

1. Can a national rule which, like the 67-year rule, gives rise to a difference of treatment on grounds of age be legitimate even if it is not possible to determine clearly from the context in which the rule has come into being or from other information what aim or purpose the rule is intended to serve?
2. Does a national retirement provision such as the 67-year rule, to which there is no exception and which does not take account of factors such as the pension which an individual may ultimately receive, go beyond what is appropriate and necessary in order to achieve the aim pursued?

⁽¹⁾ OJ 2000 L 303, p. 16.

Reference for a preliminary ruling from the Giudice di pace di Mestre (Italy) lodged on 24 March 2011 — Criminal proceedings against Asad Abdallah

(Case C-144/11)

(2011/C 152/30)

Language of the case: Italian

Referring court

Giudice di pace di Mestre

Party to the main proceedings

Asad Abdallah

Questions referred

1. Does Directive 2008/115/EC ⁽¹⁾ preclude a provision of national law, such as Article 10a of Legislative Decree No 286 of 25 July 1998, which categorises as a crime, punishable by a fine of between EUR 5 000 and EUR 10 000, the mere act of entering, or of remaining in, the national territory, in breach of the provisions laid down in relation to immigration where the person who so enters or remains is a citizen of a third country?
2. Can Article 2(2)(B) of Directive 2008/115/EC be construed as excluding from the scope of the guarantees laid down in that directive deportation by way of alternative penalty, as provided for in Article 16(1) of Legislative Decree No 286 of 25 July 1998, for the crime consisting in the mere act of entering, or of remaining in, the national territory, as laid down in Article 10a of Legislative Decree No 286 of 25 July 1998?

⁽¹⁾ OJ 2008 L 348, p. 98.

Reference for a preliminary ruling from Upper Tribunal (United Kingdom) made on 25 March 2011 — Secretary of State for Work and Pensions v Lucja Czop

(Case C-147/11)

(2011/C 152/31)

Language of the case: English

Referring court

Upper Tribunal

Parties to the main proceedings

Applicant: Secretary of State for Work and Pensions

Defendant: Lucja Czop

Questions referred

In circumstances where a claimant:

- (a) is a citizen of Poland;
- (b) came to the United Kingdom before her country acceded to the EU;
- (c) established herself in self-employment within the meaning of Article 49 TFEU (ex Article 43 TEC);
- (d) remained here, and continued in self-employment, following accession;
- (e) is no longer in self-employment; and
- (f) is the primary carer of a child who came to the United Kingdom and entered general education after accession and after she ceased to be established in self-employment,

does the claimant have a right to reside in the United Kingdom on the basis that (individually or cumulatively):

- (a) Regulation 1612/68 ⁽¹⁾ applies, together with the reasoning of the European Court of Justice in *Baumbast and R v Secretary of State for the Home Department* (Case C-413/99) [2002] ECR I-7091, *London Borough of Harrow v Ibrahim* (Case C-310/08) and *Teixeira v London Borough of Lambeth* (Case C-480/08);
- (b) there is a general principle of EU law that equates the position of workers and the self-employed;
- (c) it would impede or deter the freedom of establishment if the claimant did not have a right to reside?

⁽¹⁾ OJ L 257, p. 2