

Request for a preliminary ruling from the Hof van Beroep te Gent (Belgium) lodged on 9 November 2012 — Bloomsbury NV v Belgische Staat

(Case C-510/12)

(2013/C 46/23)

Language of the case: Dutch

Referring court

Hof van Beroep te Gent

Parties to the main proceedings

Applicant: Bloomsbury NV

Defendant: Belgische Staat

Question referred

Should Article 2.3-4-5 of the Fourth Council Directive 78/660/EEC of 25 July 1978 based on Article 54 (3) (g) of the Treaty on the annual accounts of certain types of companies, ⁽¹⁾ be interpreted as meaning that, in a case where a company acquires an important asset free of charge and there is therefore no purchase value which it can enter in the accounts, with the result that a misleading impression is created of the company's assets, liabilities, financial position and profit or loss, the important asset in question acquired free of charge should nevertheless be entered in the accounts at its true value?

⁽¹⁾ OJ 1978 L 222, p. 11.

Reference for a preliminary ruling from the Kúria (Hungary) lodged on 19 November 2012 — OTP Bank Nyilvánosan Működő Részvénytársaság v Hochtief Solutions AG

(Case C-519/12)

(2013/C 46/24)

Language of the case: Hungarian

Referring court

Kúria

Parties to the main proceedings

Applicant: OTP Bank Nyilvánosan Működő Részvénytársaság

Defendant: Hochtief Solutions AG

Question referred

Does a claim between parties which are not in a direct contractual relationship, asserted by an applicant company, which has granted credit, against a (foreign) member of a company which has received credit, that member having had a controlling interest in the latter company at the material time, qualify as a contract under Article 5(1)(a) of Council Regulation (EC) No 44/2001, ⁽¹⁾ where the applicant company alleges that the company receiving the loan is liable for the debts of the controlled company?

⁽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 Employment Tribunal (United Kingdom) made on 26 November 2012 — ZJR Lock v British Gas Trading Limited & Others

(Case C-539/12)

(2013/C 46/25)

Language of the case: English

Referring court

Employment Tribunal

Parties to the main proceedings

Applicant: ZJR Lock

Defendants: British Gas Trading Limited & Others

Questions referred

1. Where
 - (i) a worker's annual pay comprises of basic pay and commission payments made under a contractual right to commission
 - (ii) the commission is paid by reference to sales made and contracts entered into by the employer in consequence of the worker's work
 - (iii) commission is paid in arrears and the amount of commission received in a given reference period fluctuates according to the value of sales achieved and contracts entered into and the time of such sales
 - (iv) during periods of annual leave, the worker does not undertake any work that would entitle him to those commission payments and accordingly does not generate commission in respect of such periods
 - (v) during the pay period which includes a period of annual leave, the worker is entitled to basic pay and will continue to receive commission payments based on commission earned earlier; and

(vi) his average commission earnings over the course of the year will be lower than they would be if the worker had not taken leave, because, during the leave period, he will not have undertaken any work that would entitle him to commission payments

does Article 7 of Directive 93/104/EC⁽¹⁾, as amended by Directive 2003/88/EC⁽²⁾, require that Member States take measures to ensure that a worker is paid in respect of periods of annual leave by reference to the commission payments he would have earned during that period, had he not taken leave, as well as his basic pay?

2. What are the principles which inform the answer to question 1.?
3. If the answer to question 1 is 'Yes', what principles (if any) are required to be adopted by member states in calculating the sum that is payable to the worker by reference to the commission that the worker would or might have earned if he had not taken annual leave?

⁽¹⁾ Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organization of working time
OJ L 307, p. 18

⁽²⁾ Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time
OJ L 299, p. 9

**Request for a preliminary ruling from the
Verwaltungsgericht Berlin (Germany) lodged on
28 November 2012 — Rena Schmeel v Federal Republic
of Germany**

(Case C-540/12)

(2013/C 46/26)

Language of the case: German

Referring court

Verwaltungsgericht Berlin

Parties to the main proceedings

Applicant: Rena Schmeel

Defendant: Federal Republic of Germany

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 Federal 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).

**Request for a preliminary ruling from the
Verwaltungsgericht Berlin (Germany) lodged on
28 November 2012 — Ralf Schuster v Federal Republic
of Germany**

(Case C-541/12)

(2013/C 46/27)

Language of the case: German

Referring court

Verwaltungsgericht Berlin

Parties to the main proceedings

Applicant: Ralf Schuster

Defendant: Federal Republic of Germany