agents,

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

gives the following

* Language of the case: Bulgarian.

Judgment

1 This reference for a preliminary ruling concerns the interpretation of Article 2 of Protocol No 7 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Strasbourg on 22 November 1984 ('Protocol No 7'); Articles 47 and 48 of the Charter of Fundamental Rights of the European Union ('the Charter'); Articles 67 TFEU, 82 TFEU and 91(1)(c) TFEU; the Convention drawn up on the basis of Article K.3 of the Treaty on European Union on Driving Disqualifications, adoption of which by the Member States was recommended by act of the Council of 17 June 1998 (OJ 1998 C 216, p. 2, 'the Convention on Driving Disqualifications'); the Agreement on cooperation in proceedings for road traffic offences and the enforcement of financial penalties imposed in respect thereof, approved on 28 April 1999 by the Executive Committee established by the Convention implementing the Schengen Agreement (OJ 2000 L 239, p. 428, 'the Cooperation Agreement'); and Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties (OJ 2005 L 76, p. 16, 'the Framework Decision').

2 The reference has been made in proceedings between Mr Vinkov, a Bulgarian national, and Nachalnik Administrativno-nakazatelna deynost concerning a decision of the Bulgarian traffic police imposing on Mr Vinkov a financial penalty of BGN 20 and deducting a number of points from his driving licence.

Legal context

Protocol No 7

3 Article 2 of Protocol No 7 states, in relation to the right of appeal in criminal matters:

'1. Everyone convicted of a criminal offence by a tribunal shall have the right to have his conviction or sentence reviewed by a higher tribunal. The exercise of this right, including the grounds on which it may be exercised, shall be governed by law.

2. This right may be subject to exceptions in regard to offences of a minor character, as prescribed by law …'

European Union law ('EU law')

The Convention on Driving Disqualifications

4 Article 2 of the Convention on Driving Disqualifications provides:

'The Member States hereby undertake to cooperate, in accordance with the provisions of this Convention, with the objective that drivers who are disqualified from driving in a Member State other than that in which they normally reside should not escape the effects of their disqualification when they leave the State of the offence.'

5 Under Article 3(1) of that convention:

'The State of the offence shall without delay notify the State of residence of any driving disqualification imposed for an offence arising from conduct referred to in the Annex.'

6 According to Article 8(1) of that convention, such notification is to be accompanied by information concerning in particular the provisions applicable in the Member State in which the offence occurred and on the basis of which it was established, and regarding the enforcement of the driving disqualification.

7 Paragraph 3 of Article 8 provides:

‘If the information communicated [by the State of the offence to the State of residence] is found to be insufficient to allow a [disqualification] decision to be taken pursuant to this Convention, in particular where, in the circumstances of the particular case, there is doubt whether the person concerned has had an adequate opportunity to defend himself, the competent authorities of the State of residence shall request the competent authorities of the State of the offence to provide the necessary supplementary information without delay.’

The Cooperation Agreement

8 Article 2(1) of the Cooperation Agreement is worded as follows:

‘The Contracting Parties undertake to accord each other the widest possible cooperation in proceedings for road traffic offences and the enforcement of decisions in respect thereof in accordance with the provisions of this Agreement.’

9 Article 6(1) of the Cooperation Agreement provides:

‘The transfer of the enforcement of decisions may only be requested under this Agreement where:

(a) all channels of appeal against the decision have been exhausted and the decision is enforceable in the territory of the requesting Contracting Party;

...

(d) the decision concerns a person who resides or who has his habitual residence in the territory of the requested Contracting Party;

(e) the amount of the fine or financial penalty imposed is at least EUR 40.

…’

The Framework Decision

10 Under Article 1(a) of the Framework Decision, ‘decision’ is to mean ‘a final decision requiring a financial penalty to be paid by a natural or legal person where the decision was made by … a court of the issuing State in respect of a criminal offence under the law of the issuing State’.

11 Article 4(1) of the Framework Decision provides that such a penalty decision ‘may be transmitted to the competent authorities of a Member State in which the natural or legal person against whom a decision has been passed has property or income, is normally resident or, in the case of a legal person, has its registered seat’.

