

Parties to the main proceedings

Applicant: ÖBB Personenverkehr AG

Defendant: Gotthard Starjakob

Operative part of the judgment

1. EU law, in particular, Articles 2 and 6(1) of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, must be interpreted as precluding national legislation such as that at issue in the main proceedings, which, to end discrimination based on age, takes account of periods of service prior to the age of 18, but which, simultaneously, includes a rule, applicable in reality only to employees who are subject to that discrimination, which extends by one year the period required for advancement in each of the three first salary steps and which, in so doing, definitively maintains a difference in treatment based on age;
2. EU law, in particular Article 16 of Directive 2000/78, must be interpreted as meaning that national legislation which seeks to end discrimination based on age does not necessarily have to allow an employee whose periods of service completed before the age of 18 have not been taken into account in calculating his advancement to obtain financial compensation which corresponds to payment of the difference between the remuneration which he would have received in the absence of such discrimination and that which he actually received. Nevertheless, in a case such as that at issue in the main proceedings, as long as a system to abolish discrimination on grounds of age in a way that conforms with the provisions of Directive 2000/78 has not been adopted, re-establishing equal treatment entails granting employees whose experience was, if only in part, acquired before the age of 18 the same benefits as those enjoyed by employees who have obtained, after reaching that age, experience of the same type and comparable duration, as regards the recognition of periods of service completed before the age of 18 but also advancement in the pay scale;
3. EU law, in particular Article 16 of Directive 2000/78, must be interpreted as not preventing the national legislature from providing, in order to take into account periods of service completed before the age of 18, for an obligation of cooperation under which the employee must give his employer the evidence relating to those periods. Nevertheless, there is no abuse of law in (i) an employee's refusal to cooperate for the purpose of the application of national legislation such as that at issue in the main proceedings, which entails discrimination based on age contrary to Directive 2000/78, and (ii) his action seeking to obtain payment intended to re-establish equal treatment with employees who have obtained, after reaching that age, experience of the same type and a duration comparable to his;
4. The principle of effectiveness must be interpreted as meaning that, in a case such as that at issue in the main proceedings, it does not preclude a national limitation period for claims which are founded in EU law from starting to run before the date of delivery of a judgment of the Court which has clarified the legal position on the matter.

⁽¹⁾ OJ C 325, 9.11.2013.

Judgment of the Court (Fourth Chamber) of 22 January 2015 (request for a preliminary ruling from the Hoge Raad der Nederlanden — Netherlands) — Art & Allposters International BV v Stichting Pictoright

(Case C-419/13) ⁽¹⁾

(Reference for a preliminary ruling — Intellectual property — Copyright and related rights — Directive 2001/29/EC — Article 4 — Distribution right — Exhaustion rule — Concept of ‘object’ — Transfer of the image of a protected work from a paper poster to a painter’s canvas — Replacement of the medium — Impact on exhaustion)

(2015/C 107/07)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Applicant: Art & Allposters International BV

Defendant: Stichting Pictoright

Operative part of the judgment

Article 4(2) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society must be interpreted as meaning that the rule of exhaustion of the distribution right set out in Article 4(2) of Directive 2001/29 does not apply in a situation where a reproduction of a protected work, after having been marketed in the European Union with the copyright holder's consent, has undergone an alteration of its medium, such as the transfer of that reproduction from a paper poster onto a canvas, and is placed on the market again in its new form.

⁽¹⁾ OJ C 325, 9.11.2013.

Judgment of the Court (Fourth Chamber) of 22 January 2015 (request for a preliminary ruling from the Handelsgericht Wien — Austria) — Pez Hejduk v EnergieAgentur.NRW GmbH

(Case C-441/13) ⁽¹⁾

(Reference for a preliminary ruling — Regulation (EC) No 44/2001 — Article 5(3) — Special jurisdiction in matters relating to tort, delict or quasi-delict — Copyright — Dematerialised content — Placing online — Determination of the place of the event giving rise to the damage — Criteria)

(2015/C 107/08)

Language of the case: German

Referring court

Handelsgericht Wien

Parties to the main proceedings

Applicant: Pez Hejduk

Defendant: EnergieAgentur.NRW GmbH

Operative part of the judgment

Article 5(3) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters must be interpreted as meaning that, in the event of an allegation of infringement of copyright and rights related to copyright guaranteed by the Member State of the court seised, that court has jurisdiction, on the basis of the place where the damage occurred, to hear an action for damages in respect of an infringement of those rights resulting from the placing of protected photographs online on a website accessible in its territorial jurisdiction. That court has jurisdiction only to rule on the damage caused in the Member State within which the court is situated.

⁽¹⁾ OJ C 313, 26.10.2013.