Reports of Cases

JUDGMENT OF THE COURT (Second Chamber)

2 June 2016*

[Text as amended by order of 6 October 2016]

(Reference for a preliminary ruling — Citizenship of the Union — Article 21 TFEU — Freedom to move and reside in the Member States — Law of a Member State abolishing privileges and prohibiting the conferring of new noble titles — Surname of an adult, national of that State, obtained during a habitual residence in another Member State of which that person also holds the nationality — Name comprising tokens of nobility — Residence in the first Member State — Refusal by the authorities of the first Member State to enter the name acquired in the second Member State in the register of civil status — Justification — Public policy — Incompatibility with the essential principles of German law)

In Case C-438/14,

REQUEST for a preliminary ruling under Article 267 TFEU from the Amtsgericht Karlsruhe (Local Court, Karlsruhe, Germany), made by decision of 17 September 2014, received at the Court on 23 September 2014, in the proceedings

Nabiel Peter Bogendorff von Wolffersdorff

v

Standesamt der Stadt Karlsruhe,

Zentraler Juristischer Dienst der Stadt Karlsruhe,

THE COURT (Second Chamber),

composed of M. Ilešič, President of the Chamber, C. Toader, A. Rosas (Rapporteur), A. Prechal and E. Jarašiūnas, Judges,

Advocate General: M. Wathelet,

Registrar: K. Malacek, Administrator,

having regard to the written procedure and further to the hearing on 12 November 2015,

after considering the observations submitted on behalf of

— Mr Nabiel Peter Bogendorff von Wolffersdorff, by Mr Bogendorff von Wolffersdorff in person and by T. Donderer, Rechtsanwalt,

* Language of the case: German.

— the Zentraler Juristischer Dienst der Stadt Karlsruhe, by D. Schönhaar and P. Becker, acting as Agents,

— the German Government, by T. Henze, J. Kemper and K. Petersen, acting as Agents,

— the European Commission, by G. von Rintelen, M. Wilderspin and C. Tufvesson, acting as Agents,

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

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Articles 18 TFEU and 21 TFEU.

2 The request has been made in proceedings between Mr Nabiel Peter Bogendorff von Wolffersdorff and the Standesamt der Stadt Karlsruhe (Register Office, Karlsruhe) and the Zentraler Juristischer Dienst der Stadt Karlsruhe (Central Legal Service of the city of Karlsruhe, Germany), concerning the refusal by those authorities to modify the forenames and surname entered on the birth certificate of the applicant in the main proceedings and to state in the register of civil status tokens of nobility forming part of the surname acquired by him in another Member State.

German law

3 Paragraph 123(1) of the Grundgesetz für die Bundesrepublik Deutschland (Basic Law of the Federal Republic of Germany) of 23 May 1949 (BGBl. 1949, I, p. 1; 'the Basic Law') provides that 'the law in force prior to the first meeting of the Bundestag shall remain in force in so far as it does not run counter to the Basic Law'.

4 Article 109 of the Verfassung des Deutschen Reichs (Constitution of the German Reich), adopted on 11 August 1919 in Weimar ((Reichsgesetzblatt 1919, p. 1383; 'the Weimar Constitution') which entered into force on 14 August 1919, provides:

'All Germans are equal before the law.

Men and women have in principle the same civic rights and duties.

Public law advantages or disadvantages of birth or rank are to be abolished. Titles of nobility are valid only as part of a name and may no longer be conferred.

Titles may be conferred only if they denote an office or profession; this does not affect academic degrees.

Neither orders nor decorations may be conferred by the State.

No German may accept a title or an order from a foreign Government.'

5 By decisions of 11 March 1966 and 11 December 1996, the Bundesverwaltungsgericht (Federal Administrative Court, Germany) took the view that, by virtue of Paragraph 123(1) of the Basic Law, Article 109 of the Weimar Constitution remains in force and, in the hierarchy of norms, has the status of ordinary federal law.

6 Under the heading 'Personal status', Paragraph 5 of the Einführungsgesetz zum Bürgerlichen Gesetzbuch (Law introducing the Civil Code) of 21 September 1994 (BGBl. 1994 I, p. 2494, and corrigendum BGBl. 1997, I, p. 1061), in the version applicable at the time material to the main proceedings ('the EGBGB') provides, in paragraph 1:

'Where reference is made to the law of the State of which a person is a national, and the person is a national of several States, the law to be applied is the law of the State with which the person is most closely linked, in particular by his habitual residence or by the course of his life. If the person is also German, that legal position takes precedence.'

7 Paragraph 6 of the EGBGB, entitled 'Public policy', is worded as follows:

'A rule of law of another State is not to be applied if its application leads to a result that is manifestly incompatible with essential principles of German law. In particular, it is not to be applied if application is incompatible with fundamental rights.'

8 Paragraph 10 of the EGBGB, entitled 'Name', provides, in paragraph 1:

'A person's name is subject to the law of the State of which that person is a national.'

