

Do Community rules concerning freedom of movement for workers apply to the situation of a national of a non-member State married to a Community national who has attended a vocational training course and professional training in a Member State other than her own, and may the non-Community spouse therefore be exempt from the requirement to obtain a work permit on the basis of rules guaranteeing to Community nationals and members of their families who are non-member country nationals the right to freedom of movement as workers?

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**Reference for a preliminary ruling from Juzgado de lo Social No 33 by order of that court of 7 January 2005 in the case of Sonia Chacón Navas against Eurest Colectividades SA**

(Case C-13/05)

(2005/C 69/16)

(Language of the case: Spanish)

Reference has been made to the Court of Justice of the European Communities by order of Juzgado de lo Social (Social Court) No 33 (Spain) of 7 January 2005, received at the Court Registry on 19 January 2005, for a preliminary ruling in the case of Sonia Chacón Navas against Eurest Colectividades SA on the following questions:

1. Does Directive 2000/78<sup>(1)</sup>, in so far as Article 1 thereof lays down a general framework for combating discrimination on the grounds of disability, include within its protective scope an employee who has been dismissed by her employer solely because she is sick?
2. In the alternative, if it should be concluded that sickness does not fall within the protective framework which Directive 2000/78 lays down against discrimination on grounds of disability and the first question is answered in the negative, can sickness be regarded as an identifying attribute in addition to the ones in relation to which Directive 2000/78 prohibits discrimination?

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<sup>(1)</sup> Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

**Reference for a preliminary ruling by the House of Lords, by order of that court dated 2 December 2004, in the case of The Queen on the application of 1) Veli Tum and 2) Mehmet Dari against Secretary of State for the Home Department**

(Case C-16/05)

(2005/C 69/17)

(Language of procedure: English)

Reference has been made to the Court of Justice of the European Communities by order of the House of Lords, dated 2 December 2004, which was received at the Court Registry on 19 January 2005, for a preliminary ruling in the case of The Queen on the application of 1) Veli Tum and 2) Mehmet Dari against Secretary of State for the Home Department on the following question:

Is Article 41(1) of the Additional Protocol to the Association Agreement signed at Brussels on 23 November 1970 to be interpreted as prohibiting a Member State from introducing new restrictions, as from the date on which that Protocol entered into force in that Member State, on the conditions of and procedure for entry to its territory for a Turkish national seeking to establish himself in business in that Member State?

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**Reference for a preliminary ruling by the Court of Appeal (England & Wales) (Civil Division), by order of that court dated 11 January 2005, in the case of B.F. Cadman against Health & Safety Executive, Intervener: Equal Opportunities Commission**

(Case C-17/05)

(2005/C 69/18)

(Language of procedure: English)

Reference has been made to the Court of Justice of the European Communities by order of the Court of Appeal (England & Wales) (Civil Division), dated 11 January 2005, which was received at the Court Registry on 19 January 2005, for a preliminary ruling in the case of B.F. Cadman and Health & Safety Executive, Intervener: Equal Opportunities Commission on the following questions:

- 1) Where the use by an employer of the criterion of length of service as a determinant of pay has a disparate impact as between relevant male and female employees, does Article 141 EC require the employer to provide special justification for recourse to that criterion? If the answer depends on the circumstances, what are those circumstances?
- 2) Would the answer to the preceding question be different if the employer applies the criterion of length of service on an individual basis to employees so that an assessment is made as to the extent to which greater length of service justifies a greater level of pay?
- 3) Is there any relevant distinction to be drawn between the use of the criterion of length of service in the case of part-time workers and the use of that criterion in the case of full-time workers?

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**Action brought on 25 January 2005 by the Commission of the European Communities against the Italian Republic**

(Case C-21/05)

(2005/C 69/19)

*(Language of the case: Italian)*

An action against the Italian Republic was brought before the Court of Justice of the European Communities on 25 January 2005 by the Commission of the European Communities, represented by N. Yerrell and A. Aresu, acting as Agents.

The Commission claims that the Court should:

1. declare that, by not adopting the laws, regulations and administrative provisions necessary to comply with Council Directive 2000/79/EC of 27 November 2000 concerning the European Agreement on the Organisation of Working Time of Mobile Workers in Civil Aviation concluded by the Association of European Airlines (AEA), the European Transport Workers' Federation (ETF), the European Cockpit Association (ECA), the European Regions Airline Association (ERA) and the International Air Carrier Association (IACA) <sup>(1)</sup>, or in any event by not communicating the same to the Commission, the Italian Republic has failed to fulfil its obligations under Article 3 of that directive;

2. order the Italian Republic to pay the costs.

*Pleas in law and main arguments*

The time-limit for the transposition of the directive expired on 1 December 2003.

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<sup>(1)</sup> OJ L 302, 1.12.2000, p. 57.

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**Appeal brought on 26 January 2005 (fax: 24 January 2005) by August Storck KG against the judgment delivered on 10 November 2004 by the Court of First Instance of the European Communities (Fourth Chamber) in Case T-396/02 August Storck KG v Office for Harmonisation in the Internal Market (Trade Marks and Designs)**

(Case C-24/05 P)

(2005/C 69/20)

*(Language of the case: German)*

An appeal against the judgment delivered on 10 November 2004 by the Court of First Instance of the European Communities (Fourth Chamber) in Case T-396/02 *August Storck KG v Office for Harmonisation in the Internal Market (Trade Marks and Designs)* was brought before the Court of Justice of the European Communities on 26 January 2005 (fax: 24 January 2005) by August Storck KG, represented by Ilse Rohr, Heidi Wrage-Molkenthin and Tim Reher, Rechtsanwälte, CMS Hasche Sigle, Stadthausbrücke 1-3, D-20355 Hamburg.

The appellant claims that the Court should:

1. set aside the judgment of the Court of First Instance (Fourth Chamber) of 10 November 2004 in Case T-396/02; <sup>(1)</sup>
2. grant the forms of order sought at first instance and give final judgment on the dispute or, in the alternative, remit the case to the Court of First Instance;
3. order OHIM to pay the costs of the proceedings.