

CJUE Rules on Language Discrimination In Civil Proceedings

On 27 March 2014, the Court of Justice of the European Union ruled in Ulrike Elfriede Grauel Ruffer v. Katerina Pokorna (Case 322/ 13)

In Italy, the German language may be used in court in the Province of Bolzano in criminal, civil and administrative law proceedings. The use of German before those courts is based on the provisions of Articles 99 and 100 of the Decree of the President of the Republic No 670 of 31 August 1972 authorising of the standardised text of constitutional laws concerning the special arrangements for Trentino-Alto Adige as well as on the Decree of the President of the Republic No 574 of 15 July 1988 on the implementation of the special arrangements for the Trentino-Alto Adige with regard to the use of German or Ladin in relations between citizens and the public administration and in judicial proceedings.

Facts

On 22 February 2009, Ms Grauel Ruffer, a German national domiciled in Germany, fell on a ski run situated in the Province of Bolzano and injured her right shoulder. She claims that that fall was caused by Ms Pokorná, a Czech national domiciled in the Czech Republic. Ms Grauel Ruffer claims compensation from Ms Pokorná for the damage sustained. In proceedings brought before an Italian court the notice of proceedings, served on 24 April 2012, was drafted in German at the request of Ms Grauel Ruffer. Ms Pokorná, who received a Czech translation of that notice of proceedings on 4 October 2012, submitted her defence in German on 7 February 2013 and raised no objection as to the choice of German as the language of the case.

Could two foreigners benefit from the right of using German in Italian Proceedings?

18 By its question, the referring court asks essentially whether Articles 18 TFEU and 21 TFEU must be interpreted as precluding national rules which grant the right to use a language other than the official language of the State in

civil proceedings brought before the courts of a Member State which are situated in a specific territorial entity of that State only to citizens of the former who are domiciled in that same territorial entity.

19 *In order to answer that question, it must be recalled, first of all, that, as regards the same provisions, the Court, in Bickel and Franz (C-274/96 EU:C:1998:563, paragraphs 19 and 31), held that the right conferred by national rules to have criminal proceedings conducted in a language other than the principal language of the State concerned falls within the scope of European Union law, which precludes national rules which confer on citizens whose language is that particular language and who are resident in a defined area, the right to require that criminal proceedings be conducted in that language, without conferring the same right on nationals of other Member States travelling or staying in that area, whose language is the same.*

20 *The considerations which led the Court, in Bickel and Franz (EU:C:1998:563) to acknowledge that a citizen of the European Union, who is a national of a Member State other than the Member State concerned, is entitled, in criminal proceedings, to rely on language rules such as those at issue in the main proceedings on the same basis as the nationals of the latter Member State, and, therefore, may address the court seised in one of the languages provided for by those rules, must be understood as applying to all judicial proceedings brought within the territorial entity concerned, including, civil proceedings.*

21 *If it were otherwise, a German-speaking citizen of a Member State other than the Italian Republic, who travels and stays in the Province of Bolzano would be treated less favourably in comparison with a German-speaking Italian national who resides in that province. While such an Italian national may bring proceedings before a court in civil proceedings and have the proceedings take place in German, that right would be refused to a German-speaking citizen of a Member State other than the Italian Republic, travelling in that province.*

22 *As regards the observation of the Italian Government, according to which there is no reason to extend the right to use the ethnic and cultural minority language concerned to a citizen of a Member State other than the Italian Republic who is present on an infrequent and temporary basis in that region, since the measures are available to him which guarantee that he will be able to*

exercise his rights of defence in an appropriate manner, even where he is without any knowledge of the official language of the host State, it must be observed that the same argument was put forward by the Italian Government in the case which gave rise to the judgment in Bickel and Franz (EU:C:1998:563, paragraph 21) and that the Court dismissed it in paragraphs 24 to 26 thereof, holding that the rules at issue in the main proceedings ran counter to the principle of non-discrimination.

23 Such legislation could be justified only if it were based on objective considerations independent of the nationality of the persons concerned and proportionate to the legitimate aim of the national provisions (Bickel and Franz EU:C:1998:563, paragraph 27).

24 In the first place, as regards the argument raised by the Italian Government that the application of the language policy at issue in the main proceedings to citizens of the European Union would have the result of encumbering the proceedings in terms of organisation and time limits, it must be pointed out that that assertion is expressly contradicted by the referring court, according to which the judges in the Province of Bolzano are perfectly able to conduct judicial proceedings in either Italian or in German, or in both languages.

25 In the second place, as regards the observation made by that government relating to the extra costs which would be incurred by the Member State concerned, the application of those language rules to citizens of the European Union, it is settled case-law that aims of a purely economic nature cannot constitute pressing reasons of public interest justifying a restriction of a fundamental freedom guaranteed by the Treaty (see Case C109/04, Krannemann, EU:2005:187, paragraph 34 and the case-law cited).

26 Accordingly, the national rules at issue in the main proceedings cannot be regarded as justified.

Ruling:

Articles 18 TFEU and 21 TFEU must be interpreted as precluding national rules, such as those at issue in the main proceedings, which grant the right to use a language other than the official language of that State in civil proceedings brought before the courts of a Member

State which are situated in a specific territorial entity, only to citizens of that State who are domiciled in the same territorial entity.