



Reports of Cases

Case C-429/12

Siegfried Pohl

v

ÖBB Infrastruktur AG

(Request for a preliminary ruling from the Oberlandesgericht Innsbruck)

(Reference for a preliminary ruling — Equal treatment in employment and occupation — Article 21 of the Charter of Fundamental Rights of the European Union — Article 45 TFEU — Directive 2000/78/EC — Difference in treatment on grounds of age — Determination of the reference date for the purposes of advancement on the salary scale — Limitation period — Principle of effectiveness)

Summary — Judgment of the Court (Second Chamber), 16 January 2014

European Union law — Direct effect — National procedural rules — Conditions under which applicable — Observance of the principles of equivalence and effectiveness — Incompatibility, with EU law, of the exclusion of taking into account certain periods of employment — Findings of the judgments in Cases C-195/98 and C-88/08 — Limitation period running from the date of conclusion of a convention — Whether permissible

EU law, in particular, the principle of effectiveness, does not preclude national legislation making subject to a 30-year limitation period, which starts to run from the conclusion of the agreement on the basis of which that reference date was fixed or from classification in an incorrect salary scale, the right of an employee to seek reassessment of the periods of service that must be taken into account in order for the reference date to be fixed for the purposes of advancement.

It is for the national legal system of each Member State to lay down such detailed procedural rules provided, on the one hand, that such rules are no less favourable than those governing similar national actions (principle of equivalence) and, on the other, that they do not render it in practice impossible or excessively difficult to exercise the rights conferred by EU law (principle of effectiveness).

In that regard, such a limitation rule cannot be considered to be contrary to the principle of equivalence when it applies irrespective of whether the infringement of the law invoked comes within the scope of EU law or that of national law.

With regard to the principle of effectiveness, it is compatible with EU law for reasonable time-limits to be laid down for bringing proceedings in the interests of legal certainty, to the extent that such time-limits are not liable to make it in practice impossible or excessively difficult to exercise the rights conferred by EU law.

With regard to the question whether the respective dates of delivery of the judgments of 30 November 2000 in Case C-195/98 *Österreichischer Gewerkschaftsbund* and of 18 June 2009 in Case C-88/08 *Hütter* affect the starting-point of a limitation period fixed by national law, it should be noted that a preliminary ruling does not create or alter the law, but is purely declaratory. Moreover, the starting-point of the limitation period applicable in the main proceedings is a matter for national law. Therefore, the respective dates of delivery of the above judgments do not affect the starting-point of that period and are irrelevant for the purposes of determining whether, in the main proceedings, the principle of effectiveness has been observed.

(see paras 23, 27-32, 37, operative part)