

2. Does a national rule that permits the state, the parties to a collective agreement and the parties to an individual employment contract to specify the automatic termination of an employment relationship upon reaching a specific fixed age (in this case: reaching the age of 65), contravene the prohibition of age discrimination laid down in Article 1 and Article 2(1) of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation if, according to established practice in place for several decades in the Member State, clauses of this type have consistently applied to the employment relationships of nearly all workers, irrespective of the prevailing economic, social and demographic state of affairs and the actual labour market situation?
3. Does a collective agreement that permits an employer to end an employment relationship at a specific fixed age (in this case: reaching the age of 65), contravene the prohibition of age discrimination laid down in Article 1 and Article 2(1) of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation if, according to established practice in place for several decades in the Member State, clauses of this type have consistently applied to the employment relationships of nearly all workers, irrespective of the prevailing economic, social and demographic state of affairs and the actual labour market situation?
4. Does a state that declares a collective agreement permitting employers to end employment relationships at a specific fixed age (in this case: reaching the age of 65) to be generally applicable and upholds this extension contravene the prohibition of age discrimination laid down in Article 1 and Article 2(1) of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, if this is effected irrespective of the prevailing economic, social and demographic state of affairs and irrespective of the actual labour market situation?

<sup>(1)</sup> OJ 2000 L 303, p. 16.

**Action brought on 2 February 2009 — Commission of the European Communities v Republic of Poland**

(Case C-49/09)

(2009/C 102/15)

*Language of the case: Polish*

**Parties**

*Applicant:* Commission of the European Communities (represented by: D. Triantafyllou and K. Herrmann, acting as Agents)

*Defendant:* Republic of Poland

**Form of order sought**

- declare that, by applying a reduced VAT rate of 7 % to supplies, the import and the intra-Community acquisition of clothing and clothing accessories for babies and of children's footwear on the basis of Article 41(2) of the Law on Goods and Services Tax (ustawa o podatku od towarów i usług) of 11 March 2004, in conjunction with items 45 and 47 of Annex III to that Law, the Republic of Poland has failed to fulfil its obligations under Article 98 of Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, <sup>(1)</sup> in conjunction with Annex III thereto;
- order the Republic of Poland to pay the costs.

**Pleas in law and main arguments**

In the applicant's view, the Republic of Poland's application of a reduced VAT rate of 7% to supplies, the import and the intra-Community acquisition of clothing and clothing accessories for babies and of children's footwear on the basis of Article 41(2) of the Law on Goods and Services Tax of 11 March 2004, in conjunction with items 45 and 47 of Annex III to that Law, is contrary to the explicit provisions of Article 98 of Directive 2006/112/EC. Application of that reduced rate to the above-mentioned goods is not covered by any derogation accorded to the Republic of Poland in point 1(a) and (b) of Chapter 9 ('Taxation') of Annex XII to the Act concerning the conditions of accession of the Republic of Poland to the European Union or in Article 128 of Directive 2006/112/EC.

<sup>(1)</sup> OJ No L 347, 11.12.2006, p. 1.

**Reference for a preliminary ruling from the Juzgado de lo Mercantil 4, Barcelona (Spain) lodged on 13 February 2009 — Axel Walz v Clickair SA**

(Case C-63/09)

(2009/C 102/16)

*Language of the case: Spanish*

**Referring court**

Juzgado de lo Mercantil 4, Barcelona