ECLI:EU:C:2016:874

JUDGMENT OF THE COURT (Grand Chamber)

15 November 2016 (*)

(Reference for a preliminary ruling — Fundamental freedoms– Articles 49, 56 and 63 TFEU — Situation confined in all respects within a single Member State — Non-contractual liability of a Member State for damage caused to individuals by breaches of EU law for which the national legislature and courts are to be held responsible)

In Case C-268/15,

REQUEST for a preliminary ruling under Article 267 TFEU from the Cour d'appel de Bruxelles (Court of Appeal, Brussels, Belgium), made by decision of 24 April 2015, received at the Court on 8 June 2015, in the proceedings

Fernand Ullens de Schooten

v

État belge,

THE COURT (Grand Chamber),

composed of K. Lenaerts, President, A. Tizzano, Vice-President, R. Silva de Lapuerta, M. Ilešič, L. Bay Larsen, M. Berger, A. Prechal and E. Regan, Presidents of Chambers, A. Rosas, C. Toader, M. Safjan (Rapporteur), D. Šváby, E. Jarašiūnas, C.G. Fernlund and C. Vajda, Judges,

Advocate General: Y. Bot,

Registrar: V. Tourrès, Administrator,

having regard to the written procedure and further to the hearing on 24 May 2016,

after considering the observations submitted on behalf of:

– Mr Ullens de Schooten, by E. Cusas, J. Derenne, M. Lagrue and N. Pourbaix, avocats,

– the Belgian Government, by J.-C. Halleux, C. Pochet and S. Vanrie, acting as Agents, and L. Grauer, R. Jafferali and R. van Melsen, avocats,

– the European Commission, by J.-P. Keppenne and W. Mölls, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 14 June 2016,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Articles 49, 56 and 63 TFEU, Article 4(3) TEU, and the principles of effectiveness and the primacy of EU law.

2 The request has been made in proceedings between Mr Fernand Ullens de Schooten and the État belge (Belgian State) concerning an action for non-contractual liability brought against the Belgian State alleging that the Belgian legislative and judicial powers infringed EU law.

Legal context

Belgian law

Royal Decree No 143

3 Arrêté royal No 143 fixant les conditions auxquelles les laboratoires doivent répondre en vue de l'intervention de l'assurance maladie pour les prestations de biologie clinique (Royal Decree No 143 laying down the conditions to be met by laboratories with a view to payments by sickness insurance funds for clinical biology services) of 30 December 1982, as amended by Article 17 of the Programme Law of 30 December 1988 (*Moniteur belge*, 5 January 1989), ('Royal Decree No 143') provides in Article 3(1) that, for clinical biology laboratories to be approved by the Ministre de la Santé publique (Minister for Public Health) and to receive payments from the Institut national d'assurance maladie-invalidité (National Institute for Sickness and Invalidity Insurance, INAMI), they must be operated by persons authorised to provide clinical biology services, in other words doctors, pharmacists or chemical science graduates.

The Civil Code

4 Article 2262a(1) of the Code civil (Civil Code) provides:

'The limitation period for all personal actions shall be 10 years.

By way of derogation from the first subparagraph, the limitation period for any action seeking compensation for damage based on non-contractual liability shall be five years from the day following that on which the person harmed became aware of the damage or its aggravation and the identity of the person responsible for the damage.

In any event, the limitation period for actions of the type referred to in the second subparagraph shall be 20 years from the day following that on which the event giving rise to the damage occurred.'

The Consolidated Laws on State accounting

5 Article 100 of the Lois coordonnées sur la comptabilité de l'État (Consolidated Laws on State accounting) of 17 July 1991 (*Moniteur belge*, 21 August 1991), in the version applicable in the main proceedings, provided:

'The following claims shall be statute-barred and wholly extinguished in favour of the State, without prejudice to any cancellation arising from other statutory or regulatory provisions or agreements in the matter:

'1. claims, the submission of which, in a form determined by statute or regulation, did not take place within a period of five years running from the first of January of the financial year during which they arose;

…'

6 Article 101 of the Consolidated Laws read as follows:

'Process served by a bailiff and an acknowledgment of debt by the State shall stop the limitation period running.

The institution of proceedings before a court shall suspend the limitation period until such time as a final decision is given.'