12 Article 5(1) of the Framework Decision states that decisions concerning breaches of road traffic regulations ‘if they are punishable in the issuing State and as they are defined by the law of the issuing State [are], under the terms of this Framework Decision and without verification of the double criminality of the act, [to] give rise to recognition and enforcement …’.

13 To that end, Article 20(3) of the Framework Decision provides:

‘Each Member State may, where the certificate referred to in Article 4 gives rise to an issue that fundamental rights or fundamental legal principles as enshrined in Article 6 of the [EU] Treaty may have been infringed, oppose the recognition and the execution of decisions. …’

Bulgarian law

The Code of Civil Procedure

14 Article 628(1) of the Code of Civil Procedure provides:

'Where the interpretation of a provision of EU law or of the validity of an act of the bodies of the European Union is necessary to enable a legal dispute to be determined appropriately, the Bulgarian court shall submit a request for a preliminary ruling to the Court of Justice of the European Union.'

15 According to Article 629, a court against whose decision no appeal lies is required to make a request for a preliminary ruling on interpretation where this is necessary for the outcome of the dispute that has been brought before it. In the case of a request for an assessment of validity, all courts are obliged to refer the matter to the Court of Justice for a preliminary ruling.

The Law on road traffic

16 Article 157(4) of the Law on road traffic provides:

'A driver who has had all his points deducted shall be disqualified from driving and shall be obliged to return the driving licence to the competent department of the Ministry of Internal Affairs.'

17 In accordance with Article 157(5), a person who has been disqualified from driving may, six months after the return of his driving licence, be admitted to an examination in order to regain the right to drive.

18 Article 171 of the Law on road traffic provides that coercive administrative measures applicable for the purpose of maintaining the safety of road traffic include the 'withdrawal of a driving licence from a person who has failed to comply with the obligation arising under Article 157(4)'.

19 According to Article 189(5) of the Law on road traffic:

'Decisions imposing an administrative penalty ["nakazatelni postanovleniya"] of up to [BGN] 50 may not be challenged in court.'

The Regulation relating to points

20 Article 2(1) of Regulation No I3-1959 of 27 December 2007 on the determination of the maximum starting number of points for drivers of motor vehicles, and on the requirements and procedure for the deduction of points and the list of road traffic offences for which points may be deducted, provides:

'When a driving licence is first issued, the holder shall receive a maximum starting number of 39 points, which shall be deducted to take into account offences committed by the holder in breach of the Law on road traffic.'

21 Article 3(1) and (2) of that regulation is worded as follows:

'1. Points shall be deducted on the basis of a decision imposing an administrative penalty which has become final ["nakazatelno postanovlenie"].

2. When penalties are imposed for administrative offences listed in [this] regulation, the decision imposing an administrative penalty shall state the number of points deducted and the number of points remaining.'

22 According to Article 4(2) of that regulation:

‘If a traffic accident is caused intentionally or negligently, four additional points shall be deducted.’

The Law on administrative offences and penalties

23 Article 63(1) and (2) of the Law on administrative offences and penalties (Zakon za administrativnite narusheniya i nakazaniya) provides:

‘1. The Rayonen sad [District Court], by a judge sitting alone, shall examine the substantive case and shall give its decision by way of judgment, by which it may confirm, amend or set aside the decision imposing an administrative penalty. The judgment may be appealed to the Administrativen sad [Administrative Court] by way of cassation …

2. Where so provided by statute, the court may make an order to stay the proceedings, which can be challenged on appeal …’

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

24 While carrying out a manoeuvre in reverse gear in a car park in Sofia (Bulgaria), Mr Vinkov collided with another vehicle.

25 Following that accident, a decision was taken in regard to Mr Vinkov by the Nachalnik Administrativno-nakazatelna deynost v otdel ‘Patna politsiya’ na Stolichna direktsiya na vatreshnite raboti (Head of administrative penalty cases in the ‘traffic police’ department of the Directorate for Internal Affairs in the capital region), by which he was held liable for a ‘minor traffic accident’ and fined BGN 20, and four points were deducted from his driving licence.

26 Mr Vinkov lodged an appeal against that decision before the Sofiyski rayonen sad (District Court of Sofia), which dismissed the appeal by an order declaring it inadmissible. The Sofiyski rayonen sad considered that, having regard to the provisions applicable in this instance, in particular, Article 189(5) of the Law on road traffic, a decision imposing a financial penalty of less than BGN 50 could not be challenged in court.

