Reports of Cases

JUDGMENT OF THE COURT (Seventh Chamber)

27 March 2025*

(Reference for a preliminary ruling – Judicial cooperation in civil matters – Regulation (EU) 2015/848 – Insolvency proceedings – Article 31(1) – Awareness of the insolvency proceedings – Obligations for the benefit of a debtor which should be honoured for the benefit of the insolvency practitioner – Sale of an asset (car) by the debtor after the opening of the insolvency proceedings – Honouring of an obligation to a debtor)

In Case C-186/24,

REQUEST for a preliminary ruling under Article 267 TFEU from the Oberster Gerichtshof (Supreme Court, Austria), made by decision of 22 February 2024, received at the Court on 8 March 2024, in the proceedings

Matthäus Metzler, acting as insolvency practitioner in insolvency proceedings,

v

Auto1 European Cars BV,

THE COURT (Seventh Chamber),

composed of M. Gavalec, President of the Chamber, K. Jürimäe (Rapporteur), President of the Second Chamber, and Z. Csehi, Judge,

Advocate General: M. Campos Sánchez-Bordona,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– M. Metzler, acting as insolvency practitioner in insolvency proceedings, by M. Metzler, Rechtsanwalt,

– Auto1 European Cars BV, by F. Frank, Rechtsanwalt,

– the European Commission, by G. von Rintelen and W. Wils, acting as Agents,

* Language of the case: German.

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

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 31(1) of Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (OJ 2015 L 141, p. 19).

2 The request has been made in proceedings between Mr Matthäus Metzler, acting as insolvency practitioner in insolvency proceedings opened against a debtor, and Auto1 European Cars BV ('Auto1') concerning the payment to the insolvency estate of an amount corresponding to the market value of a vehicle sold by the debtor to Auto1 after the opening of those proceedings.

Legal context

European Union law

3 Recitals 5 and 81 of Regulation 2015/848 state:

'(5) It is necessary for the proper functioning of the internal market to avoid incentives for parties to transfer assets or judicial proceedings from one Member State to another, seeking to obtain a more favourable legal position to the detriment of the general body of creditors (forum shopping).

…

(81) It may be the case that some of the persons concerned are not aware that insolvency proceedings have been opened, and act in good faith in a way that conflicts with the new circumstances. In order to protect such persons who, unaware that foreign proceedings have been opened, make a payment to the debtor instead of to the foreign insolvency practitioner, provision should be made for such a payment to have a debt-discharging effect.'

4 Under Article 7 of that regulation, entitled 'Applicable law':

'1. Save as otherwise provided in this Regulation, the law applicable to insolvency proceedings and their effects shall be that of the Member State within the territory of which such proceedings are opened (the "State of the opening of proceedings").

2. The law of the State of the opening of proceedings shall determine the conditions for the opening of those proceedings, their conduct and their closure. In particular, it shall determine the following:

…

(b) the assets which form part of the insolvency estate and the treatment of assets acquired by or devolving on the debtor after the opening of the insolvency proceedings;

(c) the respective powers of the debtor and the insolvency practitioner;

…

(m) the rules relating to the voidness, voidability or unenforceability of legal acts detrimental to the general body of creditors.'

5 Article 31 of Regulation 2015/848, entitled 'Honouring of an obligation to a debtor', provides:

'1. Where an obligation has been honoured in a Member State for the benefit of a debtor who is subject to insolvency proceedings opened in another Member State, when it should have been honoured for the benefit of the insolvency practitioner in those proceedings, the person honouring the obligation shall be deemed to have discharged it if he was unaware of the opening of the proceedings.

2. Where such an obligation is honoured before the publication provided for in Article 28 has been effected, the person honouring the obligation shall be presumed, in the absence of proof to the contrary, to have been unaware of the opening of insolvency proceedings. Where the obligation is honoured after such publication has been effected, the person honouring the obligation shall be presumed, in the absence of proof to the contrary, to have been aware of the opening of proceedings.'

