Reports of Cases

ORDER OF THE PRESIDENT OF THE COURT

19 October 2018*

(Expedited procedure)

In Case C-621/18,

REQUEST for a preliminary ruling under Article 267 TFEU from the Court of Session, Inner House, First Division (Scotland), made by decision of 3 October 2018, received at the Court on 3 October 2018, in the proceedings

Andy Wightman,

Ross Greer,

Alyn Smith,

David Martin,

Catherine Stihler,

Jolyon Maugham,

Joanna Cherry

v

Secretary of State for Exiting the European Union,

additional parties:

Tom Brake,

Chris Leslie,

THE PRESIDENT OF THE COURT,

having heard the Judge-Rapporteur, C.G. Fernlund, and the Advocate General, M. Campos Sánchez Bordona,

makes the following

* Language of the case: English.

Order

1 This request for a preliminary ruling concerns the interpretation of Article 50 TEU.

2 The request has been made in proceedings where the opposing parties are Andy Wightman, Ross Greer, Alyn Smith, David Martin, Jolyon Maugham, Catherine Stihler and Joanna Cherry, on the one hand, and the Secretary of State for Exiting the European Union, on the other, raising the question whether it is possible to revoke the notification of the intention of the United Kingdom of Great Britain and Northern Ireland to withdraw from the European Union.

3 The Court of Session, Inner House, First Division (Scotland), seeks, in essence, to ascertain whether, where a Member State has notified the European Council of its intention to withdraw from the European Union in accordance with Article 50 TEU, EU law permits that Member State unilaterally to revoke its notification before the end of the period of two years referred to in that article. If so, the referring court is uncertain as to the conditions governing such a revocation and its effects relative to that Member State remaining within the European Union.

4 The referring court states that, under Section 13 of the European Union (Withdrawal) Act 2018, the withdrawal agreement which might be concluded between the United Kingdom and the Union under Article 50(2) TEU, setting out the arrangements for that withdrawal, may be ratified only if that agreement and the framework for the future relationship of the United Kingdom and the European Union has been approved by the Parliament of the United Kingdom. The referring court states that, where the withdrawal agreement is not approved by that Parliament, and if no other proposal is made, the departure of the United Kingdom from the Union will nonetheless take effect as from 29 March 2019.

5 The referring court adds that it is uncertain whether it is possible to revoke the notification unilaterally and to remain within the European Union. That court also states that an answer from the Court of Justice will clarify the options open to the parliamentarians when they vote on those matters.

6 In its order for reference, the Court of Session, Inner House, First Division, requests that the Court deal with this reference for a preliminary ruling under the expedited procedure provided for in Article 105 of the Rules of Procedure of the Court.

7 That provision states that, at the request of the referring court or tribunal or, exceptionally, of his own motion, the President of the Court may, where the nature of the case requires that it be dealt with within a short time, after hearing the Judge-Rapporteur and the Advocate General, decide that a reference for a preliminary ruling is to be determined pursuant to an expedited procedure derogating from the provisions of those rules.

8 In this case, the referring court emphasises the urgency of its request in the light of, first, the two-year timetable running from 29 March 2017, the date of the notification of the United Kingdom's intention to withdraw from the European Union, which, in accordance with Article 50 TEU, is imposed on that withdrawal procedure, and, second, the fact that the parliamentary consideration and voting on that subject within the Parliament of the United Kingdom must of necessity take place well in advance of 29 March 2019.

9 In that regard, it is apparent that the referring court sets out grounds that undeniably indicate that there is a need to make a ruling urgently. In particular, as is stated in the order for reference, it is necessary to clarify the scope of Article 50 TEU before the Members of the national Parliament make a decision on the withdrawal agreement, referred to in that article, which might be submitted to them.

10 It has previously been held that, where a case raises serious uncertainties which affect fundamental issues of national constitutional law and EU law, it may be necessary, having regard to the particular circumstances of such a case, to deal with it within a short time pursuant to Article 105(1) of the Rules of Procedure (see, to that effect, orders of the President of the Court of 28 February 2017, *M.A.S. and M.B.*, C-42/17, not published, EU:C:2017:168, paragraphs 7 to 9, and of 26 September 2018, *Zakład Ubezpieczeń Społecznych*, C-522/18, not published, EU:C:2018:786, paragraphs 14 to 16).

11 Given that the implementation of Article 50 TEU is of fundamental importance for the United Kingdom and for the constitutional order of the European Union, the particular circumstances in this instance are such as to justify this case being dealt with within a short time in accordance with Article 105(1) of the Rules of Procedure.

12 Consequently, it is appropriate to order that Case C-621/18 be determined pursuant to the expedited procedure.

On those grounds, the President of the Court hereby orders:

Case C-621/18 shall be determined pursuant to the expedited procedure provided for in Article 105(1) of the Rules of Procedure of the Court.

Luxembourg, 19 October 2018.

A. Calot Escobar
Registrar

K. Lenaerts
President