27 Mr Vinkov challenged that order in the Administrativen sad Sofia-grad (Sofia Administrative Court), which, under Article 63 of the Law on road traffic, is the court of cassation in cases concerning decisions imposing an administrative penalty.

28 In its order for reference, the Administrativen sad Sofia-grad notes that it is apparent from the applicable national provisions, as interpreted by the Varhoven administrativen sad (Supreme Administrative Court), that appeals against decisions imposing the penalty of deduction of points from a driving licence may be declared inadmissible on the ground of a lack of interest in bringing proceedings. According to the case-law of the Varhoven administrativen sad, Bulgarian legislation defines the deduction of points from a driving licence not as a separate administrative penalty or as a coercive administrative measure but as a measure which must be applied automatically by the police authorities, who have only circumscribed powers in that area. Therefore, a decision imposing such a penalty following a breach of road traffic regulations is open to challenge only if it also imposes a financial penalty in excess of BGN 50.

29 However, the Administrativen sad Sofia-grad points out that, in accordance with Article 157(4) of the Law on road traffic, where all points have been deducted — which can arise as a result of a series of deduction decisions from which no appeal lies — the driver is automatically disqualified from driving and must return his licence to the competent national authorities.

30 Taking those aspects into account, the referring court queries whether the provisions of EU law in the area of freedom, security and justice which lay down, in particular, the principle of mutual recognition of judgments and judicial decisions ('the principle of mutual recognition'), and those in the area of transport, preclude the non-recognition in Bulgarian law of a right of appeal against such decisions on the deduction of points from driving licences.

31 The Administrativen sad Sofia-grad notes that, according to the established case-law of the national courts and Bulgarian legal literature, administrative decisions imposing a penalty of the kind at issue in the main proceedings are considered to be judicial decisions. While the bodies that adopt such decisions are not part of the judicial system, they are performing a judicial function.

32 In connection with EU law, the referring court states that Article 6(1) of the Cooperation Agreement and Article 8(3) of the Convention on Driving Disqualifications provide for the possibility that a Member State may refuse to recognise a decision of another Member State that imposes penalties for breaches of road traffic regulations where no right of appeal is available in that State.

33 The Administrativen sad Sofia-grad observes that that agreement and that convention are not applicable in Bulgaria because the Cooperation Agreement is not among the acts of the Schengen *acquis* that are binding on the Republic of Bulgaria and the Convention on Driving Disqualifications has not yet entered into force. However the abovementioned provisions should be considered to express a rule of customary international law and, according to the case-law of the Court of Justice, should thus be applicable in respect of a decision such as that at issue in the main proceedings. The national court refers in that regard to Case C-286/90 *Poulsen and Diva Navigation* [1992] ECR I-6019.

34 The Administrativen sad Sofia-grad recalls, moreover, that the Framework Decision allows, in particular in Article 20(1), for decisions imposing penalties against which there is no right of appeal to a court having jurisdiction in particular in criminal matters not to be recognised. Therefore, since, according to the referring court, the Bulgarian legislation at issue derogates from national legislation ensuring the implementation of that framework decision, the referring court queries whether such a derogation is permissible and, if so, whether it should be construed narrowly.

35 As regards its jurisdiction to refer for a preliminary ruling a question relating to the interpretation of the Framework Decision, the Administrativen sad Sofia-grad states that it is the court of final appeal in the main proceedings. It considers that although the Republic of Bulgaria has not lodged an express declaration of acceptance of the jurisdiction of the Court in relation to preliminary rulings, as provided for in Article 35(2) TEU, Article 628 of the Code of Civil Procedure — which entered into force on 24 July 2007 and which provides that national courts ruling as final courts of appeal have jurisdiction to make a reference for a preliminary ruling — should be interpreted as an implied acceptance of the Court's jurisdiction for the purposes of Article 35 TEU.

36 With regard to the rules of the FEU Treaty on the area of freedom, security and justice, the referring court notes that it is apparent from Articles 67(1) TFEU and 82(1) TFEU that the principle of mutual recognition on which judicial cooperation in criminal matters is based can be applied only in compliance with fundamental rights and thus with the right to an effective remedy enshrined in Articles 47 and 48 of the Charter and in Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950 ('the ECHR').

