

4. Must Article 6(2) of Directive 2002/30 be interpreted as precluding rules which impose limits on noise levels, as measured on the ground, to be complied with by aircraft overflying territories located near the airport, and which provide that any person exceeding those limits may incur a penalty, where those rules are capable of being infringed by aircraft which comply with the standards in Volume 1, part II, chapter 4 of Annex 16 of the Convention on International Civil Aviation?

(¹) OJ 2002 L 85, p. 40.

Reference for a preliminary ruling from the Oberster Gerichtshof (Austria) lodged on 8 March 2010 — Waltraud Brachner v Pensionsversicherungsanstalt

(Case C-123/10)

(2010/C 148/21)

Language of the case: German

Referring court

Oberster Gerichtshof

Parties to the main proceedings

Applicant: Waltraud Brachner

Defendant: Pensionsversicherungsanstalt

Questions referred

1. Is Article 4 of Directive 79/7/EEC (¹) to be interpreted as meaning that the annual pension adjustment system (valorisation) provided for in the law on the statutory pension insurance scheme falls within the scope of the prohibition of discrimination in Article 4(1) of that directive?

2. If the answer to the first question is in the affirmative:

Is Article 4 of Directive 79/7/EEC to be interpreted as precluding a national provision concerning an annual pension adjustment whereby a potentially smaller increase is provided for a particular category of pensioners receiving a small pension than for other pensioners, in so far as the

provision in question adversely affects 25 % of male pensioners, but 57 % of female pensioners and there are no objective grounds for discrimination?

3. If the answer to the second question is in the affirmative:

May a disadvantage for female pensioners arising from the annual increase in their pensions be justified by the earlier age at which they become entitled to a pension and/or the longer period during which they receive a pension and/or by the fact that the standard amount for a minimum income, provided for under social law (balancing supplement standard amount), was disproportionately increased, where the provisions concerning the payment of the minimum income provided for under social law (balancing supplement) require account to be taken of the pensioner's other income and the income of a spouse living in the common household, whereas in the case of other pensioners the pension increase takes place without account being taken of the pensioner's other income or the income of the pensioner's spouse?

(¹) Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security (OJ 1979 L 6, p. 24).

Reference for a preliminary ruling from the Tribunal de première instance de Bruxelles (Belgium) lodged on 12 March 2010 — Corman SA v Bureau d'intervention et de restitution belge (BIRB)

(Case C-131/10)

(2010/C 148/22)

Language of the case: French

Referring court

Tribunal de première instance de Bruxelles

Parties to the main proceedings

Applicant: Corman SA

Defendant: Bureau d'intervention et de restitution belge (BIRB)

Questions referred

1. Can the provisions of [Commission] Regulation No 2571/97 of 15 December 1997 on the sale of butter at reduced prices and the granting of aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other foodstuffs, ⁽¹⁾ a regulation which implements [Council] Regulation No 1255/99 [of 17 May 1999] on the common organisation of the market in milk and milk products, ⁽²⁾ be regarded as constituting sectoral Community rules derogating from Article 3(1) of Regulation No 2988/95 of 18 December 1995 ⁽³⁾ and preventing the application of national provisions on limitation?

2. Must Article 3(3) of Regulation No 2988/95 of 18 December 1995 be construed as only applying to instances where the irregularity is committed by the recipient of the subsidy, whilst the general rule of limitation after four years applies in all cases of irregularities committed by persons with whom the recipient has entered into contracts, in view of the maximum period of four years applicable to the [Community] rules governing contracting parties under the common organisation of the market in milk and milk products?

⁽¹⁾ OJ 1997 L 350, p. 3.

⁽²⁾ OJ 1999 L 160, p. 48.

⁽³⁾ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests (OJ 1995 L 312, p. 1).

Action brought on 15 March 2010 — European Commission v Kingdom of Belgium

(Case C-133/10)

(2010/C 148/23)

Language of the case: French

Parties

Applicant: European Commission (represented by: V. Peere and K. Walkerová, acting as Agents)

Defendant: Kingdom of Belgium

Form of order sought

— Declare that, by failing to adopt the laws, regulations and administrative provisions necessary to comply with Commission Directive 2005/81/EC of 28 November 2005 amending Directive 80/723/EEC on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings, ⁽¹⁾ and in any event by not communicating such measures to the Commission, the Kingdom of Belgium has failed to fulfil its obligations under that directive;

— order the Kingdom of Belgium to pay the costs.

Pleas in law and main arguments

The period prescribed for transposing Directive 2005/81/EC expired on 19 December 2006. As at the date on which the present action was brought, the defendant had not yet adopted all the measures necessary to transpose the directive or, in any event, had not notified the Commission thereof.

⁽¹⁾ OJ 2005 L 312, p. 47.

Reference for a preliminary ruling from the Conseil d'État (Belgium) lodged on 15 March 2010 — The European Communities v The Région de Bruxelles-Capitale

(Case C-137/10)

(2010/C 148/24)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: The European Communities

Defendant: The Région de Bruxelles-Capitale