The Law on the organisation of the Federal budget and accounts

7 In accordance with the second paragraph of Article 131 of the Loi portant organisation du budget et de la comptabilité de l'État federal (Law on the organisation of the Federal budget and accounts) of 22 May 2003 (*Moniteur belge*, 3 July 2003):

'Article 100(1) of the Royal Decree of 17 July 1991 on the coordination of the laws on State accounting shall continue to apply to claims against the Federal State that arose before the entry into force of the present law.'

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

8 Mr Ullens de Schooten operated the BIORIM clinical biology laboratory which was declared insolvent on 3 November 2000.

9 Following a complaint to the European Commission, that institution brought an action before the Court on 20 June 1985 seeking a declaration that the Kingdom of Belgium had failed to fulfil its obligations under Article 52 of the EC Treaty (later Article 43 EC) by excluding clinical biology services provided in laboratories operated by a legal person governed by private law whose members, partners or directors were not all natural persons authorised to carry out medical analyses from reimbursement under the social security system.

10 By judgment of 12 February 1987, *Commission* v *Belgium* (221/85, EU:C:1987:81), the Court dismissed the action. In particular, with reference to freedom of establishment, it found that, provided that equal treatment was respected, each Member State was, in the absence of Community rules in this area, free to lay down rules for its own territory governing the activities of laboratories providing clinical biology services. The Court further held that the Belgian legislation concerned did not prevent doctors or pharmacists who were nationals of other Member States from establishing themselves in Belgium and operating there a laboratory to carry out clinical analyses qualifying for reimbursement under the social security system. The Court concluded that the legislation applied without distinction to Belgian nationals and those of other Member States, and that its provisions and objectives did not permit the conclusion that it had been adopted for discriminatory purposes or that it produced discriminatory effects.

11 In 1989 the BIORIM laboratory was the subject of a criminal investigation prompted by suspicion of tax evasion. Following the investigation, Mr Ullens de Schooten was prosecuted inter alia for concealment of the illegal operation of a laboratory, contrary to Article 3 of Royal Decree No 143.

12 By judgment of 30 October 1998, the Tribunal de première instance de Bruxelles (Court of First Instance, Brussels, Belgium) convicted Mr Ullens de Schooten and sentenced him to five years' imprisonment and a fine. In addition, that court allowed the claims of the mutual societies which had joined the proceedings as civil parties, and ordered Mr Ullens de Schooten to pay them one euro as a provisional payment.

13 The court rejected Mr Ullens de Schooten's argument that Article 3 of Royal Decree No 143 was not in force at the time of the acts which gave rise to the criminal proceedings against him.

14 By judgment of 7 December 2000, the Cour d'appel de Bruxelles (Court of Appeal, Brussels, Belgium) set aside that judgment. It nonetheless convicted Mr Ullens de Schooten of the same offences and sentenced him to five years' imprisonment, with the part of the sentence exceeding four years being suspended, and a fine. The claims brought by the civil parties were held to be inadmissible or unfounded.

15 According to the order for reference, that judgment 'omitted all mention' of any breach of Article 3 of Royal Decree No 143 with respect to acts that had taken place before its entry into force. As regards the acts that took place after that provision entered into force, the Cour d'appel de Bruxelles (Court of Appeal, Brussels) rejected Mr Ullens de Schooten's complaint that the provision was not compatible with EU law, while refusing to make a reference to the Court for a preliminary ruling.

16 By judgment of 14 February 2001, the Cour de cassation (Court of Cassation, Belgium) dismissed the appeals against the criminal conviction by the Cour d'appel de Bruxelles, allowed the appeals brought by the civil parties, and referred the case to the Cour d'appel de Mons (Court of Appeal, Mons, Belgium).

17 By judgment of 23 November 2005, the Cour d'appel de Mons (Court of Appeal, Mons) ruled that the claim for payment brought by six mutual societies against Mr Ullens de Schooten in connection with the sums wrongly paid to the BIORIM laboratory from 1 August 1989 to 16 April 1992 was in part well founded.