37 In that regard, the Administrativen sad Sofia-grad recalls that the European Court of Human Rights held in *Öztürk v. Germany*, 21 February 1984, Series A no. 73, that Article 6 of the ECHR does not preclude the decriminalisation of minor offences, such as that at issue in the main proceedings, but that the associated penalties fall within the scope of that article if they retain their punitive character. In the present case, the referring court notes that the exception to the right of appeal provided for in Article 2(2) of Protocol No 7 could certainly be applied, in so far as it concerns the penalties applicable to minor breaches of the road

traffic regulations, but that there is no criterion under Bulgarian law by which an offence such as that at issue in the main proceedings could be characterised as 'minor'. In fact, according to Article 189(5) of the Law on road traffic, the only criterion for determining whether a decision imposing an administrative penalty may be regarded as relating to a serious offence and be subject to a right of appeal is the amount of the financial penalty imposed. However, that criterion does not take account of the legal consequences of the deduction of points, which can lead to disqualification from driving.

38 Lastly, the referring court refers to certain provisions of EU law in the area of the common transport policy. It notes that although that is an area in which the European Union and the Member States share competence, and the rules of criminal procedure — such as those relating to penalties for breaches of road traffic regulations — fall, in principle, within the competence of the Member States, EU law prohibits, as an obstacle to the freedom of movement, the adoption of penalties that are disproportionate to the gravity of the offences committed.

39 Taking all those circumstances into account, the Administrativen sad Sofia-grad decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) Must applicable provisions of national law, such as those in the main proceedings, which relate to the legal consequences of a decision issued by an administrative authority concerning the imposition of a financial penalty due to an administrative offence consisting in a traffic accident, be interpreted to the effect that they are compatible with the provisions provided for in the Treaties and the [EU] law measures adopted on the basis of those provisions in the area of freedom, security and justice and/or if appropriate in the area of transport?

(2) Does it follow from the provisions of the Treaties and [EU] law measures adopted on the basis of those provisions in the area of freedom, security and justice in connection with judicial cooperation in criminal matters under Article 82(1)(a) TFEU and in the area of transport under Article 91(1)(c) TFEU *that administrative [penalties for] road traffic offences which can be characterised as "minor"* for the purposes of and in connection with Article 2 of Protocol No 7 … *are included in the scope of [EU] law*?

(3) If the second question is answered in the affirmative, the answers to the following questions are requested:

(a) Does an administrative road traffic offence in the circumstances of the main proceedings constitute a minor offence for the purposes of [EU] law if at the same time the following circumstances exist:

(i) The offence is a traffic accident which has caused financial loss, must be characterised as having been committed intentionally or negligently, and is punishable as an administrative offence.

(ii) In accordance with the amount of the financial penalty provided for, the decision about its imposition cannot be challenged in court and the person concerned does not have the opportunity to prove that the offence with which he has been charged was not committed intentionally or negligently.

(iii) The number of points stated in the decision is deducted as an automatic legal consequence of the decision becoming final.

(iv) In the context of the system of driving licences which has been introduced, in which when they are issued a certain number of points is allocated to take into account offences committed, the deduction of points is also taken into account as an automatic legal consequence on the basis of penalty orders which cannot be challenged.

(v) If the withdrawal of the driving licence due to disqualification from driving, which occurs as an automatic legal consequence of the deduction of the number of points granted on issue of the licence, is challenged in court, there is no incidental judicial review of the legality of the penalty orders, by which points have been deducted and which are not subject to challenge.

(b) Do Article 82 TFEU, if appropriate Article 91(1)(c) TFEU, and the measures adopted on the basis of the provisions mentioned and the … Framework Decision … allow the principle of mutual recognition of judgments and judicial decisions or the measures to improve road safety to not be applied to a decision on the imposition of a financial penalty *arising from a road traffic offence which is capable of being characterised as "minor" in [EU] law in the circumstances in the main proceedings because the Member State has provided* that the requirements of being able to challenge a decision before a court having jurisdiction in particular in criminal matters and the applicability of the procedural rules of national law on appeals in the event of being charged for committing a criminal offence are to be disregarded?