Austrian law

6 Paragraph 3 of the Insolvenzordnung (Austrian Insolvency Code) of 11 December 1914 (RGBl. 337/1914), in the version applicable to the dispute in the main proceedings ('the Insolvency Code'), provides:

'1. Legal acts concluded by the debtor after the opening of insolvency proceedings which affect the insolvency estate shall be unenforceable against the insolvency creditors. The third party shall be repaid the consideration to the extent that the insolvency estate would be enriched by such consideration.

2. An obligated party shall not be deemed to have discharged his or her obligation by payment of a debt to the debtor after the opening of insolvency proceedings, unless the benefit has been received by the insolvency estate or the obligated party was unaware of the opening of insolvency proceedings at the time of payment and such lack of awareness was not caused by a failure to exercise due diligence (that is to say, that that party could not be expected to have been aware of the opening of such proceedings).'

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

7 By decision of 25 May 2022, the Landesgericht Linz (Regional Court, Linz, Austria) opened insolvency proceedings against a debtor and appointed Mr Metzler as insolvency practitioner ('the practitioner'). That decision, including the identity of the practitioner, was published on the same date.

8 On 2 June 2022, the debtor concluded, in his own name, a contract for the sale of a car with Auto1, a company incorporated under Netherlands law and established in the Netherlands, for an amount of EUR 48 870. That contract was concluded at the premises of Auto1's branch, located in Austria.

9 After receiving that car in Austria, Auto1 transferred, from the account of a bank located in Germany, the sum corresponding to the selling price of that car to the account of a bank established in Austria indicated by the debtor.

10 The practitioner maintains that the amount of EUR 48 870 belongs to the insolvency estate on the ground that the contract of sale was concluded after the opening of the insolvency proceedings. Auto1 having resold the vehicle to a third party, the practitioner brought an action seeking compensation in favour of the insolvency estate corresponding to the selling price of that vehicle. The practitioner subsequently extended the subject matter of the action to the market value of that vehicle, namely EUR 62 261.

11 Auto1 disputed the claim on the basis, inter alia, of Article 31 of Regulation 2015/848. It contends that that claim could be enforced against it only if it had been aware of the opening of the insolvency proceedings when the car in question was purchased.

12 The Landesgericht Linz (Regional Court, Linz) upheld the action in its original scope. The decision of that court was varied on appeal. The Oberlandesgericht Linz (Higher Regional Court, Linz, Austria) held that Article 31 of Regulation 2015/848 was applicable since, first, the payment to the debtor had been made, following verification, from a German bank account and, second, Auto1 did not have all the relevant information regarding the opening of the insolvency proceedings.

13 The practitioner brought an appeal against that decision of the appellate court before the referring court, the Oberster Gerichtshof (Supreme Court, Austria). In support of that appeal, the practitioner submits that Article 31 of Regulation 2015/848 is not applicable because that provision presupposes that an obligation has been honoured on the basis of a valid legal act, which is not the case here in the light of Paragraph 3(1) of the Insolvency Code. In addition, he argues that the foreign element required by Article 31 of Regulation 2015/848 is lacking since the obligation referred to in the contract of sale at issue was honoured in Austria.

14 The referring court notes, first, that, under Paragraph 3(1) of the Insolvency Code, legal acts concluded by the debtor after the opening of insolvency proceedings which affect the insolvency estate are to be unenforceable against the insolvency creditors. In those circumstances, if an asset were to be removed from that estate by reason of a legal act which is unenforceable against creditors under that provision, that asset could be recovered. Furthermore, it observes that that provision does not provide for any exception where the third party acquired the asset in good faith and was unaware of the opening of the insolvency proceedings.

