

SUMMARY

ECJ 18 January 2022, case C-261/20 (Thelen Technopark Berlin), Other Forms of Free Movement

Thelen Technopark Berlin GmbH – v – MN, German case

Summary

It does not follow from EU law that a national court must disapply national provisions on minimum tariffs for architects and engineers which are contrary to Directive 2006/123, although this can follow from other national provisions. Moreover, the disadvantaged party can claim compensation based on state liability as the German implementation legislation is not in conformity with EU law.

Question

Is EU law to be interpreted as meaning that a national court, when hearing a dispute which is exclusively between private individuals, is required to disapply a piece of national legislation which, in breach of Article 15(1), (2)(g) and (3) of Directive 2006/123, sets minimum rates for fees for services provided by architects and engineers and which renders invalid agreements derogating from that legislation.

Ruling

EU law must be interpreted as meaning that a national court, when hearing a dispute which is exclusively between private individuals, is not required, solely on the basis of EU law, to disapply a piece of national legislation which, in breach of Article 15(1), (2)(g) and (3) of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market, sets minimum rates for fees for services provided by architects and engineers and which renders invalid agreements derogating from that legislation, without prejudice, however, to, first, the possibility for that court to disapply that legislation on the

basis of domestic law in the context of such a dispute, and, second, the right of a party which has been harmed as a result of national law not being in conformity with EU law to claim compensation for the ensuing loss or damage sustained by that party.

Creator: European Court of Justice (ECJ)

Verdict at: 2022-01-26

Case number: C-261/20