(4) If the second question is answered in the negative, the answers to the following questions are requested:

Do Article 82 TFEU, if appropriate Article 91(1)(c) TFEU, and the measures adopted on the basis of the provisions mentioned and the … Framework Decision … *allow the principle of mutual recognition of judgments and judicial decisions or the [EU] law measures to improve road safety to not be applied to a decision on the imposition of a financial penalty arising from a road traffic offence according to the discretion of the Member State* — the Member State having provided in a legislative act that the requirements of being able to challenge a decision before a court having jurisdiction in particular in criminal matters and the applicability of the procedural rules of national law on appeals in the event of being charged for committing a criminal offence are [to] be disregarded — where at the same time the following applies to the decision in the circumstances of the main proceedings:

(a) The offence is a traffic accident which has caused financial loss, must be characterised as having been committed intentionally or negligently, and is punishable as an administrative offence.

(b) In accordance with the amount of the financial penalty provided for, the decision about its imposition cannot be challenged in court and the person concerned does not have the opportunity to prove that the offence with which he has been charged was not committed intentionally or negligently.

(c) The number of points stated in the decision is deducted as an automatic legal consequence of the decision becoming final.

(d) In the context of the system of driving licences which has been introduced, in which when they are issued a certain number of points is allocated to take into account offences committed, the deduction of points is also taken into account as an automatic legal consequence on the basis of penalty orders which cannot be challenged.

(e) If the withdrawal of the driving licence due to disqualification from driving, which occurs as an automatic legal consequence of the deduction of the number of points granted on issue of the licence is challenged in court, there is no incidental judicial review of the legality of the penalty orders, by which points have been deducted and which are not subject to challenge.'

The Court's jurisdiction

40 By its questions, the referring court asks, in essence, whether Articles 67 TFEU, 82 TFEU and 91(1)(c) TFEU and the acts of secondary legislation in the area of freedom, security and justice must be interpreted as precluding national legislation such as that which applies in Bulgaria, which does not recognise a right of appeal against decisions imposing penalties for what are described as 'minor' breaches of the road traffic regulations, even where those decisions not only impose a small financial penalty but also result in the deduction of points from a driving licence.

41 With regard to the provisions of the FEU Treaty interpretation of which is sought by the referring court, it must be noted that since all of those provisions are directed solely at the institutions of the European Union and none of them concerns the system of penalties applicable to breaches of road traffic regulations they are not applicable in the main proceedings.

42 Article 67 TFEU is the opening provision of Chapter 1, entitled 'General provisions', of Title V of that Treaty, relating to the area of freedom, security and justice. That article sets out the object and purpose of and basic rules for action to be taken by the institutions of the European Union in order for that area to be fully realised. Also in Title V, in Chapter 4 relating to judicial cooperation in criminal matters, Article 82 TFEU sets out the measures which the European Union legislature must adopt in order to achieve full cooperation between Member States in the field of criminal justice, and lays down the rule providing that such cooperation must be based on the principle of mutual recognition.

43 Article 91(1) TFEU, in Title VI of the FEU Treaty, which covers transport, sets out the measures which the institutions of the European Union must adopt in order to establish a common transport policy. It does not lay down any rule relating to penalties for breaches of road traffic regulations.

44 As the Court of Justice has consistently held, it has no jurisdiction to answer a question referred for a preliminary ruling where the interpretation of rules of EU law which is sought by the national court has no relation to the actual facts of the main action or to its purpose, and those rules are incapable of applying in the main proceedings (see, in particular, Case C-567/07 *Woningstichting Sint Servatius* [2009] ECR I-9021, paragraph 43, and Case C-245/09 *Omalet* [2010] ECR I-13771, paragraph 11).

45 Consequently, the questions referred for a preliminary ruling must, in so far as they relate to Articles 67 TFEU, 82 TFEU and 91(1)(c) TFEU, be declared inadmissible.

46 With regard to acts of secondary legislation, the national court refers in the grounds for its decision to the Cooperation Agreement, the Convention on Driving Disqualifications and the Framework Decision.

47 In that regard it must be noted however that the legal basis of those acts is to be found in the provisions of Title VI of the EU Treaty, in the version in force before the Treaty of Lisbon.

