

**Questions referred**

1. Must the expression 'prevents an on-the-spot check [from being carried out]' be interpreted in accordance with national law, which links the concept of prevention to deliberate conduct or negligence on the part of a particular person?
2. If the first question is answered in the negative: must the expression 'prevents an on-the-spot check [from being carried out]' be interpreted as including, as well as deliberate acts or situations deliberately brought about that make it impossible to carry out that check, any act or omission that can be ascribed to the negligence of the farmer or of his representative if, as a result, it was not possible to carry out the check in its entirety?
3. If Question 2 is answered in the affirmative: is the imposition of the sanction under Article 23(2) of Regulation No 796/2004/EC <sup>(1)</sup> conditional upon the farmer's having been adequately informed of that part of the check which requires his cooperation?
4. When the holder does not live on the agricultural holding, must the issue of the definition of 'representative' for the purpose of Article 23(2) of Regulation No 796/2004/EC be considered in the light of national law or of Community/Union law?
5. If the issue in Question 4 has to be considered in the light of Community/Union law: must Article 23(2) of Regulation No 796/2004/EC be interpreted as meaning that any adult, having proper capacity, who lives on the holding and to whom the farmer entrusts at least part of the management of that agricultural holding must be considered to be the farmer's representative when an on-the-spot check is carried out?
6. If question 4 must be considered in the light of Community law and if the answer to question 5 is negative: is a person who runs an agricultural holding (the farmer for the purpose of Article 23(2) of Regulation No 796/2004/EC) but who does not live there required to appoint a representative who may, as a rule, be found on the agricultural holding at any time?

(<sup>1</sup>) Commission Regulation (EC) No 796/2004 of 21 April 2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in of Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers (OJ L 141, 30.4.2004, p. 18).

**Reference for a preliminary ruling from Upper Tribunal (United Kingdom) made on 21 December 2009 — Ralph James Bartlett, Natalio Gonzalez Ramos, Jason Michael Taylor v Secretary of State for Work and Pensions**

(Case C-537/09)

(2010/C 63/48)

*Language of the case: English*

**Referring court**

Upper Tribunal

**Parties to the main proceedings**

*Applicants:* Ralph James Bartlett, Natalio Gonzalez Ramos, Jason Michael Taylor

*Defendant:* Secretary of State for Work and Pensions

**Questions referred**

1. (a) In relation to periods to which the form of Council Regulation (EEC) No 1408/71 <sup>(1)</sup> of 14 June 1971 in force immediately before 5 May 2005 applies, is the mobility component of disability living allowance under sections 71 to 76 of the Social Security Contributions and Benefits Act 1992 capable of being categorised separately from disability living allowance as a whole as either a social security benefit within Article 4(1) of the Regulation or a special non-contributory benefit within Article 4(2a) or otherwise?
  - (b) If the answer to (a) is yes, what is the proper category?
  - (c) If the answer to (a) is no, what is the proper category for disability living allowance?
  - (d) If the answer to (b) or (c) is categorisation as a social security benefit, is the benefit in question an sickness benefit within Article 4(l)(a) or an invalidity benefit within Article 4(l)(b)?

- (e) Are the answers to any of the above questions affected by the temporal limitation in point 2 of the Court's ruling in *Commission of the European Communities v European Parliament and Council of the European Union*, Case C-299/05, [2007] ECR I-8695?
2. (a) In relation to periods to which the form of Council Regulation (EEC) No 1408/71 of 14 June 1971 in force from 5 May 2005 by virtue of Council Regulation (EC) No 647/2005 <sup>(2)</sup> of 13 April 2005 applies, is the mobility component of disability living allowance under sections 71 to 76 of the Social Security Contributions and Benefits Act 1992 capable of being categorised separately from disability living allowance as a whole as either a social security benefit within Article 4(1) of the Regulation or a special non-contributory benefit within Article 4(2a) or otherwise?
- (b) If the answer to (a) is yes, what is the proper category?
- (c) If the answer to (a) is no, what is the proper category for disability living allowance?
- (d) If the answer to (b) or (c) is categorisation as a social security benefit, is the benefit in question an sickness benefit within Article 4(l)(a) or an invalidity benefit within Article 4(l)(b)?
3. If the answers to the previous questions produce the outcome that mobility component is properly to be categorised as a special non-contributory benefit, is any other rule or principle of EC law relevant to the question of whether the United Kingdom is entitled to rely on any of the residence and presence conditions in regulation 2(l)(a) of the Social Security (Disability Living Allowance) Regulations 1991 in circumstances like those of the present cases?

<sup>(1)</sup> 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 L 149, p. 2

<sup>(2)</sup> Regulation (EC) No 647/2005 of the European Parliament and of the Council of 13 April 2005 amending Council Regulations (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71  
OJ L 117, p. 1

**Reference for a preliminary ruling from the Giudice di Pace di Varese (Italy) lodged on 17 December 2009 — Mohammed Mohiuddin Siddiquee v Azienda Sanitaria Locale Provincia di Varese**

(Case C-541/09)

(2010/C 63/49)

*Language of the case: Italian*

**Referring court**

Giudice di Pace di Varese

**Parties to the main proceedings**

*Applicant:* Mohammed Mohiuddin Siddiquee

*Defendant:* Azienda Sanitaria Locale Provincia di Varese

**Questions referred**

- Does Article 4 of Community Regulation No 882/2004, <sup>(1)</sup> in conjunction with Article 6 thereof, establish an individual right for citizens to be subject to controls on foodstuffs and beverages only by staff who fulfil the requirements laid down in that regulation, and may such a right be relied on in legal proceedings and used as a defence to enforcement action by the Member States?
- If not, is Directive 2000/13/EC, <sup>(2)</sup> in the context of the Community rules governing the labelling of foodstuffs and beverages, based on considerations of health?
- Is it contrary to Directive 76/768/EEC <sup>(3)</sup> as subsequently amended, or to other relevant Community rules for a Member State to differentiate between the liability of the various operators in the industry, excluding the trader from liability by the very nature of his activity as a trader?