

Case 44/79 Liselotte Hauer v Land Rheinland-Pfalz [1979] ECR 3727

Facts: The plaintiff sought to challenge the decision of an administrative authority in Germany which had not granted her authorisation in respect of planting new grapes on her land, as the land did not meet the authority's specifications. The national court she initially started the claim in had stated that EU law by way of a Council Regulation (adopted after the German law) would have had the same effect as the German law, and so her claim could not succeed. The plaintiff then contended that the provisions of the Regulation infringed her right to property as well as her right to freely pursue a trade or profession, both safeguarded by the German constitution.

Held: This case concerned the protection of fundamental rights in the Community legal order, and such analysis could only be conducted, following *Internationale Handelsgesellschaft mbH v Einfuhr- und Vorratsstelle für Getreide und Futtermittel*, in light of EU law. The introduction of special criteria stemming from the legislation or constitutional law of a particular Member State would damage the substantive unity of Community law and lead to the destruction of the unity of the Common Market and the jeopardising of the cohesion of the Community. Following *J. Nold, Kohlen- und Baustoffgroßhandlung v Commission of the European Communities*, fundamental rights form an integral part of the general principles of the law, the observance of which it ensures, drawing inspiration from the constitutional traditions common to the Member States. Therefore, measures which are incompatible with rights recognised in constitutions of the Member States would also be unacceptable to the Community. Similarly, international treaties for the protection of fundamental rights to which the Member States are signatories can supply guidelines which would be followed within the framework of Community law.

In terms of the specific right to property, it was deemed to be guaranteed in the Community legal order, in accordance with ideas common to the constitutions of the Member States and also reflected in the First Protocol of the ECHR. All the wine-producing countries had restrictive legislation concerning the planting of vines and so the restriction imposed by the regulation was not per se unlawful. As such, the restriction was justified by Community objectives of general interest and did not infringe the substance of the right to property.

Schutze.eu