48 As is clear from Article 35(1) and (2) EU, the Court had jurisdiction to give preliminary rulings on the interpretation of framework decisions, decisions and conventions established under Title VI only if the Member State concerned had made a declaration by which it accepted such jurisdiction.

49 It is common ground that the Republic of Bulgaria has not made such a declaration. Furthermore, a domestic provision such as Article 628(1) of the Code of Civil Procedure, to which the national court refers and which, moreover, essentially merely reproduces the terms of Article 267 TFEU, cannot in any event be regarded as amounting to such a declaration.

50 It is also apparent from Article 10 of Protocol No 36 on transitional provisions, which is annexed to the FEU Treaty, that, with respect to acts of the European Union in the field of police cooperation and judicial cooperation in criminal matters which were adopted before the date of the entry into

force of the Treaty of Lisbon, the powers of the Court under Title VI of the EU Treaty, in the version in force before that date, are to remain the same for a period of five years after that date, including where they have been accepted under Article 35(2) of the latter Treaty.

51 It follows from the foregoing that the Court has no jurisdiction to rule on the reference for a preliminary ruling from the referring court in so far as it relates to the Cooperation Agreement, the Convention on Driving Disqualifications or the Framework Decision.

52 In the grounds for its decision, the referring court also refers to the principle of mutual recognition of decisions issued in another Member State that concern breaches of road traffic regulations in concluding that, in its view, EU law precludes national legislation that does not recognise a right of appeal against decisions entailing the deduction of points from driving licences.

53 It is nevertheless sufficient in that regard to note that such a principle can, by definition, only relate to cross-border proceedings concerning the recognition and enforcement of a decision in a Member State other than that in which the decision was issued.

54 In the present case, the dispute in the main proceedings is purely internal. It concerns a person residing in the Republic of Bulgaria who challenged the decision by which the authorities of that Member State imposed a penalty following a traffic accident that occurred in Bulgaria. Therefore, an interpretation of that principle of mutual recognition is of no relevance to the outcome of that dispute.

55 In addition, the referring court queries whether EU law precludes the rules of Bulgarian law at issue in the main proceedings in so far as they involve an infringement of the right to an effective remedy enshrined in Article 6 of the ECHR and Articles 47 and 48 of the Charter.

56 In that regard, it must be borne in mind that it is settled case-law that the requirements flowing from the protection of fundamental rights are binding on Member States whenever they implement EU law (see orders in Case C-339/10 *Asparuhov Estov and Others* [2010] ECR I-11465, paragraph 13; Case C-457/09 *Chartry* [2011] ECR I-819, paragraph 25; and order of 14 December 2011 in Joined Cases C-483/11 and C-484/11 *Boncea and Others*, paragraph 29).

57 Moreover, Article 51(1) of the Charter states that the provisions of the Charter are addressed to the Member States only when they are implementing EU law and, under Article 6(1) TEU, which confers on the Charter the same legal value as the Treaties, the Charter does not create any new competence for the European Union.

58 Consequently, in a reference for a preliminary ruling under Article 267 TFEU, where national legislation falls within the scope of EU law, the Court must provide all the criteria of interpretation needed in order for the national court to determine whether that legislation is compatible with the fundamental rights which derive in particular from the Charter (see, to that effect, Case C-299/95 *Kremzow* [1997] ECR I-2629, paragraph 15, and Case C-256/11 *Dereci and Others* [2011] ECR I-11315, paragraph 72).

59 In the present case, it is not apparent from the order for reference that the national legislation constitutes a measure implementing EU law or that it is connected in any other way with EU law. Accordingly, the jurisdiction of the Court to rule on the reference for a preliminary ruling in so far as it relates to the fundamental right to an effective remedy is not established (see orders in *Asparuhov Estov and Others*, paragraph 14; *Chartry*, paragraphs 25 and 26; and *Boncea and Others*, paragraph 34).

60 It follows from all of the foregoing that the reference for a preliminary ruling from the Administrativen sad Sofia-grad must be declared inadmissible.

Costs

61 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 (Eighth Chamber) hereby rules:

The reference for a preliminary ruling from the Administrativen sad Sofia-grad (Bulgaria), made by decision of 27 December 2010 (Case C-27/11), is inadmissible.

[Signatures]