15 Second, the referring court considers that Article 31(1) of Regulation 2015/848 is intended to protect the good faith of a third party who, in a Member State other than the one in which insolvency proceedings have been opened, honours an obligation for the benefit of a debtor after the date of the opening of those proceedings while being unaware of their existence, when it should have been honoured for the benefit of the insolvency practitioner. However, it notes that, according to the legal literature, that provision presupposes the existence of a debt owed to the debtor. It therefore would not apply to the honouring of an obligation of a third party towards a

debtor arising, in accordance with Paragraph 3(1) of the Insolvency Code, from a legal act which is unenforceable against the insolvency estate since it is subsequent to the opening of the insolvency proceedings.

16 The referring court states, however, that it does not exclude the possibility, in the light of the wording of Article 31(1) of Regulation 2015/848, which provides in general terms for the honouring of an obligation to a debtor, of that provision applying to obligations which the third party has honoured on the basis of an invalid legal act. In that situation, it would then remain to be determined whether the place of execution of a credit transfer order, carried out in a Member State other than the one in which the insolvency proceedings were opened, may be regarded as the place where the obligation was honoured for the purposes of that provision.

17 In those circumstances, the Oberster Gerichtshof (Supreme Court) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

‘(1) Is Article 31(1) of Regulation [2015/848] to be interpreted as meaning that obligations honoured for the benefit of the debtor which should have been honoured for the benefit of the [insolvency] practitioner in the insolvency proceedings also include, [for the purposes] of that provision, such obligations arising from a legal transaction which the debtor did not conclude until after the opening of [the] insolvency proceedings and the transfer of powers to the insolvency practitioner?

If the above question is answered in the affirmative:

(2) Is Article 31(1) of Regulation [2015/848] to be interpreted as meaning that the place in which an obligation is honoured [for the purposes] of that provision is the place from which the third party’s payment is made by credit transfer from a bank account there, even if the third party is established not in that Member State but in another Member State, while the conclusion of the legal transaction and the honouring of the debtor’s obligation took place not there but through a branch of the third party in yet another Member State, namely in the Member State in which the insolvency proceedings have been opened?’

Consideration of the questions referred

The first question

18 By its first question, the referring court asks, in essence, whether Article 31(1) of Regulation 2015/848 must be interpreted as meaning that obligations honoured for the benefit of a debtor who is subject to insolvency proceedings, when they should have been honoured for the benefit of the insolvency practitioner in those proceedings, also include the honouring of an obligation arising from a legal act concluded by the debtor after the opening of those insolvency proceedings and the transfer of the administration of the assets to the insolvency practitioner.

19 In order to answer that question, it is necessary to consider the wording of the provision, its context and the objectives pursued by the legislation of which it forms part.

20 As regards, in the first place, the wording of Article 31(1) of Regulation 2015/848, that article provides that, where an obligation has been honoured in a Member State for the benefit of a debtor who is subject to insolvency proceedings opened in another Member State, when it

should have been honoured for the benefit of the insolvency practitioner in those proceedings, the person honouring the obligation is to be deemed to have discharged it if he or she was unaware of the opening of the proceedings. It must be observed that there is nothing in the wording of that provision to support the argument that it does not apply in the event of the honouring of an obligation arising from a legal act concluded by a debtor after the opening of insolvency proceedings.

21 As regards, in the second place, the context of Article 31(1) of Regulation 2015/848, it is true that the Court has held that it is a provision of substantive law which applies independently of the *lex concursus* (see, to that effect, judgment of 19 September 2013, *van Buggenhout and van de Mierop*, C-251/12, EU:C:2013:566, paragraph 23).

22 However, that provision cannot be understood independently of Article 7 of Regulation 2015/848, which determines the law applicable to insolvency proceedings and their effects. It follows from Article 7(2)(b) and (m) of that regulation that it is the law of the State of the opening of insolvency proceedings which is to determine the treatment of assets acquired by or devolving on the debtor after the opening of those proceedings and the unenforceability of legal acts detrimental to creditors.

