

Order of the Court (Seventh Chamber) of 16 January 2008 (reference for a preliminary ruling from the Commissione Tributaria Provinciale di Latina (Italy)) — Angelo Molinari (C-128/07), Giovanni Galeota (C-129/07), Salvatore Barbagallo (C-130/07), Michele Ciampi (C-131/07) v Agenzia delle Entrate — Ufficio di Latina

(Joined Cases C-128/07 to C-131/07) ⁽¹⁾

(Directive 76/207/EEC — Equal treatment for men and women — Redundancy payment — Tax advantage granted at a different age according to the worker's gender)

(2008/C 92/16)

Language of the case: Italian

Referring court

Commissione Tributaria Provinciale di Latina

Parties

Applicants: Angelo Molinari, (C-128/07), Giovanni Galeota (C-129/07), Salvatore Barbagallo (C-130/07), Michele Ciampi (C-131/07)

Defendant: Agenzia delle Entrate — Ufficio di Latina

Re:

Reference for a preliminary ruling — Commissione Tributaria Provinciale di Latina — Interpretation of Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (OJ 1976 L 39, p. 40) and Council Directive 79/7/EEC on the progressive implementation of the principle of equal treatment for men and women in matters of social security (OJ 1979 L 6, p. 24) — Interpretation and scope of the judgment in Case C-207/04 *Vergani* — Application of a reduced rate of tax in respect of sums received by way of voluntary redundancy incentive for workers who have reached a particular age — Tax advantage granted to workers at different ages according to their gender

Operative part of the order

1. *Following the judgment in Case C-207/04 Vergani [2005] ECR I-7453, in which national legislation was found to be incompatible with Community law, it is for the authorities of the Member State concerned to adopt the general or specific measures necessary to ensure that Community law is complied with in their territory, those authorities retaining the choice of measures to be taken to ensure that national law is changed so as to comply with Community law and that the rights which individuals derive from Community law are given full effect. Where there has been found to be discrimination contrary to Community law, for as long as measures reinstating equal treatment have not been adopted, a national court must set aside any discriminatory provision of national law,*

without having to request or await its prior removal by the legislature, and apply to members of the disadvantaged category the same arrangements as those enjoyed by the persons in the other category.

2. *The derogation provided for in Article 7(1)(a) of Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security is not applicable to a tax measure such as provided for in Article 17(4a) of Decree No 917 of the President of the Republic of 22 December 1986, as amended by Legislative Decree No 314 of 2 September 1997.*

⁽¹⁾ OJ C 117, 26.5.2007.

Order of the Court (Seventh Chamber) of 21 January 2008 (reference for a preliminary ruling from the Tribunal administratif de Paris (France)) — Diana Mayeur v Ministère de la Santé et des Solidarités

(Case C-229/07) ⁽¹⁾

(Article 104/3 of the Rules of Procedure — Article 23 of Directive 2004/38/EC of the European Parliament and of the Council — Freedom of establishment — Recognition of diplomas, qualifications and experience — Situation of a national of a non-Member State, the holder of a degree in medicine issued by that non-Member State and recognised by a Member State, wishing to obtain authorisation to practise her profession as a doctor in another Member State where she resides lawfully with her spouse, a national of the latter Member State)

(2008/C 92/17)

Language of the case: French

Referring court

Tribunal administratif de Paris (France)

Parties to the main proceedings

Applicant: Diana Mayeur

Defendant: Ministère de la Santé et des Solidarités

Re:

Reference for a preliminary ruling — Tribunal administratif de Paris (France) — Interpretation of Article 23 of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the rights of citizens of the Union and their family members to move and reside freely within the territory

of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ 2004 L 158, p. 77, and — Corrigenda — OJ 2004 L 229, p. 35, and OJ 2005 L 197, p. 34) — Mutual recognition of diplomas and freedom of establishment — Obligation to take account of all the diplomas, certificates and other evidence of formal qualifications and of the relevant experience of the person concerned — Situation of a national of a non-Member State, the holder of a degree in medicine issued by that non-Member State and recognised by a Member State, wishing to obtain authorisation to practise her profession as a doctor in another Member State where she resides lawfully with her spouse, a Community national

Operative part of the order

Article 23 of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the rights of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC does not preclude a Member State from refusing to allow a national of a non-Member State, who is married to a Community national who has not exercised his right to freedom of movement, to rely on the Community rules relating to the mutual recognition of diplomas and to the freedom of establishment, and does not require the competent authorities of the Member State, from which authorisation to practise a regulated profession is sought, to take into consideration all the diplomas, certificates and other evidence of formal qualifications, even if they were obtained outside the European Union but if, at least, they have been recognised in another Member State, and the relevant experience of the person concerned, by comparing the specialised knowledge and abilities certified by those diplomas and that experience with the knowledge and qualifications required by the national rules.

⁽¹⁾ OJ C 155, 7.7.2007.

Reference for a preliminary ruling from the Hoge Raad der Nederlanden lodged on 9 January 2008 — Har Vaessen Douane Service B.V. v Staatssecretaris van Financiën

(Case C-7/08)

(2008/C 92/18)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Har Vaessen Douane Service B.V. and Staatssecretaris van Financiën

Questions referred

1. Is Article 27 of Regulation (EEC) No 918/83 of 28 March 1983 ⁽¹⁾, as amended by Regulation (EEC) No 3357/91 of 7 November 1991 ⁽²⁾, to be interpreted as meaning that the relief referred to in that Article may be claimed in respect of consignments made up of goods which are individually of negligible value but are dispatched as a grouped consignment with a combined intrinsic value which exceeds the value threshold in Article 27?
2. Should Article 27 of the regulation referred to be applied on the basis that 'dispatched direct from a third country to a consignee in the Community' also covers a situation in which the goods are in a third country before being dispatched to the consignee but the consignee's contractual partner is established in the Community?

⁽¹⁾ Council Regulation (EEC) No 918/83 of 28 March 1983 setting up a Community system of reliefs from customs duty (OJ 1983 L 105, p. 1).

⁽²⁾ OJ 1991 L 318, p. 3.

Reference for a preliminary ruling from the College van Beroep voor het bedrijfsleven (Netherlands) lodged on 9 January 2008 — 1. T-Mobile Netherlands, 2. KPN Mobile NV, 3. Raad van bestuur van de Nederlandse Mededingingsautoriteit, 4. Orange Nederland NV, Intervener: Vodafone Libertel BV

(Case C-8/08)

(2008/C 92/19)

Language of the case: Dutch

Referring court

College van Beroep voor het bedrijfsleven

Parties to the main proceedings

Applicants:

1. T-Mobile Netherlands BV
2. KPN Mobile NV