18 The Cour d'appel de Mons (Court of Appeal, Mons) rejected Mr Ullens de Schooten's argument that Article 3 of Royal Decree No 143 was not compatible with EU law. Taking the view that it was bound by the authority of *res judicata* attaching to the judgment of the Cour d'appel de Bruxelles (Court of Appeal, Brussels) of 7 December 2000, the court ordered Mr Ullens de Schooten to pay those mutual societies the sum of one euro as a provisional payment, while inviting the mutual societies to recalculate their losses as regards the payments made after the entry into force of Article 3 of Royal Decree No 143.

19 The Cour de cassation (Court of Cassation), hearing appeals against that judgment, dismissed them by judgment of 14 June 2006.

20 In parallel to those judicial proceedings concerning the liability of Mr Ullens de Schooten, the Commission de biologie clinique (Clinical Biology Commission), by decision of 18 March 1999, suspended the BIORIM laboratory's authorisation for 12 months.

21 By ministerial order of 9 July 1999, the Minister for Public Health dismissed the administrative complaint brought against that decision.

22 By decision of 8 June 2000, the Clinical Biology Commission extended the suspension of authorisation for 12 months.

23 By ministerial order of 24 July 2000, the Minister for Public Health dismissed the administrative complaint brought against that further decision.

24 The Conseil d'État (Belgium), before which two actions were brought for annulment of those ministerial orders, referred a preliminary question to the Cour

constitutionelle (Constitutional Court, Belgium) on the constitutionality of Article 3 of Royal Decree No 143.

25 At the same time, the Commission, with which Mr Ullens de Schooten had lodged a complaint, issued a reasoned opinion against the Kingdom of Belgium on 17 July 2002, in which it considered that Article 3 of Royal Decree No 143 was contrary to Article 43 EC.

26 Following the amendment by Belgium of Article 3 of Royal Decree No 143, the Commission decided to take no further action.

27 By judgment No 160/2007 of 19 December 2007, the Cour constitutionelle (Constitutional Court) held that that provision, in the version applicable before the amendment, was consistent with the constitution.

28 The Cour constitutionelle (Constitutional Court) also found that, since the legal relationships of the BIORIM laboratory were 'entirely confined to the internal sphere of a Member State', the laboratory could not rely on Articles 43, 49 and 56 EC.

29 Consequently, by judgments of 10 September and 22 December 2008, the Conseil d'État dismissed the actions.

30 By applications of 14 December 2006 and 21 August 2007, Mr Ullens de Schooten brought an action before the European Court of Human Rights claiming that Belgium had infringed the European Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950.

31 By judgment of 20 September 2011, *Ullens de Schooten and Rezabek v. Belgium* (CE:ECHR:2011:0920JUD000398907), the European Court of Human Rights held that there had been no violation of Article 6(1) of that convention.

32 On 17 July 2007 Mr Ullens de Schooten brought proceedings in the Tribunal de première instance de Bruxelles (Court of First Instance, Brussels) against the Belgian State, seeking to be indemnified against, first, all the financial consequences of the orders made against him in the judgment of the Cour d'appel de Mons (Court of Appeal, Mons) of 23 November 2005; secondly, all the consequences of any order made against him at the request of BIORIM or its former manager; and, thirdly, all the consequences of any order made against him in connection with the tax proceedings.

33 By that application Mr Ullens de Schooten sought for the Belgian State to be ordered to pay EUR 500 000 for non-pecuniary damage, EUR 34 500 000 as a provisional payment because of his being unable to operate the BIORIM laboratory, and one euro as a provisional payment for lawyers' fees and disbursements.

34 Mr Ullens de Schooten requested the Tribunal de première instance de Bruxelles (Court of First Instance, Brussels), should it entertain doubts as to the application of EU law in the case, to refer a question to the Court for a preliminary ruling.

35 By judgment of 19 June 2009, the Tribunal de première instance de Bruxelles (Court of First Instance, Brussels) declared the application referred to in paragraph 33 above inadmissible on the ground that it was out of time.

36 Mr Ullens de Schooten appealed against that judgment to the referring court, which entertains doubts as to the interpretation and application of EU law in the present case.

37 In those circumstances, the Cour d'appel de Bruxelles (Court of Appeal, Brussels) decided to stay the proceedings and to refer the following questions to the Court for a preliminary ruling:

'1. Does [EU] law, in particular the principle of effectiveness, in certain circumstances … require that the national limitation period, such as that in Article 100 of the Consolidated Laws on State accounting applicable to a claim for compensation made by an individual against the Belgian State for infringement of Article 43 [EC] by the legislature, should not start to run until that infringement has been established or, on the contrary, is the principle of effectiveness sufficiently ensured in those circumstances by the opportunity that is open to that individual to stop the limitation period running by having process served by a bailiff?