9 Paragraph 48 of the EGBGB, entitled 'Choice of a name acquired in another Member State of the European Union', provides:

'If a person's name is subject to German law, he may, by declaration to the register office, choose the name acquired during habitual residence in another Member State of the European Union and entered in a register of civil status there, where this is not manifestly incompatible with essential principles of German law. The choice of name shall take effect retroactively from the date of entry in the register of civil status of the other Member State, unless the person expressly declares that the choice of name is to have effect only for the future. The declaration must be publicly attested or certified. …'

10 Paragraph 48 of the EGBGB was created by the Gesetz zur Anpassung der Vorschriften des Internationalen Privatrechts an die Verordnung (EU) Nr. 1259/2010 und zur Änderung anderer Vorschriften des Internationalen Privatrechts (Law on the adaptation of the rules of private international law to Regulation (EU) No 1259/2010 and on the amendment of other rules of private international law) of 23 January 2013 (BGBl. 2013 I p. 101), which entered into force on 29 January 2013. That provision was introduced into German law following the judgment of the Court of Justice of 14 October 2008 in *Grunkin and Paul* (C-353/06, EU:C:2008:559).

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

11 [As amended by order of 6 October 2016] The applicant in the main proceedings is a German national, born on 9 January 1963 in Karlsruhe (Germany). At birth he was given the forename 'Nabiel' and the surname 'Bagdadi', which were entered in the register of civil status of the city of Karlsruhe.

12 Subsequently, following administrative change of name proceedings in the city of Nuremberg (Germany), the applicant in the main proceedings firstly acquired the surname 'Bogendorff' and secondly obtained the addition to his forename of 'Nabiel' of the forename 'Peter'. By the effect of an adoption, the German personal status of the applicant in the main proceedings was again amended so that, according to that personal status, he henceforth bore the forenames 'Nabiel Peter' and the surname 'Bogendorff von Wolffersdorff'.

13 In 2001, the applicant in the main proceedings moved to the United Kingdom where, from 2002, he exercised the profession of insolvency adviser in London.

14 In 2004, he acquired British nationality by naturalisation, while retaining his German nationality.

15 By a deed poll of 26 July 2004, registered on 22 September 2004 at the Supreme Court of England and Wales (United Kingdom) and published in *The London Gazette* on 8 November 2004, the applicant to the main proceedings changed his name so that, under English law, he is called 'Peter Mark Emanuel Graf von Wolffersdorff Freiherr von Bogendorff'.

16 In 2005, the applicant in the main proceedings and his spouse left London to live in Chemnitz in Germany, where their daughter was born on 28 February 2006. They have lived there since then.

17 The birth of their daughter, who has double German and British nationality, was declared at the Consulate General of the United Kingdom in Düsseldorf (Germany) on 23 March 2006. The forenames and surname of their daughter entered in her birth certificate and British passport are 'Larissa Xenia Gräfin von Wolffersdorff Freiin von Bogendorff'.

18 However, the Register office of the city of Chemnitz refused to register her under her British name, basing its refusal on Paragraph 10 of the EGBGB. The applicant in the main proceedings applied to the Oberlandesgericht Dresden (Higher Regional Court of Dresden, Germany), seeking an order that that Register office enter his daughter's name in the register of civil status in the form appearing on the birth certificate issued by the British authorities.

19 By decision of 6 July 2011, the Oberlandesgericht Dresden (Higher Regional Court of Dresden) granted that application.

20 In accordance with that order, the city of Chemnitz made the relevant entry. Consequently, the daughter of the applicant in the main proceedings, as a German citizen, bears forenames and surname identical to those which she bears as a British citizen, namely 'Larissa Xenia Gräfin von Wolffersdorff Freiin von Bogendorff'.

21 On 22 May 2013, the applicant in the main proceedings declared that he had instructed the Register office of the city of Karlsruhe to enter in the register of civil status, in accordance with Paragraph 48 of the EGBGB, the forenames and surname he has acquired under British legislation.

22 Since that office refused to make that entry, the applicant in the main proceedings applied to the Amtsgericht Karlsruhe (District Court, Karlsruhe) for an order that the office, pursuant to Paragraph 49(1) of the Personenstandsgesetz (Law on personal status), amend his birth certificate, with retroactive effect to the date of 22 September 2004, so that it shows the forenames and surname 'Peter Mark Emanuel Graf von Wolffersdorff Freiherr von Bogendorff'.

23 The Register office of the city of Karlsruhe opposed that application on the basis of the exception of incompatibility with the essential principles of German law provided for in Paragraph 48 of the EGBGB.

