

Case C-443/03

Götz Leffler

v

Berlin Chemie AG

(Reference for a preliminary ruling from the Hoge Raad der Nederlanden)

(Judicial cooperation in civil matters — Service of judicial and extrajudicial documents — No translation of the document — Consequences)

Opinion of Advocate General Stix-Hackl delivered on 28 June 2005 I - 9614

Judgment of the Court (Grand Chamber), 8 November 2005 I - 9637

Summary of the Judgment

- 1. Freedom of movement for persons — Judicial cooperation in civil and commercial matters — Service of judicial and extrajudicial documents — Regulation No 1348/2000 — Failure of the regulation to prescribe the consequences of certain facts — Application of national law — Conditions — Observance of the principles of equivalence and of effectiveness — Implications*

(Council Regulation No 1348/2000)

2. *Freedom of movement for persons — Judicial cooperation in civil and commercial matters — Service of judicial and extrajudicial documents — Regulation No 1348/2000 — Service of a document that is in a language other than the official language of the Member State addressed or a language of the Member State of transmission which the addressee of the document understands — Ability to remedy that situation by sending a translation — Procedure — Application of national law — Conditions*
(Council Regulation No 1348/2000, Art. 8)

1. In the absence of Community provisions it is for the domestic legal system of each Member State to determine the detailed procedural rules governing actions at law intended to safeguard the rights which individuals derive from the direct effect of Community law. However, those rules cannot be less favourable than those governing rights which originate in domestic law (principle of equivalence) and they cannot render virtually impossible or excessively difficult the exercise of rights conferred by Community law (principle of effectiveness). In addition, the principle of effectiveness must lead the national court to apply the detailed procedural rules laid down by domestic law only in so far as they do not compromise the *raison d'être* and objective of the regulation in question. It follows that, where Regulation No 1348/2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters does not prescribe the consequences of certain facts, it is for the national court to apply, in principle, national law while taking care to ensure the full effectiveness of Community law, a task which may lead it to refrain from applying, if need be, a national rule preventing that or to interpret a national rule which has been drawn up with only a purely domestic situation in mind in order to apply it to the cross-border situation at issue.
- (see paras 49-51)
2. On a proper construction of Article 8 of Regulation No 1348/2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters, when the addressee of a document has refused it on the ground that it is not in an official language of the Member State addressed or in a language of the Member State of transmission which the addressee understands, that situation may be remedied by sending the translation of the document

in accordance with the procedure laid down by the regulation and as soon as possible.

1348/2000, it is incumbent on the national court to apply national procedural law while taking care to ensure the full effectiveness of the regulation, in compliance with its objective.

In order to resolve problems connected with the way in which the lack of translation should be remedied that are not envisaged by Regulation No

(see paras 53, 71, operative part 1-2)