2. Must Articles 43, 49 and 56 EC and the concept of a "purely internal situation", which is liable to limit reliance on those provisions by an individual in proceedings before a national court, be interpreted as precluding the application of EU law in proceedings between a Belgian national and the Belgian State in which redress is sought for damage caused by an alleged infringement of [EU] law resulting from the adoption and maintaining in force of Belgian legislation such as Article 3 of Royal Decree No 143 … which applies without distinction to Belgian nationals and nationals of other Member States?

3. Must the principle of the primacy of EU law and Article 4(3) TEU be interpreted as not allowing the rule establishing the authority of *res judicata* to be disapplied in connection with the review or setting aside of a judicial decision which has become *res judicata* and which proves to be contrary to EU law but, on the contrary, as allowing a national rule establishing the authority of *res judicata* to be disapplied when the rule would require the adoption, on the basis of that judicial decision which has become *res judicata* but is contrary to EU law, of another judicial decision which would perpetuate the infringement of EU law by the first judicial decision?

4. Could the Court confirm that the question whether the rule establishing the authority of *res judicata* must be disapplied in the case of a judicial decision which has become *res judicata* but is contrary to EU law in the context of an application for review or setting aside of that decision is not a question materially identical, within the meaning

of the judgments [of 27 March 1963 in *DaCosta and Others* (28/62 to 30/62, EU:C:1963:6) and 6 October 1982 in *Cilfit and Others* (283/81, EU:C:1982:335)], to the question whether the rule establishing the authority of *res judicata* is contrary to EU law in the context of an application for a (new) decision which would repeat the infringement of EU law, so that the court giving judgment at last instance cannot escape its obligation to make a reference for a preliminary ruling?'

Consideration of the questions referred

Jurisdiction of the Court

38 The Belgian Government submits that the Court does not have jurisdiction over the present request for a preliminary ruling, since the case in the main proceedings concerns a purely internal situation not falling within the scope of EU law.

39 It should be observed, however, that by its questions the referring court seeks essentially to know whether the non-contractual liability of the State for damage allegedly caused to individuals as a result of a breach of EU law may be pleaded in a case which is confined in all respects within a single Member State.

40 It must be recalled that, according to settled case-law, in the context of a reference for a preliminary ruling under Article 267 TFEU, the Court may interpret EU law only within the limits of the powers conferred on it (see judgment of 27 March 2014, *Torralbo Marcos*, C-265/13, EU:C:2014:187, paragraph 27 and the case-law cited).

41 The principle of the non-contractual liability of a State for damage caused to individuals by breaches of EU law for which the State can be held responsible is inherent in the EU legal order. The Court has held that individuals harmed have a right to compensation on the basis of that liability where three conditions are met, namely that the rule of EU law infringed is intended to confer rights on them, that the breach of that rule is sufficiently serious, and that there is a direct causal link between the breach and the damage sustained by the individuals (see, to that effect, judgments of 19 November 1991, *Francovich and Others*, C-6/90 and C-9/90, EU:C:1991:428, paragraph 35, and of 5 March 1996, *Brasserie du Pêcheur and Factortame*, C-46/93 and C-48/93, EU:C:1996:79, paragraphs 31 and 51).

42 The non-contractual liability of a Member State for damage caused by a decision of a national court adjudicating at last instance which infringes a rule of EU law is governed by the same conditions (see judgments of 30 September 2003, *Köbler*, C-224/01, EU:C:2003:513, paragraph 52, and of 28 July 2016, *Tomášová*, C-168/15, EU:C:2016:602, paragraph 23 and the case-law cited).

43 Consequently, the principle of the non-contractual liability of the State is within the interpretative jurisdiction of the Court.

44 In those circumstances, the Court has jurisdiction to rule on the present request for a preliminary ruling.

Question 2

45 By its second question, which should be considered first, the referring court essentially asks whether EU law must be interpreted as meaning that the system of non-contractual liability of a Member State for damage caused by a breach of that law is to apply in the case of damage allegedly caused to an individual as a result of an alleged breach of a fundamental freedom laid down in Article 49, 56 or 63 TFEU by national legislation that is applicable without distinction to the State's own nationals and those of other Member States, in a case which is confined in all respects within that single Member State.