24 The Amstgericht Karlsruhe (District Court, Karlsruhe) notes in that regard, that, in German specialised legal literature, the question of the scope of Paragraph 48 of the EGBGB, adopted following the judgment of 14 October 2008 in *Grunkin and Paul* (C-353/06, EU:C:2008:559), which permits a person whose name is subject to German law to bear a name acquired during habitual residence in another Member State, is debated, in particular where that name was acquired independently of any change of personal status which occurred following the application of family law provisions. The case-law of the Court of Justice does not give an answer to this question of law. Thus, the judgements of 2 October 2003 in *Garcia Avello* (C-148/02, EU:C:2003:539) and of 14 October 2008 in *Grunkin and Paul* (C-353/06, EU:C:2008:559) concern cases in which, from the birth of the persons concerned, their names, capable of recognition by the competent authorities of the Member States concerned, were different. The case which gave rise to the judgment of 22 December 2010 in *Sayn-Wittgenstein*

(C-208/09, EU:C:2010:806) is distinguished from the main proceedings by the facts that, in the first case, the person concerned did not have dual nationality, the difference in the names was the result of a change in personal status following application of provisions of family law, in that case an adoption, and, finally, the constitutional identity of the Republic of Austria in the matter of the use of titles of nobility is comparable only to a limited extent to that of the Federal Republic of Germany.

25 In those circumstances the Amtsgericht Karlsruhe (District Court, Karlsruhe) decided to stay proceedings and to refer the following question to the Court for a preliminary ruling:

'Are Articles 18 TFEU and 21 TFEU to be interpreted as meaning that the authorities of a Member State are obliged to recognise the change of name of a national of that State if he is at the same time a national of another Member State and has acquired in that Member State, during habitual residence, by means of a change of name not associated with a change of family law status, a freely chosen name including several tokens of nobility, where it is possible that a future substantial link with that State does not exist and in the first Member State the nobility has been abolished by constitutional law but the titles of nobility used at the time of abolition may continue to be used as part of a name?'

Consideration of the question referred

Preliminary observations

26 It is appropriate to note at the outset that Mr Bogendorff von Wolffersdorff has applied to the referring court for an order changing not only his surname but also his forenames from 'Nabiel Peter' to 'Peter Mark Emanuel'. Consequently, it is appropriate to understand the reference made in the question to the concept of 'change of name' as being made to the refusal by the authorities of a Member State to recognise both the forenames and surname acquired by a national of that State during habitual residence in a second Member State of which that national also holds the nationality.

27 Accordingly, the view must be taken that, by its question, the referring court asks, in essence, whether Articles 18 TFEU and 21 TFEU must be interpreted as meaning that the authorities of a Member State are bound to recognise the surname and forenames of a national of that Member State when he also holds the nationality of another Member State in which he has acquired a name which he has chosen freely and which contains a number of tokens of nobility. It asks in particular whether reasons connected with the constitutional choice of the first Member State and the abolition of titles of nobility can authorise that Member State not to recognise a change of forenames and surname obtained in those circumstances.

28 Article 20 TFEU confers on any person holding the nationality of a Member State the status of citizen of the Union (see judgment of 12 May 2011 in *Runevič-Vardyn and Wardyn*, C-391/09, EU:C:2011:291, paragraph 59 and the case-law cited). The appellant in the main proceedings, who holds the nationality of two Member States, benefits from that status.

29 The Court has stated several times that citizenship of the Union is intended to be the fundamental status of nationals of the Member States (see judgment of 12 May 2011 in *Runevič-Vardyn and Wardyn*, C-391/09, EU:C:2011:291, paragraph 60 and the case-law cited).

30 That status enables those among such nationals who find themselves in the same situation to enjoy, within the scope *ratione materiae* of the Treaty, the same treatment in law irrespective of their nationality, subject to such exceptions as are expressly provided for (see judgment of 12 May 2011 in *Runevič-Vardyn and Wardyn*, C-391/09, EU:C:2011:291, paragraph 61 and the case-law cited).

31 The situations falling within the scope *ratione materiae* of EU law include those which involve the exercise of the fundamental freedoms guaranteed by the Treaty, in particular those involving the freedom to move and reside within the territory of the Member States, as conferred by Article 21 TFEU (see judgments of 20 September 2001 in *Grzelczyk*, C-184/99, EU:C:2001:458, paragraph 33; of 11 July 2002 in *D'Hoop*, C-224/98, EU:C:2002:432, paragraph 29; and of 12 May 2011 in *Runevič-Vardyn and Wardyn*, C-391/09, EU:C:2011:291, paragraph 62).

32 Although, as EU law stands at present, the rules governing the way in which a person's surname and forename are entered on certificates of civil status are matters coming within the competence of the Member States, the latter must nonetheless, when exercising that competence, comply with EU law and, in particular, with the Treaty provisions on the freedom of every citizen of the Union to move and reside in the territory of the Member States (see judgments of 2 October 2003 in *Garcia Avello*, C-148/02, EU:C:2003:539, paragraph 25; of 14 October 2008 in *Grunkin and Paul*, C-353/06, EU:C:2008:559, paragraph 16; and of 22 December 2010 in *Sayn-Wittgenstein*, C-208/09, EU:C:2010:806, paragraphs 38 and 39, and of 12 May 2011 in *Runevič-Vardyn and Wardyn*, C-391/09, EU:C:2011:291, paragraph 63).

