

(c) the passengers concerned have made known to the air carriers whether or not they wish to receive that compensation?

(d) the defendant has not chosen the instrument of an order for coercive administrative action (where, in the case of the air carriers' non compliance with the order, the defendant himself pays the passengers out at the air carriers' expense), but rather, the instrument of an order for periodic penalty payments (where, in the case of non compliance with the order, the air carriers are liable to the defendant for an amount equal to the total compensation payable, which amount accrues to public funds)?

(¹) Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (OJ 2004 L 46, p. 1).

(²) The Convention concluded on 28 May 1999 in Montreal for the unification of certain rules for international carriage by air, signed by the European Community on 9 December 1999 and approved on its behalf by Council Decision 2001/539/EC of 5 April 2001 (OJ 2001 L 194, p. 38).

Reference for a preliminary ruling from the Cour de cassation (France) lodged on 30 May 2012 — Frédéric Hay v Crédit agricole mutuel de Charente-Maritime et des Deux-Sèvres

(Case C-267/12)

(2012/C 250/15)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Applicant: Frédéric Hay

Defendant: Crédit agricole mutuel de Charente-Maritime et des Deux-Sèvres

Question referred

Must Article 2(2)(b) of Council Directive 2000/78/EC (¹) of 27 November 2000 be interpreted as meaning that the choice of the national legislature to allow only persons of different sexes to marry can constitute a legitimate, appropriate and necessary aim such as to justify indirect discrimination resulting from the fact that a collective agreement which reserves an advantage in respect of pay and working conditions to employees who

marry, thereby necessarily excluding from the benefit of that advantage same-sex partners who have entered into a civil solidarity pact?

(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 Verwaltungsgericht Hannover (Germany) lodged on 4 June 2012 — Samantha Elrick v Bezirksregierung Köln

(Case C-275/12)

(2012/C 250/16)

Language of the case: German

Referring court

Verwaltungsgericht Hannover

Parties to the main proceedings

Applicant: Samantha Elrick

Defendant: Bezirksregierung Köln

Question referred

Do Articles 20 and 21 TFEU preclude a rule of national law according to which a German national who has her permanent residence in Germany and attends an educational establishment in a Member State of the European Union is refused a study grant under the Bundesausbildungsförderungsgesetz (BAföG) in respect of her attendance at that foreign educational establishment because the educational course attended abroad is of only one year's duration, whereas she could have received a study grant under the BAföG for comparable studies in Germany, which would also have lasted for one year?

Reference for a preliminary ruling from Upper Tribunal (United Kingdom) made on 4 June 2012 — Fish Legal, Emily Shirley v The Information Commissioner, United Utilities, Yorkshire Water and Southern Water

(Case C-279/12)

(2012/C 250/17)

Language of the case: English

Referring court

Upper Tribunal

Parties to the main proceedings

Applicants: Fish Legal, Emily Shirley

Defendants: The Information Commissioner, United Utilities, Yorkshire Water and Southern Water

Questions referred

Article 2.2(b) of Directive 2003/4/EC ⁽¹⁾

1. In considering whether a natural or legal person is one 'performing public administrative functions under national law', is the applicable law and analysis purely a national one?
 - (i) the function in question is in substance a 'public administrative one;
 - (ii) national law has in substance vested such function in that person?
2. If it is not, what EU law criteria may or may not be used to determine whether:
 - (i) the function in question is in substance a 'public administrative one;
 - (ii) national law has in substance vested such function in that person?

Article 2.2(c) of Directive 2003/4/EC

3. What is meant by a person being 'under the control of a body or person falling within Article 2.2(a) or (b)? In particular, what is the nature, form and degree of control required and what criteria may or may not be used to identify such control?
4. Is an "emanation of the State" (under paragraph 20 of the judgment in *Foster v British Gas plc* (Case C-188189)) necessarily a person caught by Article 2.2(c)?

Article 2.2(b) and (c)

5. Where a person falls within either provision in respect of some of its functions, responsibilities or services, are its obligations to provide environmental information confined to the information relevant to those functions, responsibilities or services or do they extend to all environmental information held for any purpose?

⁽¹⁾ Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC OJ L 41, p. 26

Reference for a preliminary ruling from the Tribunal Central Administrativo Sul (Portugal) lodged on 6 June 2012 — Fazenda Pública v ITEL CAR — Automóveis de Aluguer, Lda

(Case C-282/12)

(2012/C 250/18)

Language of the case: Portuguese

Referring court

Tribunal Central Administrativo Sul

Parties to the main proceedings

Applicants: Fazenda Pública, ITEL CAR — Automóveis de Aluguer, Lda

Defendants: ITEL CAR — Automóveis de Aluguer, Lda, Fazenda Pública

Question referred

Do Articles 63 TFEU and 65 TFEU (Articles 56 EC and 58 EC) preclude legislation of a Member State, such as that contained in Paragraph 61 CIRC (Código do Imposto sobre o Rendimento das Pessoas Coletivas) in the wording resulting from [Decree-Law No] 198/2001 of [3 July 2001], as amended by [Law No] 60 A/2005 of 30 [December 2005] (State Budget Act for 2006), which, in connection with the indebtedness of a taxable person residing in Portugal to an entity of a non-member country with which it maintains special relations within the meaning of Paragraph 58(4) CIRC, does not allow the setting off against tax of interest relating to the part of its indebtedness regarded as excessive under Paragraph 61(3) CIRC, borne and paid by a taxable person residing within national territory on the same basis as interest borne and paid by a taxable person residing in Portugal who is found to be excessively indebted to an entity residing in Portugal with which it maintains special relations?

Reference for a preliminary ruling from the Amtsgerichts Laufen (Germany) lodged on 18 June 2012 — Strafverfahren v Gjoko Filev and Adnan Osmani

(Case C-297/12)

(2012/C 250/19)

Language of the case: German

Referring court

Amtsgerichts Laufen

Parties to the main proceedings

Gjoko Filev, Adnan Osmani

Other party: Staatsanwaltschaft Traunstein