46 In order to answer Question 2, it must be observed at the outset that, as recalled in paragraph 41 above, the non-contractual liability of a State for damage caused to individuals by breaches of EU law can be engaged only if the rule of EU law concerned is intended to confer rights on those individuals. It must therefore be determined whether an individual in a situation such as that of Mr Ullens de Schooten derives rights from the relevant provisions of the FEU Treaty.

47 It should be recalled here that the provisions of the FEU Treaty on the freedom of establishment, the freedom to provide services and the free movement of capital do not apply to a situation which is confined in all respects within a single Member State (see, to that effect, judgments of 20 March 2014, *Caixa d'Estalvis i Pensions de Barcelona*, C-139/12, EU:C:2014:174, paragraph 42 and the case-law cited, and of 30 June 2016, *Admiral Casinos & Entertainment*, C-464/15, EU:C:2016:500, paragraph 21 and the case-law cited).

48 As may be seen from the order for reference and from judgment No 160/2007 of 19 December 2007 of the Belgian Cour constitutionelle (Constitutional Court), referred to in paragraphs 27 and 28 above, the dispute in the main proceedings is characterised by factors all confined within Belgium. Mr Ullens de Schooten, a Belgian national who operated a clinical biology laboratory in Belgian territory, is asking the Belgian State to compensate him for the damage allegedly suffered as a result of the alleged incompatibility with EU law of the Belgian legislation mentioned in paragraph 3 above.

49 The fact that in its judgment of 12 February 1987, *Commission* v *Belgium* (221/85, EU:C:1987:81), on the action brought by the Commission for failure to fulfil obligations, the Court assessed the observance by the Kingdom of Belgium of one of the fundamental freedoms laid down by the EEC Treaty cannot in itself allow the conclusion that that freedom may be relied on by an individual in a case such as that in the main proceedings, confined in all respects within a single Member State. While the bringing of an action for failure to fulfil obligations means that the Court ascertains whether the national measure challenged by the Commission is, in general, capable of deterring operators from other Member States from making use of the freedom in question, the Court's function in

proceedings for a preliminary ruling is, by contrast, to help the referring court to resolve the specific dispute pending before that court, which presupposes that that freedom is shown to be applicable to that dispute.

50 The Court has indeed regarded requests for preliminary rulings concerning the interpretation of provisions of the Treaties relating to the fundamental freedoms as admissible even though the disputes in the main proceedings were confined in all respect within a single Member State, on the ground that it was not inconceivable that nationals established in other Member States had been or were interested in making use of those freedoms for carrying on activities in the territory of the Member State that had enacted the national legislation in question, and, consequently, that the legislation, applicable without distinction to nationals of that State and those of other Member States, was capable of producing effects which were not confined to that Member State (see, to that effect, inter alia, judgments of 1 June 2010, *Blanco Pérez and Chao Gómez*, C-570/07 and C-571/07, EU:C:2010:300, paragraph 40; of 18 July 2013, *Citroën Belux*, C-265/12, EU:C:2013:498, paragraph 33; and of 5 December 2013, *Venturini and Others*, C-159/12 to C-161/12, EU:C:2013:791, paragraphs 25 and 26).

51 Similarly, the Court has found that, where the referring court makes a request for a preliminary ruling in proceedings for the annulment of provisions which apply not only to its own nationals but also to those of other Member States, the decision of the referring court that will be adopted following the Court's preliminary ruling will also have effects on the nationals of other Member States, which justifies the Court giving an answer to the questions put to it in relation to the provisions of the Treaty on the fundamental freedoms, even though the dispute in the main proceedings is confined in all respects within a single Member State (see, to that effect, judgment of 8 May 2013, *Libert and Others*, C-197/11 and C-203/11, EU:C:2013:288, paragraph 35).