33 In the main proceedings, it is established that the applicant in the main proceedings holds the nationality of two Member States and, as a citizen of the Union, exercises his freedom to move and reside in a Member State other than his Member State of origin in accordance with Article 21 TFEU.

34 It is therefore necessary to examine, in the light of that provision alone, the refusal by the authorities of a Member State to recognise the name acquired by a national of that State in another Member State, of which he also holds the nationality, in circumstances such as those at issue in the main proceedings (see, by analogy, judgment of 12 May 2011 in *Runevič-Vardyn and Wardyn*, C-391/09, EU:C:2011:291, paragraph 65).

The existence of a restriction

35 It must be noted, as a preliminary point, that a person's forename and surname are a constituent element of his identity and of his private life, the protection of which is enshrined in Article 7 of the Charter of Fundamental Rights of the European Union ('the Charter') and in Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950 ('the ECHR'). Even though Article 7 of the Charter does not refer to it expressly, a person's forename and surname, as a means of personal identification and a link to a family, none the less concern his private and family life (see, as regards Article 8 of the ECHR, judgments of 22 December 2010 in *Sayn-Wittgenstein*, C-208/09, EU:C:2010:806, paragraph 52 and the case-law cited, and of 12 May 2011 in *Runevič-Vardyn and Wardyn*, C-391/09, EU:C:2011:291, paragraph 66).

36 National legislation which places certain of the nationals of the Member State concerned at a disadvantage simply because they have exercised their freedom to move and to reside in another Member State is a restriction on the freedoms conferred by Article 21(1) TFEU on every citizen of the Union (see, inter alia, judgments of 14 October 2008 in *Grunkin and Paul*, C-353/06, EU:C:2008:559, paragraph 21; of 22 December 2010 in *Sayn-Wittgenstein*, C-208/09, EU:C:2010:806, paragraph 53; and of 12 May 2011 in *Runevič-Vardyn and Wardyn*, C-391/09, EU:C:2011:291, paragraph 68).

37 It follows from the case-law of the Court that a refusal by the authorities of a Member State to recognise the name of a national of that State who exercised his right to move and reside freely in the territory of another Member State, as determined in that second Member State, is likely to hinder the exercise of the right, enshrined in Article 21 TFEU, to move and reside freely in the territories of the

Member States. Confusion and inconvenience are liable to arise from the divergence between the two names used for the same person (see, to that effect, judgment of 22 December 2010 in *Sayn-Wittgenstein*, C-208/09, EU:C:2010:806, paragraphs 39, 41, 42, 66 and 71).

38 In the present case, the refusal by the German authorities to recognise the change of forenames and surname of a German national, obtained under the legislation of another Member State of which that national also holds the nationality, is likely to constitute such a restriction. However, according to the Court's case-law, in order to constitute a restriction on the freedoms recognised by Article 21 TFEU, the refusal to amend the forenames and surname of a national of a Member State and to recognise the forenames and surname which he has acquired in another Member State must be liable to cause him 'serious inconvenience' at administrative, professional and private levels (see, to that effect, judgment of 12 May 2011 in *Runevič-Vardyn and Wardyn*, C-391/09, EU:C:2011:291, paragraph 76 and the case-law cited).

39 Thus, the Court has already held that, every time the surname used in a specific situation does not correspond to that on the document submitted as proof of a person's identity, or the surname in two documents submitted together is not the same, such a difference in surnames is liable to give rise to doubts as to the person's identity and the authenticity of the documents submitted, or the veracity of their content (judgment of 14 October 2008 in *Grunkin and Paul*, C-353/06, EU:C:2008:559, paragraph 28).

40 The Court has also held, with regard to a person who is a national of a Member State which refuses to recognise the name acquired by that person as an effect of his adoption in another Member State, in which that person resides, that the real risk of being obliged because of the discrepancy in names to dispel doubts as to one's identity is such as to hinder the exercise of the right which flows from Article 21 TFEU (see, to that effect, judgment of 22 December 2010 in *Sayn-Wittgenstein*, C-208/09, EU:C:2010:806, paragraph 70).

41 In the present case, the German Government states its doubts as to the prejudicial effect on the applicant in the main proceedings in his private and professional life of the inconvenience caused by the divergence between the forenames and surnames which he bears. There is nothing to show that the name acquired in the United Kingdom is of considerable importance to the identification of the applicant in the main proceedings and his membership of a family.

42 However, the applicant in the main proceedings argued, at the hearing before the Court, that he has been faced with serious inconvenience, within the meaning of the case-law cited in paragraph 38 of this judgment, in particular when registering in Germany a branch of the limited company which he formed in the United Kingdom, for which, as a German citizen, he has had to prove his identity using German documents which bear a name different from that shown on the documents coming from the United Kingdom, and when opening a bank account for that company and also simple road-side police checks, when he has had to produce his British driving licence and, in accordance with the German law on identity documents, a German piece of identification.

