

Questions referred

1. Whether the withholding tax levied on the dividend adjustment constitutes withholding tax on profits prohibited under Article 5 of Directive 90/435/EEC ⁽¹⁾,
2. Whether the protective clause referred to in Article 7(2) of that Directive applies, in particular whether Article 7(2) of Directive 435/90/EEC of 23 July 1990 must be interpreted as meaning that a Member State may decide not to apply the exemption referred to in Article 5(1) of the Directive in the case that the State of residence of the parent company grants the latter a tax credit by virtue of a bilateral convention.

⁽¹⁾ OJ L 225, p. 6.

Reference for a preliminary ruling from House of Lords (United Kingdom) lodged on 23 July 2008 — The Queen (on the application of M) (FC) v Her Majesty's Treasury and two other actions

(Case C-340/08)

(2008/C 260/13)

Language of the case: English

Referring court

House of Lords

Parties to the main proceedings

Applicant: The Queen (on the application of M) (FC)

Defendant: Her Majesty's Treasury and two other actions

Question referred

Does Article 2(2) of Council Regulation (EC) No 881/2002 ⁽¹⁾ apply to the provision by the State of social security or social assistance benefits to the spouse of a person designated by the Sanctions Committee established pursuant to United Nations Resolution 1267 (1999) on the ground only that the spouse lives with the designated person and will or may use some of the money to pay for goods and services which the latter will consume or from which he will benefit?

⁽¹⁾ Council Regulation (EC) No 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban, and repealing Council Regulation (EC) No 467/2001 prohibiting the export of certain goods and services to Afghanistan, strengthening the flight ban and extending the freeze of funds and other financial resources in respect of the Taliban of Afghanistan (OJ L 139, p. 9).

Reference for a preliminary ruling from the Sozialgericht Dortmund (Germany) lodged on 24 July 2008 — Dr Domnica Petersen v Berufungsausschuss für Zahnärzte für den Bezirk Westfalen-Lippe

(Case C-341/08)

(2008/C 260/14)

Language of the case: German

Referring court

Sozialgericht Dortmund

Parties to the main proceedings

Applicant: Dr Domnica Petersen

Defendant: Berufungsausschuss für Zahnärzte für den Bezirk Westfalen-Lippe

Questions referred

1. May the statutory regulation of a maximum age limit for admission to practice a profession (here: to work as a panel dentist) be an objective and reasonable measure to protect a legitimate aim (here: the health of patients insured under the statutory health insurance scheme) and an appropriate and necessary means of achieving that aim within the meaning of Article 6 of Directive 2000/78/EC if it is derived solely from an assumption ⁽¹⁾, based on 'general experience', that a general drop in performance occurs from a certain age, without any account being taken of the individual performance of the person in question?
2. If Question 1 is to be answered in the affirmative, may a legitimate (legislative) aim within the meaning of Article 6 of Directive 2000/78/EC (here: the protection of the health of patients insured under the statutory health insurance scheme) be taken to exist even where that aim was entirely irrelevant to the national legislature in the exercise of its legislative discretion?
3. If Questions 1 and 2 are to be answered in the negative, may a law enacted prior to the adoption of Directive 2000/78/EC which is incompatible with that directive be disapplied, by virtue of the primacy of European law, even where the national law transposing the directive (here: Allgemeines Gleichbehandlungsgesetz — General Law on equal treatment) makes no provision for such a legal consequence in the event of a breach of the prohibition of discrimination?

⁽¹⁾ OJ 2000 L 303, p. 16.