52 It should, moreover, be recalled that the interpretation of the fundamental freedoms provided for in Article 49, 56 or 63 TFEU may prove to be relevant in a case confined in all respects within a single Member State where national law requires the referring court to grant the same rights to a national of its own Member State as those which a national of another Member State in the same situation would derive from EU law (see, to that effect, judgments of 5 December 2000, *Guimont*, C-448/98, EU:C:2000:663, paragraph 23; of 21 June 2012, *Susisalo and Others*, C-84/11, EU:C:2012:374, paragraph 20; and of 21 February 2013, *Ordine degli Ingegneri di Verona e Provincia and Others*, C-111/12, EU:C:2013:100, paragraph 35).

53 The same applies in cases in which, although the facts of the main proceedings are outside the direct scope of EU law, the provisions of EU law have been made applicable by national legislation, which, in dealing with situations confined in all respects within a single Member State, follows the same approach as that provided for by EU law (see, to that effect, judgments of 18 October 1990, *Dzodzi*, C-297/88 and C-197/89, EU:C:1990:360, paragraphs 36, 37 and 41; of 17 July 1997, *Leur-Bloem*, C-28/95, EU:C:1997:369, paragraphs 27 and 32; and of 14 March 2013, *Allianz Hungária Biztositó and Others*, C-32/11, EU:C:2013:160, paragraph 20).

54 While that is so, in the cases referred to in paragraphs 50 to 53 above, the Court, on a question being referred by a national court in connection with a situation confined in all respects within a single Member State, cannot, where the referring court does not indicate something other than that the national legislation in question applies without distinction to nationals of the Member State concerned and those of other Member States, consider that the request for a preliminary ruling on the interpretation of the provisions of the FEU Treaty on the fundamental freedoms is necessary to enable that court to give judgment in the case pending before it. The specific factors that allow a link to be established between the subject or circumstances of a dispute, confined in all respects within a single Member State, and Article 49, 56 or 63 TFEU must be apparent from the order for reference.

55 Consequently, in a situation such as that at issue in the main proceedings which is confined in all respects within a single Member State, it is for the referring court to indicate to the Court, in accordance with the requirements of Article 94 of the Rules of Procedure of the Court, in what way the dispute pending before it, despite its purely domestic character, has a connecting factor with the provisions of EU law on the fundamental freedoms that makes the preliminary ruling on interpretation necessary for it to give judgment in that dispute.

56 It is not apparent from the order for reference that, in the case in the main proceedings, national law requires the referring court to grant a Belgian national the same rights as those which a national of another Member State in the same situation would derive from EU law, or that the provisions of EU law have been made applicable by Belgian law following the same approach, in dealing with situations confined in all respects within Belgium, as that provided for by EU law.

57 In the present case, the referring court asks the Court whether, in an action for non-contractual liability brought against a Member State on the ground of an alleged breach of EU law, a national of that Member State may derive rights from Article 49, 56 or 63 TFEU, albeit that the dispute has no connecting factor with those provisions. However, since the circumstances of the dispute in the main proceedings do not display any factor of that kind, those provisions, which are intended to protect persons making actual use of the fundamental freedoms, are not capable of conferring rights on Mr Ullens de Schooten, and EU law cannot therefore give rise to non-contractual liability of the Member State concerned.

58 Having regard to all the above considerations, the answer to Question 2 is that EU law must be interpreted as meaning that the system of non-contractual liability of a Member State for damage caused by a breach of that law does not apply in the case of damage allegedly caused to an individual as a result of an alleged breach of a fundamental freedom laid down in Article 49, 56 or 63 TFEU by national legislation that is applicable without distinction to the State's own nationals and those of other Member States, where, in a situation which is confined in all respects within a single Member State, there is no link between the subject or circumstances of the dispute in the main proceedings and those articles.

Questions 1, 3 and 4

59 Since Questions 1, 3 and 4 are based on the incorrect premiss that EU law is capable of founding the non-contractual liability of the Member State concerned in a dispute such as that in the main proceedings, there is no need to answer them.

Costs

60 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national 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 (Grand Chamber) hereby rules:

European Union law must be interpreted as meaning that the system of non-contractual liability of a Member State for damage caused by a breach of that law does not apply in the case of damage allegedly caused to an individual as a result of an alleged breach of a fundamental freedom laid down in Article 49, 56 or 63 TFEU by national legislation that is applicable without distinction to the State's own nationals and those of other Member States, where, in a situation which is confined in all respects within a single Member State, there is no link between the subject or circumstances of the dispute in the main proceedings and those articles.

[Signatures]

---

* Language of the case: French.