43 In that regard, it must be borne in mind that many daily actions, both in the public and in the private domains, require a person to provide evidence of his or her own identity and also, in the case of a family, evidence of the nature of the links between different family members (judgment of 12 May 2011 in *Runevič-Vardyn and Wardyn*, C-391/09, EU:C:2011:291, paragraph 73).

44 Since the applicant in the main proceedings holds two nationalities, both the German authorities and the British authorities may issue him with official documents, such as a passport. The applicant in the main proceedings is registered under different forenames and surnames in the German register of civil status and with the British authorities. The forenames and surname 'Peter Mark Emanuel Graf von

Wolffersdorff Freiherr von Bogendorff 'which appear on his British passport and driving licence are not identical to the forenames and surname 'Nabiel Peter Bogendorff von Wolffersdorff 'which are entered in the German Registers of civil status and German identity documents.

45 In the same way as in the case which gave rise to the judgment of 22 December 2010 in *Sayn-Wittgenstein* (C-208/09, EU:C:2010:806), the real risk, in circumstances such as those in the main proceedings, of being obliged because of the discrepancy in names to dispel doubts as to one's identity is such as to hinder the exercise of the right which flows from Article 21 TFEU.

46 Furthermore, it must be noted that, since the minor daughter of the applicant in the main proceedings holds two passports in the name of 'Larissa Xenia Gräfin von Wolffersdorff Freiin von Bogendorff', issued by the United Kingdom authorities and, following the judgment of the Oberlandesgericht Dresden (Higher Regional Court, Dresden), by the German authorities, the applicant in the main proceedings also runs the risk, because of the name, different from that of his daughter, which appears in his German passport, of encountering difficulties in proving his family links with her.

47 Consequently, the refusal by the authorities of a Member State to recognise the forenames and surname of a national of that Member State, as determined and registered in another Member State of which he also holds the nationality, constitutes a restriction on the freedoms conferred under Article 21 TFEU on all citizens of the Union.

The existence of justification

48 In accordance with settled case-law, an obstacle to the freedom of movement of persons can be justified only where it is based on objective considerations and is proportionate to the legitimate objective of the national provisions (see judgments of 14 October 2008 in *Grunkin and Paul*, C-353/06, EU:C:2008:559, paragraph 29, and of 22 December 2010 in *Sayn-Wittgenstein*, C-208/09, EU:C:2010:806, paragraph 81).

49 The referring court mentions four grounds which could justify the refusal to recognise and register the forenames and surname obtained by the applicant in the main proceedings in the United Kingdom. Those grounds are based on the principles of immutability and continuity of names, the fact that the applicant in the main proceedings made a deliberate choice to change his name in the United Kingdom, without any connection to a change of personal status following the application of the provisions of family law, the length and complexity of the name chosen and reasons connected to the German constitutional choice and the abolition of titles of nobility.

The principles of immutability and continuity of names

50 According to the referring court, the reason that a change of name by an intentional act, independent of any change of personal status following the application of the provisions of family law, is not permitted in German law rests mainly on the principles of the immutability and continuity of names, which must constitute a reliable and lasting identifying feature of a person.

51 Nonetheless, the Court has previously held, in paragraphs 30 and 31 of the judgment of 14 October 2008 in *Grunkin and Paul* (C-353/06, EU:C:2008:559), in which the principles of certainty and continuity were relied upon by the German authorities to justify using nationality as the connecting factor for the determination of a person's surname, that, however legitimate those principles may be in themselves, they do not, in themselves, warrant having such importance attached to them as to justify a refusal by the competent authorities of a Member State to recognise the surname of the person concerned as already lawfully determined and registered in another Member State.

The intentional nature of the change of name

52 According to the referring court, the divergence between the names which appear on the British and German passports of the applicant in the main proceedings cannot be imputed either to the circumstances of his birth, to an adoption or to any other amendment of his personal status, but is the result of his decision to change his name in the United Kingdom. That decision was dictated only by personal reasons. The referring court is unsure whether such a choice is worthy of protection.

53 It must be noted that, at that hearing before the Court, the German Government stated that, contrary to the submissions of the Register office of the city of Karlsruhe, the scope of Paragraph 48 of the EGBGB is not limited to situations which fall under family law. According to that Government, that provision, adopted following the judgment of 14 October 2008 in *Grunkin and Paul* (C-353/06, EU:C:2008:559), creates a legal basis permitting a person subject to German law to choose a name acquired and registered in another Member State provided there is no incompatibility with the basic principles of German law. That government stated that transcription of that name may be made by a declaration by the person concerned to the Register office stating that he wishes to bear the name acquired in another Member State instead of the name which follows from the application of the German law on personal status, the requirement being that the name be acquired in another Member States during habitual residence there, that is to say residence of a certain duration which led to a degree of social integration. That requirement is intended to prevent German nationals, with the sole aim of circumventing their national law on persons, from residing briefly in another Member State with more advantageous legislation in order to acquire the name that they wish to bear.

