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**The exclusion, in part, of nationals of other Member States from the German senior amateur athletics championships may be contrary to EU law.**

Participation in the German amateur athletics championships in the senior category was initially open to nationals of other Member States if they had had, for at least one year, an entitlement to participate through a German athletics association or athletics community.

On 17 June 2016, the Deutscher Leichtathletikverband eV (the German Athletics Association; 'the DLV') made such participation impossible by amending the Deutsche Leichtathletikordnung (German Athletics Rules). However, according to the DLV, the athletes concerned may, in some circumstances and subject to certain conditions, be granted an entitlement to participate without classification. The DLV justifies that amendment by claiming that only an athlete of German nationality who can participate in international championships under the abbreviation 'GER', which refers to the word 'Germany', should be the German champion.

As a result of that amendment, Mr Daniele Biffi, an Italian national resident in Germany, who had participated since 2012 in German amateur sports championships in the senior category, was excluded from a championship in March 2017 and was granted entitlement to participate in a championship that took place at the end of June and beginning of July 2017 only 'outside classification' or 'without classification' and, in the disciplines involving heats and a final, without being able to participate in that final.

Mr Biffi and the Berlin sports association TopFit, of which he is a member, brought an action before the Amtsgericht Darmstadt (Local Court, Darmstadt, Germany) seeking that he be admitted to participate in future German senior athletics championships and requesting that he be able to obtain a classification at those championships. They submit that he fulfils all the conditions required by the DLV, inter alia those relating to sporting performance, bar the requirement to have German nationality.

The Amtsgericht Darmstadt has asked the Court of Justice whether such a nationality requirement constitutes unlawful discrimination that is contrary to EU law.

More specifically, the Amtsgericht Darmstadt wishes to know whether EU law precludes rules of a national sports association, such as those at issue, under which an EU citizen, who is a national of another Member State and who has resided for a number of years in the territory of the association concerned and runs in the senior category and in an amateur capacity, cannot participate in the national championships in those disciplines in the same way as nationals can, or can participate in those championships only 'outside classification' or 'without classification', without being able to progress to the final and without being eligible to be awarded the title of national champion.

**By today's judgment, the Court replies that, in circumstances such as those in the main proceedings, EU law<sup>1</sup> precludes such rules unless they are justified by objective**

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<sup>1</sup> More specifically, Articles 18 TFEU (prohibition of discrimination on grounds of nationality), 21 TFEU (free movement of EU citizens) and 165 TFEU (inter alia, promotion of European sporting issues).

**considerations which are proportionate to the legitimate objective pursued**, this being a matter for the Amtsgericht Darmstadt to verify.

The Court notes that **it appears to be legitimate to limit the award of the title of national champion in a particular sporting discipline to a national of the relevant Member State and to consider that nationality requirement to be a characteristic of the title of national champion itself. However, it is vital that the restrictions resulting from the pursuit of that objective for EU citizens should observe the principle of proportionality.**

**In that regard, the two justifications put forward by the DLV do not appear to be founded on objective considerations.**

Concerning, first, the designation of the national champion who will represent his country in international championships, the DLV does not itself choose the participants in international championships in the senior category, but rather it is the athletes who are members of a club affiliated to the DLV and fulfil the conditions governing performance who can, regardless of their nationality, participate in those championships and register for them. Thus, a national of a Member State other than Germany can become a European running champion in the senior category by competing for Germany.

Concerning, second, the alleged need to adopt the same rules for all age categories, that justification is not substantiated by **the DLV's statement, according to which it selects the best national athletes to participate in international championships only in the 'elite' category.**

It is for the Amtsgericht Darmstadt to verify whether there are other justifications for the rules establishing the non-admission of non-nationals to the national championships.

While carrying out that verification, the Amtsgericht will have to take into account (i) the fact that, in Germany, it is not the case that that exclusion has existed for years in the senior category, and (ii) the EU-law objective of increased openness in competitions and the importance of integrating residents, in particular long-term residents, such as Mr Biffi in the present case, in the host Member State.

Since there is a mechanism for the participation of a non-national athlete in the national championships, at the very least in the heats and/or without classification, the total non-admission of such an athlete to those championships on account of his nationality appears, in any event, to be disproportionate.

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**NOTE:** A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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