

5. Does the interpretation of European primary and/or secondary law preclude a national measure which makes the claim to (retrospective) payment or compensation dependent on the civil servants' having enforced that claim in good time?
6. If Questions 1 to 3 are answered in the affirmative: does it follow from the interpretation of European primary and/or secondary law that a transitional law — under which existing civil servants are placed on a step of the new system solely according to the amount of the basic pay they attained under the old (discriminatory) law on remuneration on the transition date, and according to which further progression to higher steps is thereupon calculated solely according to the periods of experience attained since the entry into force of the transitional law, irrespective of the civil servant's absolute period of experience — constitutes a perpetuation of the existing age discrimination, continuing until the highest pay step is reached in each case?
7. If Question 6 is also answered in the affirmative: does the interpretation of European primary and/or secondary law conflict with a justification of this unrestricted, continuing discrimination by the legislative aim whereby the transitional law is to protect not (only) the acquired rights existing on the transition date but (also) the expectation of the lifetime income in the respective pay grade that was forecast to be paid under the old law on remuneration?

Can the continuing discrimination against existing civil servants be justified by the fact that the regulatory alternative (individual placement also of existing civil servants according to periods of experience) would involve increased administrative expenditure?

8. If such justification is rejected in Question 7: does the interpretation of European primary and/or secondary law, until a non-discriminatory right to remuneration has been implemented also for existing civil servants, permit a legal consequence other than retrospective and continuing remuneration of existing civil servants at the highest pay step in their pay grade?

Does the legal consequence of infringement of the prohibition of discrimination in that case follow from European primary and/or secondary law itself, here in particular Directive 2000/78/EC, or does the claim follow only from the point of view of failure to implement the rules of European law in accordance with the claim to state liability under European Union law?

(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 Berlin (Germany) lodged on 8 November 2012 — Gerd Schini v Land Berlin

(Case C-506/12)

(2013/C 26/58)

Language of the case: German

Referring court

Verwaltungsgericht Berlin

Parties to the main proceedings

Applicant: Gerd Schini

Defendant: Land Berlin

Questions referred

1. Is European primary and/or secondary law, here in particular Directive 2000/78/EC, (¹) to be interpreted as a comprehensive prohibition of unjustified age discrimination, such that it also covers national rules on the remuneration of Land civil servants?
2. If Question 1 is answered in the affirmative: does the interpretation of this European primary and/or secondary law mean that a national provision under which the level of the basic pay of a civil servant on establishment of the status of civil servant is substantially dependent on his age and also, in particular, rises according to the duration of civil servant status constitutes direct or indirect age discrimination?
3. If Question 2 is also answered in the affirmative: does the interpretation of this European primary and/or secondary law preclude the justification of such a national provision by the legislative aim of making payment for professional experience?
4. If Question 3 is also answered in the affirmative: does the interpretation of European primary and/or secondary law, where a non-discriminatory right to remuneration has not been implemented, permit a legal consequence other than retrospective remuneration of those discriminated against at the highest pay step in their pay grade?

Does the legal consequence of infringement of the prohibition of discrimination in that case follow from European primary and/or secondary law itself, here in particular Directive 2000/78/EC, or does the claim follow only from the point of view of failure to implement the rules of European law in accordance with the claim to State liability under European Union law?

5. Does the interpretation of European primary and/or secondary law preclude a national measure which makes the claim to (retrospective) payment or compensation dependent on the civil servants' having enforced that claim in good time?

(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 Supreme Court of the United Kingdom (United Kingdom) made on 8 November 2012 — *Jessy Saint Prix v Secretary of State for Work and Pensions*

(Case C-507/12)

(2013/C 26/59)

Language of the case: English

Referring court

Supreme Court of the United Kingdom

Parties to the main proceedings

Applicant: Jessy Saint Prix

Defendant: Secretary of State for Work and Pensions

Questions referred

1. Is the right of residence conferred upon a 'worker' in Article 7 of the Citizenship Directive (¹) to be interpreted as applying only to those (i) in an existing employment relationship, (ii) (at least in some circumstances) seeking work, or (iii) covered by the extensions in article 7(3), or is the Article to be interpreted as not precluding the recognition of further persons who remain 'workers' for this purpose?
2. (i) If the latter, does it extend to a woman who reasonably gives up work, or seeking work, because of the physical constraints of the late stages of pregnancy (and the aftermath of childbirth)?

(ii) If so, is she entitled to the benefit of the national law's definition of when it is reasonable for her to do so?

(¹) Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (Text with EEA relevance). OJ L 158, p. 77

Reference for a preliminary ruling from the Tribunal Central Administrativo Norte (Portugal) lodged on 12 November 2012 — *Joaquim Fernando Macedo Maia and Others v Fundo de Garantia Salarial, IP*

(Case C-511/12)

(2013/C 26/60)

Language of the case: Portuguese

Referring court

Tribunal Central Administrativo Norte

Parties to the main proceedings

Applicants: Joaquim Fernando Macedo Maia, António Pereira Teixeira, António Joaquim Moreira David, Joaquim Albino Moreira David

Defendant: Fundo de Garantia Salarial, IP

Question referred

Is European Union law, in the specific context of a guarantee covering wage claims in the event of the employer's insolvency, in particular Articles 4 and 10 of Directive 80/987/EEC, (¹) to be interpreted as precluding a provision of national law which guarantees only claims falling due in the six months preceding the initiation of insolvency proceedings against the employer, even where the employees have brought an action against their employer before the Tribunal do Trabalho (Labour Court) with a view to obtaining a judicial determination of the amount outstanding and an enforcement order to recover those sums?

(¹) Council Directive 80/987/EEC of 20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer (OJ 1980 L 283, p. 23).

Reference for a preliminary ruling from the Conseil d'État (France) lodged on 13 November 2012 — *Octapharma France v Agence nationale de sécurité du médicament et des produits de santé (ANSM), Ministère des affaires sociales et de la santé*

(Case C-512/12)

(2013/C 26/61)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: Octapharma France

Defendants: Agence nationale de sécurité du médicament et des produits de santé (ANSM), Ministère des affaires sociales et de la santé