54 In that regard, as stated in paragraph 35 of this judgment, a person's surname is a constituent element of his identity and of his private life, the protection of which is enshrined in Article 7 of the Charter and in Article 8 of the ECHR.

55 In the judgment of the ECtHR of 25 November 1994 in *Stjerna v. Finland* (ECLI:CE:ECHR:1994:1125JUD001813191, § 38 and 39), the European Court of Human Rights recognised the crucial role of surnames in the identification of persons and considered that the Finnish authorities' refusal to authorise an applicant to adopt a particular new surname could not necessarily be considered an interference in the exercise of his right to respect for his private life, as would have been, for example, an obligation on him to change surname. Nonetheless, it recognised that there may exist genuine reasons prompting an individual to wish to change name, while accepting that legal restrictions on such a possibility may be justified in the public interest; for example in order to ensure accurate population registration or to safeguard the means of personal identification and of linking the bearers of a given name to a family.

56 In those circumstances, the view must be taken that the voluntary nature of a change of name does not, in itself, undermine the public interest and, in consequence, cannot alone justify a restriction under Article 21 TFEU. Accordingly, the German authorities cannot refuse to recognise a name legally obtained by a German national in another Member State on the sole ground that that change of name is made on personal grounds and without taking into consideration the reasons for the change.

57 With regard, in particular, to the concern expressed, as regards voluntary changes of name, to prevent circumvention of the national law on the status of persons by the exercise, for that purpose alone, of the freedom of movement and the rights flowing therefrom, it must be borne in mind that, in paragraph 24 of the judgment of 9 March 1999 in *Centros* (C-212/97, EU:C:1999:126), the Court has held that a Member State is entitled to take measures designed to prevent certain of its nationals from attempting, under cover of the rights created by the Treaty, improperly to circumvent their national legislation or to prevent individuals from improperly or fraudulently taking advantage of provisions of EU law.

58 It follows therefrom that the refusal to recognise the British name of the applicant in the main proceedings cannot be justified by the mere fact that the change of name was made at his own initiative, without account being taken of the reasons for the change.

The length of the name

59 According to the referring court, the German legal order also pursues the objective of avoiding disproportionately long names or names which are too complex. It notes, in that regard, that the name chosen by the applicant in the main proceedings, namely 'Peter Mark Emanuel Graf von Wolffersdorff Freiherr von Bogendorff' is, in Germany, unusually long.

60 In that regard, the Court has already held, in paragraph 36 of the judgment of 14 October 2008 in *Grunkin and Paul* (C-353/06, EU:C:2008:559), in response to the German Government's argument that German law does not allow double-barrelled surnames for practical reasons intended to limit the length of surnames, that such considerations of administrative convenience cannot suffice to justify an obstacle to freedom of movement.

The abolition of privileges and the prohibition on bearing titles of nobility or recreating the appearance of noble origins

61 According to the central legal service of the city of Karlsruhe and the German Government, in the main proceedings, an objective reason justifying a restriction on the freedom of movement may be drawn from the principle of the equality of German citizens before the law and the constitutional choice to abolish the privileges and inequalities based on birth or condition and to prohibit the bearing of titles of nobility as such, set out in the third subparagraph of Article 109 of the Weimar Constitution, read in conjunction with Paragraph 123 of the Basic Law. Recognising a freely chosen name, composed of a number of titles of nobility, which was acquired in another Member State and the acquisition of which is not the consequence of a change of personal status following the application of provisions of family law would entail the creation of a new title of nobility, which runs counter to German public policy.

62 The German Government states that, in accordance with Paragraph 123 of the Basic Law, read in conjunction with the third subparagraph of Article 109 of the Weimar Constitution, all privileges and inequalities connected with birth or position have been abolished in Germany. Although titles of nobility which were actually borne when the Weimar Constitution entered into force may continue as elements of a name and may be transmitted as a fact of personal status, the creation of new titles of nobility and the grant of such titles are prohibited. The German Government states that, in accordance with established national case-law, the grant, by way of a change of name, of a name including a title of nobility as an element of the name also falls under the prohibition laid down in the third subparagraph of Article 109 of the Weimar Constitution and that it is also prohibited to recreate the appearance of noble origins, in particular by a change of name. Those provisions, which, according to the German Government, form part of German public policy, are intended to ensure equal treatment of all German citizens.

63 The Central Legal Service of the city of Karlsruhe and the German Government refer, in that regard, to paragraph 94 of the judgment of 22 December 2010 in *Sayn-Wittgenstein* (C-208/09, EU:C:2010:806), in which the Court held that the refusal, by the authorities of a Member State, to recognise all the elements of the surname of a national of that State, as determined in another Member State — in which that national resides — at the time of his or her adoption as an adult by a national of that other Member State, where that surname includes a title of nobility which is not permitted in the first Member State under its constitutional law cannot be regarded as a measure unjustifiably undermining the freedom to move and reside enjoyed by citizens of the Union.

