

4. If questions 3(a) and (b) are answered in the negative by the Court of Justice of the European Union or by the Bundesarbeitsgericht on the basis of the principles set out by the Court of Justice in its preliminary ruling:

Even taking into account the associated additional costs for the employer concerned and the right of the parties to a collective agreement to collective bargaining, must the infringement of the primary-law prohibition on age discrimination, which is inherent in a collective pay structure and which makes it invalid as a whole, always only be eliminated by taking the highest age category as a basis in each case when applying the collective pay agreements until a new system which is in conformity with Union law comes into force?

5. If question 4 is answered in the negative by the Court of Justice of the European Union or by the Bundesarbeitsgericht on the basis of the principles set out by the Court of Justice in its preliminary ruling:

Having regard to the right of the parties to a collective agreement to collective bargaining, would it be compatible with the Union law prohibition on age discrimination and the requirement for an effective sanction in the event of a breach of that prohibition, to grant the parties to a collective agreement a manageable deadline (e.g. six months) in which to retrospectively correct the invalidity of the pay structure they have agreed, and stipulate that in the event that no new structure which is in conformity with Union law is introduced within the deadline, in applying collective rules in each case the highest age category will be taken as a basis and, if so, what discretion in terms of the duration of the retrospective effect of the new structure which is in conformity with Union law could be granted to the parties to a collective agreement?

⁽¹⁾ 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.

Reference for a preliminary ruling from the Bundesarbeitsgericht (Germany) lodged on 16 June 2010 — Land Berlin v Alexander Mai

(Case C-298/10)

(2010/C 260/04)

Language of the case: German

Referring court

Bundesarbeitsgericht

Parties to the main proceedings

Applicant: Land Berlin

Defendant: Alexander Mai

Question referred

Taking into account the right of parties to a collective agreement to collective bargaining which is guaranteed by primary law (now Article 28 of the Charter of Fundamental Rights of the European Union, 'CFREU'), does a collective pay agreement for public sector employees, which, as in Paragraph 27 of the Bundesangestelltentarifvertrag (Federal collective agreement for contractual public sector employees, 'BAT') in conjunction with the Vergütungstarifvertrag (collective pay agreement) No 35 under the BAT, determines basic pay in individual salary groups by age categories, infringe the primary-law prohibition of age discrimination (now Article 21(1) of the CFREU) as given expression by Directive 2000/78/EC? ⁽¹⁾

⁽¹⁾ 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.

Reference for a preliminary ruling from the Verwaltungsgerichtshof (Austria) lodged on 29 June 2010 — Agrana Zucker GmbH v Bundesminister für Land- und Forstwirtschaft, Umwelt und Wasserwirtschaft

(Case C-309/10)

(2010/C 260/05)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Applicant: Agrana Zucker GmbH

Defendant: Bundesminister für Land- und Forstwirtschaft, Umwelt und Wasserwirtschaft

Questions referred

1. Is Article 11 of Council Regulation (EC) No 320/2006 of 20 February 2006 establishing a temporary scheme for the restructuring of the sugar industry in the Community and amending Regulation (EC) No 1290/2005 on the financing of the common agricultural policy⁽¹⁾ to be interpreted as meaning that the temporary restructuring amount laid down in paragraph 2 of that article of EUR 113,30 per tonne of quota for sugar and inulin syrup for the marketing year 2008/2009 must in any case be imposed in full, even if such payment would result in a (significant) surplus in the restructuring fund and there appears to be no prospect of any further increase in financing requirements?
2. In the event that the reply to the first question is in the affirmative:

Does Article 11 of Regulation (EC) No 320/2006 in that case infringe the principle that the Community can act only within the powers conferred on it, because Article 11 could, by means of the temporary restructuring amount, introduce a general tax which is not limited to financing expenditure benefiting the persons called upon to pay the tax?

⁽¹⁾ OJ 2006 L 58, p. 42.

Reference for a preliminary ruling from the Tribunal da Relação do Porto (Portugal) lodged on 1 July 2010 — Companhia Siderúrgica Nacional, Csn Cayman Ltd v Unifer Steel SL, BNP-Paribas (Suisse), Colepcc SA, Banco Português de Investimento SA (BPI)

(Case C-315/10)

(2010/C 260/06)

Language of the case: Portuguese

Referring court

Tribunal da Relação do Porto

Parties to the main proceedings

Applicants: Companhia Siderúrgica Nacional, Csn Cayman Ltd

Defendants: Unifer Steel SL, BNP-Paribas (Suisse), Colepcc SA, Banco Português de Investimento SA (BPI)

Questions referred

1. Does the fact that the Portuguese judicial authorities have declared that they lack jurisdiction by reason of nationality to hear an action concerning a commercial claim constitute an obstacle to the connection between causes of action referred to in Articles 6(1) and [28] of Regulation No 44/2001,⁽¹⁾ where the Portuguese court has another action pending before it, a Paulian action brought against both the debtor and the third-party transferee, in this case the transferee of a debt receivable, and the depositaries of the subject-matter of the claim assigned to the third-party transferee, the latter having their seats in Portugal, in order that they may all be bound by the *res judicata* decision to be given?
2. In the event of a negative response, may Article 6(1) of Regulation No 44/2001 be freely applied to the case?

⁽¹⁾ Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1).

Reference for a preliminary ruling from the Finanzgericht Hamburg (Germany), lodged on 7 July 2010 — Grünwald Logistik Service GmbH (GLS) v Hauptzollamt Hamburg-Stadt

(Case C-338/10)

(2010/C 260/07)

Language of the case: German

Referring court

Finanzgericht Hamburg

Parties to the main proceedings

Applicant: Grünwald Logistik Service GmbH (GLS)

Defendant: Hauptzollamt Hamburg-Stadt