Operative part of the judgment

Article 3(1)(b) of Regulation (EC) No 1610/96 of the European Parliament and of the Council of 23 July 1996 concerning the creation of a supplementary protection certificate for plant protection products must be interpreted as not precluding a supplementary protection certificate from being issued for a plant protection product in respect of which a valid marketing authorisation has been granted pursuant to Article 8(1) of Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market, as amended by Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005.

([1]) OJ C 220, 12.09.2009.

Judgment of the Court (Second Chamber) of 11 November 2010 (reference for a preliminary ruling from the Augstākās tiesas Senāts (Latvia)) — Dita Danosa v LKB Līzings SIA

(Case C-232/09) ([1])

(Social policy — Directive 92/85/EEC — Measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding — Articles 2(a) and 10 — Concept of 'pregnant worker' — Prohibition on the dismissal of a pregnant worker during the period from the beginning of pregnancy to the end of maternity leave — Directive 76/207/EEC — Equal treatment for men and women — Member of the Board of Directors of a capital company — National legislation permitting the dismissal of a Board Member without any restrictions)

(2011/C 13/17)

Language of the case: Latvian

Referring court

Augstākās tiesas Senāts

Parties to the main proceedings

Applicant: Dita Danosa

Defendant: LKB Līzings SIA

Re:

Reference for a preliminary ruling — Augstākās tiesas Senāts — Interpretation of Article 10 of Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (OJ 1992 L 348, p. 1) — Definition of worker — Compatibility of the directive of national legislation authorising the dismissal of a member of the board of directors of a capital company without any restriction taking account in particular of that member's pregnancy

Operative part of the judgment

1. *A member of a capital company's Board of Directors who provides services to that company and is an integral part of it must be regarded as having the status of worker for the purposes of Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC), if that activity is carried out, for some time, under the direction or supervision of another body of that company and if, in return for those activities, the Board Member receives remuneration. It is for the national court to undertake the assessments of fact necessary to determine whether that is so in the case pending before it.*

2. *Article 10 of Directive 92/85 is to be interpreted as precluding national legislation, such as that at issue in the main proceedings, which permits a member of a capital company's Board of Directors to be removed from that post without restriction, where the person concerned is a 'pregnant worker' within the meaning of that directive and the decision to remove her was taken essentially on account of her pregnancy. Even if the Board Member concerned is not a 'pregnant worker' within the meaning of Directive 92/85, the fact remains that the removal, on account of pregnancy or essentially on account of pregnancy, of a member of a Board of Directors who performs duties such as those described in the main proceedings can affect only women and therefore constitutes direct discrimination on grounds of sex, contrary to Article 2(1) and (7) and Article 3(1)(c) 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, as amended by Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002.*

([1]) OJ C 220, 12.9.2009.

Judgment of the Court (Eighth Chamber) of 18 November 2010 (reference for a preliminary ruling from the Finanzgericht Baden-Württemberg — Germany) — Alketa Xhymshiti v Bundesagentur für Arbeit — Familienkasse Lörrach

(Case C-247/09) ([1])

(Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons — Regulations (EEC) No 1408/71 and No 574/72 and Regulation (EC) No 859/2003 — Social security for migrant workers — Family benefits — National of a non member country working in Switzerland and residing with his spouse and children in a Member State of which the children are nationals)

(2011/C 13/18)

Language of the case: German

Referring court

Finanzgericht Baden-Württemberg

Parties to the main proceedings

Applicant: Alketa Xhymshiti

Defendant: Bundesagentur für Arbeit — Familienkasse Lörrach

Re:

Reference for a preliminary ruling — Finanzgericht Baden-Württemberg — Interpretation, first, of Council Regulation (EC) No 859/2003 of 14 May 2003 extending the provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 to nationals of third countries who are not already covered by those provisions solely on the ground of their nationality (OJ 2003 L 124, p. 1) and, second, of Articles 2, 13 and 76 of Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community (OJ, English Special Edition 1971 (II), p. 416) and of Article 10(1)(a) of Regulation (EEC) No 574/72 of the Council of 21 March 1972 fixing the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons and their families moving within the Community (OJ, English Special Edition 1972 (I), p. 159) — National of a non-member country working in the Swiss Confederation and residing with his spouse and children in a Member State of which the children are nationals — Refusal of the Member State of residence to grant family benefits — Compatibility of such a refusal of family benefits with the abovementioned Community provisions

Operative part of the judgment

1. *In the case in which a national of a non-member country is lawfully resident in a Member State of the European Union and works in Switzerland, Council Regulation (EC) No 859/2003 of 14 May 2003 extending the provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 to nationals of third countries who are not already covered by those provisions solely on the ground of their nationality does not apply to that person in his Member State of residence, in so far as Regulation No 859/2003 is not among the Community acts mentioned in section A of Annex II to the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons, signed at Luxembourg on 21 June 1999, which the parties to that agreement undertake to apply. Consequently, there is no obligation on the Member State of residence to apply Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, in the version amended and updated by Council Regulation (EC) No 118/97 of 2 December 1996, as amended by Regulation (EC) No 1992/2006 of the European Parliament and of the Council of 18 December 2006, and Council Regulation (EEC) No 574/72 of 21 March 1972 fixing the procedure for implementing Regulation (EEC) No 1408/71, in the version amended and updated by Regulation No 118/97, to that employee and his spouse;*

2. *Articles 2, 13 and 76 of Regulation No 1408/71 and Article 10(1)(a) of Regulation No 574/72 are irrelevant in respect of a national of a non-member country in the situation of the claimant in the main proceedings, in so far as her situation is governed by the legislation of the Member State of residence. The fact that that national's children are citizens of the European Union cannot, by itself, make the refusal to grant child allowance in the Member State of residence unlawful where, as is evident from the referring court's findings, the statutory conditions which must be satisfied for the purposes of such a grant are not fulfilled.*

([1]) OJ C 233, 26.9.2009.

Judgment of the Court (Second Chamber) of 18 November 2010 (reference for a preliminary ruling from the Rayonen sad Plovdiv — Bulgaria) — Vasil Ivanov Georgiev v Tehnicheski universitet — Sofia, filial Plovdiv

(Joined Cases C-250/09 and C-268/09) ([1])

(Directive 2000/78/EC — Article 6(1) — Prohibition of discrimination on grounds of age — University lecturers — National provision providing for the conclusion of fixed-term employment contracts beyond the age of 65 — Compulsory retirement at the age of 68 — Justification for differences in treatment on grounds of age)

(2011/C 13/19)

Language of the case: Bulgarian

Referring court

Rayonen sad Plovdiv

Parties to the main proceedings

Applicant: Vasil Ivanov Georgiev

Defendant: Tehnicheski universitet — Sofia, filial Plovdiv

Re:

Reference for a preliminary ruling — Rayonen sad Plovdiv — Interpretation of Article 6(1) of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ 2000 L 303, p. 16) — National law permitting university professors who have reached the age of 65 to conclude an employment contract only for a fixed duration — National law fixing 68 as the final retirement age for university professors — Justification for differences of treatment on grounds of age

Operative part of the judgment

Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, in particular Article 6(1), must be interpreted as meaning that it does not preclude national legislation, such as that at issue in the main