64 In that regard, although, as the referring court points out, German law differs from the provisions of Austrian law examined in the case which gave rise to the judgment of 22 December 2010 in *Sayn-Wittgenstein* (C-208/09, EU:C:2010:806) in that it does not provide for a strict prohibition on the use and transmission of titles of nobility, which may be borne as an integral part of a name, in the present case it must also be accepted that, considered in the context of the German constitutional choice, the third subparagraph of Article 109 of the Weimar Constitution, as an element of the national identity of a Member State, referred to in Article 4(2) TEU, may be taken into account as an element justifying a restriction on the right to freedom of movement of persons recognised by EU law.

65 The justification relating to the equality of German citizens before the law and the constitutional choice to abolish privileges and inequalities and to prohibit the bearing of titles of nobility as such must be interpreted as relating to a ground of public policy.

66 In accordance with established case-law, objective considerations relating to public policy are capable of justifying, in a Member State, a refusal to recognise the name of one of its nationals, as accorded in another Member State (see, to that effect, judgments of 14 October 2008 in *Grunkin and Paul*, C-353/06, EU:C:2008:559, paragraph 38, and of 22 December 2010 in *Sayn-Wittgenstein*, C-208/09, EU:C:2010:806, paragraph 85).

67 The Court has repeatedly held that the concept of public policy as justification for a derogation from a fundamental freedom must be interpreted strictly, so that its scope cannot be determined unilaterally by each Member State without any control by the EU institutions. It follows therefrom that public policy may be relied on only if there is a genuine and sufficiently serious threat to a fundamental interest of society (see judgments of 14 October 2004 in *Omega*, C-36/02, EU:C:2004:614, paragraph 30 and the case-law cited, and of 22 December 2010 in *Sayn-Wittgenstein*, C-208/09, EU:C:2010:806, paragraph 86).

68 The fact remains, however, that the specific circumstances which may justify recourse to the concept of public policy may vary from one Member State to another and from one era to another. In that regard, it is therefore necessary to accord the competent national authorities a certain discretion within the limits laid down in the Treaty (see judgments of 14 October 2004 in *Omega*, C-36/02, EU:C:2004:614, paragraph 31 and the case-law cited, and of 22 December 2010 in *Sayn-Wittgenstein*, C-208/09, EU:C:2010:806, paragraph 87).

69 In the present case, the German Government has stated that the third subparagraph of Article 109 of the Weimar Constitution, which abolishes the privileges and titles of nobility as such and prohibits the creation of titles giving the appearance of noble origins, even in the form of part of a name, constitutes the implementation of the more general principle of equality before the law of all German citizens.

70 As the Court noted in paragraph 89 of its judgment of 22 December 2010 in *Sayn-Wittgenstein*, C-208/09, EU:C:2010:806, the EU legal system undeniably seeks to ensure the observance of the principle of equal treatment as a general principle of law. That principle is also enshrined in Article 20 of the Charter.

71 There can therefore be no doubt that the objective of observing the principle of equal treatment is compatible with EU law.

72 Measures which restrict a fundamental freedom may be justified on public policy grounds only if they are necessary for the protection of the interests which they are intended to secure and only in so far as those objectives cannot be attained by less restrictive measures (see judgments of 14 October 2004 in *Omega*, C-36/02, EU:C:2004:614, paragraph 36; of 10 July 2008 in *Jipa*, C-33/07, EU:C:2008:396, paragraph 29; and of 22 December 2010 in *Sayn-Wittgenstein*, C-208/09, EU:C:2010:806, paragraph 90).

73 The Court has already explained in that regard that it is not indispensable for the restrictive measure issued by the authorities of a Member State to correspond to a conception shared by all Member States as regards the precise way in which the fundamental right or legitimate interest in question is to be protected and that, on the contrary, the need for, and proportionality of, the provisions adopted are not excluded merely because one Member State has chosen a system of protection different from that adopted by another State (see judgments of 14 October 2004 in *Omega*, C-36/02, EU:C:2004:614, paragraphs 37 and 38, and of 22 December 2010 in *Sayn-Wittgenstein*, C-208/09, EU:C:2010:806, paragraph 91). It must also be noted that, in accordance with Article 4(2) TEU, the European Union is to respect the national identities of its Member States, which include the status of the State as a Republic (judgment of 22 December 2010 in *Sayn-Wittgenstein*, C-208/09, EU:C:2010:806, paragraph 92).

74 In paragraph 93 of the judgment of 22 December 2010 in *Sayn-Wittgenstein*, C-208/09, EU:C:2010:806, the Court held that it does not appear disproportionate for a Member State to seek to attain the objective of protecting the principle of equal treatment by prohibiting any acquisition, possession or use, by its nationals, of titles of nobility or noble elements which may create the impression that the bearer of the name is holder of such a rank. It thus took the view that, by refusing to recognise the tokens of nobility in a name such as that at issue in the case which gave rise to that judgment, the competent Austrian civil status authorities did not appear to have gone beyond what is necessary to ensure that the fundamental constitutional objective which they pursue was achieved.

