(b) it was acquired in the context of the exercise of the profession which is the subject of an application filed in reliance in reliance on Directive 89/48/EEC (see the terms 'the profession concerned', 'la profession concernée', 'der betreffende Beruf' used in the English, French and German versions of the Directive respectively) and

(c) it was acquired during the lawful pursuit of the professional activity, that is to say, under the terms and conditions of the relevant legislation of the Member State in which it was acquired, thereby excluding experience acquired in the profession concerned in the host Member State before the application was accepted, because the profession concerned cannot be lawfully pursued in the host Member State before the application is accepted (subject of course to Article 5 of the Directive, which allows the applicant, subject to conditions, in order to undergo professional education and training not undergone in the Member State of origin, to pursue the profession in the host Member State with the assistance of a qualified member of the profession)?

Reference for a preliminary ruling from the Simvoulio tis Epikratias (Greece) lodged on 28 October 2009 — Ioannis Georgiou Askoxilakis v Ipourgos Ethnikis Pedias kai Thriskevmaton

(Case C-426/09)

(2010/C 24/39)

Language of the case: Greek

Referring court

Simvoulio tis Epikratias

Parties to the main proceedings

Applicant: Ioannis Georgiou Askoxilakis

Defendant: Ipourgos Ethnikis Pedias kai Thriskevmaton

Question referred

Does the term 'professional experience' in Article 4(1)(b) of Directive 89/48/EEC on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration (OJ 1989 L 19, p. 16), as amended by Article 1(3) of Directive 2001/19/EC (OJ 2001 L 206, p. 1), and prior to its repeal pursuant to Article 62 of Directive 2005/36/EC (OJ 2005 L 255, p. 22), correspond to the term 'professional experience' defined in Article 1(e) of that Directive and can it be understood to include experience which exhibits the following cumulative characteristics:

(a) it was acquired by the person concerned after obtaining a diploma granting access to a specific regulated profession in the Member State of origin;

(b) it was acquired in the context of the exercise of the profession which is the subject of an application filed in reliance in reliance on Directive 89/48/EEC (see the terms 'the profession concerned', 'la profession concernée', 'der betreffende Beruf' used in the English, French and German versions of the Directive respectively) and

(c) it was acquired during the lawful pursuit of the professional activity, that is to say, under the terms and conditions of the relevant legislation of the Member State in which it was acquired, thereby excluding experience acquired in the profession concerned in the host Member State before the application was accepted, because the profession concerned cannot be lawfully pursued in the host Member State before the application is accepted (subject of course to Article 5 of the Directive, which allows the applicant, subject to conditions, in order to undergo professional education and training not undergone in the Member State of origin, to pursue the profession in the host Member State with the assistance of a qualified member of the profession)?

Reference for a preliminary ruling from the Conseil d'Etat (France) lodged on 29 October 2009 — Union Syndicale 'Solidaires Isère' v Premier ministre, Ministre du travail, des relations sociales, de la famille, de la solidarité et de la ville, Ministre de la santé et des sports

(Case C-428/09)

(2010/C 24/40)

Language of the case: French

Referring court

Conseil d'Etat

Parties to the main proceedings

Applicant: Union Syndicale 'Solidaires Isère'

Defendants: Premier ministre, Ministre du travail, des relations sociales, de la famille, de la solidarité et de la ville, Ministre de la santé et des sports

Questions referred

1. Does Directive 2003/88/EC [1] apply to occasional or seasonal staff carrying out a maximum of 80 days of work a year in holiday and leisure activity centres?

2. If this question is answered in the affirmative:

   (a) In view of the purpose of the Directive which, as set out in Article 1(1) thereof, is to lay down minimum safety and health requirements for the organisation of working time, must Article 17 thereof be interpreted as allowing:

   — under Article 17(1), the occasional or seasonal activity of persons with educational commitment contracts to be regarded as an activity for which 'on account of the specific characteristics of the activity concerned, the duration of the working time is not measured and/or predetermined or can be determined by the workers themselves', or

— under Article 17(3)(b), the occasional or seasonal activity of persons with educational commitment contracts to be regarded as 'security and surveillance activities requiring a permanent presence in order to protect property and persons'?

(b) in the latter case, should the conditions laid down in Article 17(2), in terms of 'equivalent periods of compensatory rest' or 'appropriate protection' to be afforded to the workers concerned, be regarded as being satisfied by a rule restricting the activity of a person with the contracts in question to 80 days of work a year in holiday and leisure activity centres?

(1) Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time (OJ L 299, p. 9).

Reference for a preliminary ruling from the Verwaltungsgericht Halle (Germany) lodged on 30 October 2009 — Günter Fuß v Stadt Halle (Saale)

(Case C-429/09)

(2010/C 24/41)

Language of the case: German

Referring court

Verwaltungsgericht Halle

Parties to the main proceedings

Applicant: Günter Fuß

Defendant: Stadt Halle (Saale)

Questions referred

1. Do secondary claims result from Directive 2003/88/EC (1) of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time, where an (official) employer has determined a working time which exceeds the limit laid down in Article 6(b) of Directive 2003/88/EC?

2. In the event that the first question is to be answered in the affirmative, does the claim result from an infringement of Directive 2003/88/EC alone, or does Community law establish further requirements for the claim, for example, an application to the employer for a reduction in working time, or fault in determining the working time?

3. In the event that a secondary claim exists, the question then arises whether the remedy should be time off in lieu or financial compensation, and what requirements exist under Community law for calculating the level of the claim?

4. Are the reference periods laid down in Article 16(b) and/or the second paragraph of Article 19 of Directive 2003/88/EC directly applicable in a case such as the present one, in which national law merely determines a working time which exceeds the maximum working time laid down in Article 6(b) of Directive 2003/88/EC, without providing for compensation? Should direct applicability be affirmed, the question then arises whether, and if necessary how, the compensation should be effected, if the employer does not grant compensation by the end of the reference period?

5. How must questions one to four be answered during the period when Council Directive 93/104/EC (2) of 23 November 1993 was in force?

(1) Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time (OJ 2003 L 299 p. 9).
(2) Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time (OJ 1993 L 307 p. 18).

Reference for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on 2 November 2009 — Euro Tyre Holding B.V. v Staatssecretaris van Financiën

(Case C-430/09)

(2010/C 24/42)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Applicant: Euro Tyre Holding B.V.

Defendant: Staatssecretaris van Financiën

Question referred

In the light of Article 28c(A)(a) of the Sixth Directive, (1) and of Article 8(1)(a) and (b), the first subparagraph of Article 28a(1)(a), and the first subparagraph of Article 28b(A)(a) of the Sixth Directive, where, with regard to the same goods, two successive supplies are effected between taxable persons acting as such, in respect of which there is one single intra-Community dispatch or one single intra-Community transport,