23 Accordingly, the applicability of Article 31(1) of Regulation 2015/848 to the honouring of an obligation arising from a legal act concluded by a debtor after the opening of insolvency proceedings depends on the legal rules of the State of the opening of those proceedings relating to the enforceability of acts.

24 It is thus apparent from a contextual interpretation of Article 31(1) of Regulation 2015/848 that the concept of an 'obligation honoured', for the purposes of that provision, includes the honouring of an obligation arising from a legal act which is subsequent to the opening of insolvency proceedings and to the transfer of powers to the insolvency practitioner, provided that such a legal act is enforceable, in accordance with the law of the State of the opening of those proceedings, against the creditors who are parties to such proceedings.

25 That interpretation is confirmed, in the third place, by the objective pursued by Article 31(1) of Regulation 2015/848. It is apparent from recital 81 of that regulation that that provision is intended to protect a third party who, unaware that insolvency proceedings have been opened in another Member State, believes in good faith that the honouring of his or her obligation for the benefit of the debtor will have a debt-discharging effect.

26 Recognising the debt-discharging effect of the honouring of an obligation based on a legal act which is unenforceable against the creditors who are parties to those proceedings, under the law of the State of the opening of such proceedings, would go beyond the protection of the good faith of third parties intended by the EU legislature. In that situation, the third party would be protected from any claim brought against him or her by the insolvency practitioner on the ground of unjust enrichment. Such an interpretation of Article 31(1) of Regulation 2015/848 would, moreover, be contrary to the principle that exceptions to the automatic recognition of the effects of insolvency proceedings must be interpreted strictly (see, to that effect, judgment of 18 April 2024, *Luis Carlos and Others*, C-765/22 and C-772/22, EU:C:2024:331, paragraph 74).

27 In addition, an interpretation contrary to the one adopted in paragraph 24 of the present judgment would allow the debtor easily to transfer assets from the insolvency estate by selling them to a third party, after the opening of the insolvency proceedings. Such an interpretation

would therefore undermine one of the principal objectives of Regulation 2015/848, set out in recital 5 thereof, which consists in avoiding incentives for the parties to transfer assets from one State to another for the purpose of obtaining a more favourable legal position (see, by analogy, judgment of 19 September 2013, *van Buggenhout and van de Mierop*, C-251/12, EU:C:2013:566, paragraph 35).

28 In the present case, Paragraph 3(1) of the Insolvency Code provides that legal acts concluded by the debtor after the opening of insolvency proceedings which affect the insolvency estate are to be unenforceable against the creditors who are parties to those proceedings. It would follow that the deed of sale concluded by the debtor with Auto1, after the opening of the insolvency proceedings concerning him, is unenforceable under Austrian law, which it is for the referring court to assess. Should that be the case, Article 31(1) of Regulation 2015/848 would not apply.

29 It follows from the foregoing that the answer to the first question is that Article 31(1) of Regulation 2015/848 must be interpreted as meaning that obligations honoured for the benefit of a debtor who is subject to insolvency proceedings, when they should have been honoured for the benefit of the insolvency practitioner in those proceedings, also include the honouring of an obligation arising from a legal act concluded by the debtor after the opening of those insolvency proceedings and the transfer of the administration of the assets to the insolvency practitioner, provided that such a legal act is enforceable, in accordance with the law of the State of the opening of those proceedings, against the creditors who are parties to such proceedings.

The second question

30 In the light of the answer to the first question, there is no need to answer the second question.

Costs

31 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring 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 (Seventh Chamber) hereby rules:

Article 31(1) of Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings

must be interpreted as meaning that obligations honoured for the benefit of a debtor who is subject to insolvency proceedings, when they should have been honoured for the benefit of the insolvency practitioner in those proceedings, also include the honouring of an obligation arising from a legal act concluded by the debtor after the opening of those insolvency proceedings and the transfer of the administration of the assets to the insolvency practitioner, provided that such a legal act is enforceable, in accordance with the law of the State of the opening of those proceedings, against the creditors who are parties to such proceedings.

[Signatures]