75 As the referring court noted, although an administrative practice, such as that at issue in the main proceedings, consisting of refusing declarations concerning the choice of name, is based on reasons of public policy similar to those on which the Austrian legislation referred to in the preceding paragraph of this judgment, the German legal system, unlike the Austrian legal system, does not contain a strict prohibition on maintaining titles of nobility. Although, since the date of entry into force of the Weimar Constitution, no new titles have been granted, the titles which existed at that date have been maintained as elements of names. In consequence, it is accepted that, despite the abolition of nobility, the names of German citizens, because of the origins of those citizens, include elements corresponding to ancient titles of nobility. In addition, under the German Law on personal status currently in force, the acquisition of such elements of names is also possible through adoption.

76 However, it would run counter to the intention of the German legislature for German nationals, using the law of another Member State, to adopt afresh abolished titles of nobility. Systematic recognition of changes of name such as that at issue in the main proceedings could lead to that result.

77 To the extent that it is accepted in Germany that some persons may bear in their name elements corresponding to former titles of nobility, the question arises whether the prohibition on freely choosing a new name including former titles of nobility and the practice of the German authorities to refuse such a name are appropriate and necessary to ensure that the objective of protecting that Member State's public policy, marked by the principle of equality before the law of all German citizens, is achieved.

78 Unlike the case which gave rise to the judgment of 22 December 2010 in *Sayn-Wittgenstein* (C-208/09, EU:C:2010:806), the assessment of the proportionate nature of a practice such as that at issue in the main proceedings requires an analysis and weighing-up of various elements of law and fact peculiar to the Member State concerned, which the referring court is in a better position to carry out than the Court.

79 In particular, it is for the referring court to assess whether the competent German civil status authorities, by refusing to recognise the name acquired in the United Kingdom by the applicant in the main proceedings on the ground that achievement of the objective of safeguarding the principle of equality before the law of all German citizens presupposes that it is prohibited for German nationals

to acquire and use, in certain circumstances, titles or tokens of nobility likely to give the impression that the bearer of the name is the holder of such a rank, have not gone beyond what is necessary to ensure achievement of the fundamental constitutional objective which they pursue.

80 In that regard, in weighing up the right to freedom of movement conferred on citizens of the Union under Article 21 TFEU and the legitimate interests pursued by the restrictions placed by the German legislature on the use of titles of nobility and by its prohibition of the recreation of the appearance of noble origins, various factors must be taken into consideration. Although those factors cannot serve as justification as such, they must be taken into account when assessing proportionality.

81 Thus, firstly, the fact must be taken into account that the applicant exercised that right and holds double German and British nationality, that the elements of the name acquired in the United Kingdom which, according to the German authorities, undermine public policy, do not formally constitute titles of nobility either in Germany or in the United Kingdom and that the German court which ordered the competent authorities to make the entry of the name, which is made up of tokens of nobility, of the daughter of the applicant in the main proceedings, as registered by the United Kingdom authorities, did not take the view that that entry was contrary to public policy.

82 Secondly, it is also necessary to take into account the fact that the change of name under consideration rests on a purely personal choice by the applicant in the main proceedings, that the difference in name which follows therefrom cannot be attributed either to the circumstances of his birth, to adoption, or to acquisition of British nationality and that the name chosen in the United Kingdom includes elements which, without formally constituting titles of nobility in Germany or the United Kingdom, give the impression of noble origins.

83 In any event, it must be pointed out that, although the objective reason based on public policy and the principle that all German citizens are equal before the law is capable, if it is accepted, of justifying the refusal to recognise the change of surname of the applicant in the main proceedings, it cannot justify the refusal to recognise his change of forenames.

84 It follows from all the foregoing considerations that the answer to the question referred is that Article 21 TFEU must be interpreted as meaning that the authorities of a Member State are not bound to recognise the name of a citizen of that Member State when he also holds the nationality of another Member State in which he has acquired that name which he has chosen freely and which contains a number of tokens of nobility, which are not accepted by the law of the first Member State, provided that it is established, which it is for the referring court to ascertain, that a refusal of recognition is, in that context, justified on public policy grounds, in that it is appropriate and necessary to ensure compliance with the principle that all citizens of that Member State are equal before the law.

Costs

85 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 (Second Chamber) rules as follows:

Article 21 TFEU must be interpreted as meaning that the authorities of a Member State are not bound to recognise the name of a citizen of that Member State when he also holds the nationality of another Member State in which he has acquired that name which he has chosen freely and which contains a number of tokens of nobility, which are not accepted by the law of the first Member State, provided that it is established, which it is for the referring court to

ascertain, that a refusal of recognition is, in that context, justified on public policy grounds, in that it is appropriate and necessary to ensure compliance with the principle that all citizens of that Member State are equal before the law.

[Signatures]