

### Questions referred

1. Do the provisions of Regulation (EC) No 854/2004 <sup>(1)</sup> confer upon the competent authority a discretion to determine the time at which a particular slaughter of animals takes place, in view of its obligation to appoint an official veterinarian for the purposes of carrying out supervision in relation to the slaughter of animals, or is it obliged to appoint such a veterinarian at the time that the slaughter will take place, as determined by the slaughterer?
2. Do the provisions of Regulation (EC) No 854/2004 confer upon the competent authority a discretion to refuse to appoint an official veterinarian for the carrying out of veterinary supervision of the lawful slaughter of animals when it is informed that the slaughter of animals will take place at a particular time, at a licensed slaughterhouse?

<sup>(1)</sup> Regulation (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption (OJ 2004 L 139, p. 206).

### Reference for a preliminary ruling from High Court of Ireland (Ireland) made on 16 July 2013 — Lisa Kelly v Minister for Social Protection

(Case C-403/13)

(2013/C 274/24)

*Language of the case: English*

### Referring court

High Court of Ireland

### Parties to the main proceedings

*Applicant:* Lisa Kelly

*Defendant:* Minister for Social Protection

### Questions referred

1. Where an employee resident in Member State A and who has been in insurable employment in that State for just short of three years spends the last six months of her insurable employment in Member State B, should that person's subsequent claim for social security payments on account of illness be governed by (i) the law of Member

State B for the purposes of Article 11(3)(a) of Regulation 883/2004/EC <sup>(1)</sup>? or, (ii) by the law of the Member State A where she is resident for the purposes of Article 11(3)(e)?

2. Is it relevant to a consideration of Question 1 that if the law of Member State B is held to be the governing law, then the employee in question is ineligible for any social security payments, whereas this would not be the case if the law of the Member State where she is resident (Member State A) were held to apply?

<sup>(1)</sup> Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems  
OJ L 166, p. 1

### Reference for a preliminary ruling from Supreme Court of the United Kingdom (United Kingdom) made on 16 July 2013 — R on the application of ClientEarth v Secretary of State for the Environment, Food and Rural Affairs

(Case C-404/13)

(2013/C 274/25)

*Language of the case: English*

### Referring court

Supreme Court of the United Kingdom

### Parties to the main proceedings

*Applicant:* ClientEarth

*Defendant:* Secretary of State for the Environment, Food and Rural Affairs

### Questions referred

1. Where, under the Air Quality Directive (2008/50/EC) <sup>(1)</sup> ('the Directive'), in a given zone or agglomeration conformity with the limit values for nitrogen dioxide was not achieved by the deadline of 1 January 2010 specified in annex XI of the Directive, is a Member State obliged pursuant to the Directive and/or article 4 TEU to seek postponement of the deadline in accordance with article 22 of the Directive?
2. If so, in what circumstances (if any) may a Member State be relieved of that obligation?

3. To what extent (if at all) are the obligations of a Member State which has failed to comply with article 13 affected by article 23 (in particular its second paragraph)?

4. In the event of non-compliance with articles 13 or 22, what (if any) remedies must a national court provide as a matter of European law in order to comply with article 30 of the Directive and/or article 4 or 19 TEU?

<sup>(1)</sup> Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe  
OJ L 152, p. 1

**Request for a preliminary ruling from the Amtsgericht Karlsruhe (Germany) lodged on 18 July 2013 — Barbara Huber v Manfred Huber**

**(Case C-408/13)**

(2013/C 274/26)

*Language of the case: German*

#### Referring court

Amtsgericht Karlsruhe

#### Parties to the main proceedings

*Applicant:* Barbara Huber

*Defendant:* Manfred Huber

#### Question referred

Whether it is compatible with Article 3(a) and (b) of Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations, <sup>(1)</sup>

if it is provided in the first sentence of Paragraph 28(1) of the Gesetzes zur Geltendmachung von Unterhaltsansprüchen im Verkehr mit ausländischen Staaten (Auslandsunterhaltsgesetz — AUG),

that, if a party concerned does not have his or her habitual residence in Germany, the court which is to rule exclusively on applications in maintenance cases falling under Article 3(a) and (b) of Regulation (EC) No 4/2009 is the Local Court which has

jurisdiction for the seat of the Higher Regional Court in whose area of jurisdiction the defendant or creditor has his or her habitual residence?

<sup>(1)</sup> OJ 2009 L 7, p. 1.

#### **Action brought on 18 July 2013 — Council of the European Union v European Commission**

**(Case C-409/13)**

(2013/C 274/27)

*Language of the case: French*

#### Parties

*Applicant:* Council of the European Union (represented by: G. Maganza, A. de Gregorio Merino and I. Gurov, acting as Agents)

*Defendant:* European Commission

#### Form of order sought

— annulment of the Commission decision of 8 May 2013 by which the Commission decided to withdraw its proposal for a Regulation of the European Parliament and of the Council laying down general provisions for macro-financial assistance to third countries;

— order the European Commission to pay the costs.

#### Pleas in law and main arguments

The Council raises three pleas in law in support of its action for annulment of the Commission decision to withdraw a proposal for a regulation at a late stage of the first reading in the ordinary legislative procedure.

First, the Council submits that the withdrawal of the proposal for a regulation constitutes a serious breach of the principle of the distribution of powers laid down in Article 13(2) TEU and the principle of institutional balance. According to the Council, there is no provision in the Treaties which expressly confers on the Commission a general prerogative right to withdraw a proposal which it has placed before the European Union legislature. However, while the Council does not dispute that a power of withdrawal exists on the basis of Article 293(2) TFEU, exercise of that power is not a matter for the Commission's discretion; nor may that power be exercised in an abusive manner. The Council argues that, if the withdrawal of a proposal at such an advanced stage in the legislative process were to be recognised as legitimate, it would be tantamount to granting the Commission a form of right of veto vis-à-vis the co-legislators of the European Union. The Commission would