

Judgment of the Court (Fourth Chamber) of 22 January 2015 (requests for a preliminary ruling from the Curtea de Apel Cluj — Romania) — Vasiliki Balazs v Casa Județeană de Pensii Cluj (C-401/13), Casa Județeană de Pensii Cluj v Attila Balazs (C-432/13)

(Joined Cases C-401/13 and C-432/13) ⁽¹⁾

(References for a preliminary ruling — Social security for migrant workers — Regulation (EEC) No 1408/71 — Article 7(2)(c) — Applicability of social security conventions between Member States — Repatriated refugee whose country of origin is a Member State — Completion of periods of employment in the territory of another Member State — Application for grant of an old-age benefit — Refusal)

(2015/C 107/05)

Language of the case: Romanian

Referring court

Curtea de Apel Cluj

Parties to the main proceedings

Applicants: Vasiliki Balazs (C-401/13), Casa Județeană de Pensii Cluj (C-432/13)

Defendants: Casa Județeană de Pensii Cluj (C-401/13), Attila Balazs (C-432/13)

Operative part of the judgment

Article 7(2)(c) of Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, in the version amended and updated by Council Regulation (EC) No 118/97 of 2 December 1996, as amended by Regulation (EC) No 1992/2006 of the European Parliament and of the Council of 18 December 2006, must be interpreted as meaning that a bilateral agreement which relates to the social security benefits of nationals of one of the signatory States who had the status of political refugee in the territory of the other signatory State, which was concluded on a date when one of the two signatory States had not yet acceded to the European Union and which is not listed in Annex III to that regulation does not continue to apply to the situation of political refugees who were repatriated to their State of origin before the bilateral agreement was concluded and the regulation entered into force.

⁽¹⁾ OJ C 298, 12.10.2013.

Judgment of the Court (Second Chamber) of 28 January 2015 (request for a preliminary ruling from the Oberster Gerichtshof — Austria) — ÖBB Personenverkehr AG v Gotthard Starjakob

(Case C-417/13) ⁽¹⁾

(Reference for a preliminary ruling — Social policy — Directive 2000/78/EC — Equal treatment in employment and occupation — Article 2(1) and (2)(a) — Article 6(1) — Discrimination based on age — National legislation under which inclusion of periods of service completed before the age of 18 for the purpose of determining remuneration is subject to an extension of the periods for advancement — Justification — Whether appropriate for the purpose of achieving the objective pursued — Possibility of challenging the extension of the periods for advancement)

(2015/C 107/06)

Language of the case: German

Referring court

Oberster Gerichtshof

Parties to the main proceedings

Applicant: ÖBB Personenverkehr AG

Defendant: Gotthard Starjakob

Operative part of the judgment

1. EU law, in particular, Articles 2 and 6(1) of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, must be interpreted as precluding national legislation such as that at issue in the main proceedings, which, to end discrimination based on age, takes account of periods of service prior to the age of 18, but which, simultaneously, includes a rule, applicable in reality only to employees who are subject to that discrimination, which extends by one year the period required for advancement in each of the three first salary steps and which, in so doing, definitively maintains a difference in treatment based on age;
2. EU law, in particular Article 16 of Directive 2000/78, must be interpreted as meaning that national legislation which seeks to end discrimination based on age does not necessarily have to allow an employee whose periods of service completed before the age of 18 have not been taken into account in calculating his advancement to obtain financial compensation which corresponds to payment of the difference between the remuneration which he would have received in the absence of such discrimination and that which he actually received. Nevertheless, in a case such as that at issue in the main proceedings, as long as a system to abolish discrimination on grounds of age in a way that conforms with the provisions of Directive 2000/78 has not been adopted, re-establishing equal treatment entails granting employees whose experience was, if only in part, acquired before the age of 18 the same benefits as those enjoyed by employees who have obtained, after reaching that age, experience of the same type and comparable duration, as regards the recognition of periods of service completed before the age of 18 but also advancement in the pay scale;
3. EU law, in particular Article 16 of Directive 2000/78, must be interpreted as not preventing the national legislature from providing, in order to take into account periods of service completed before the age of 18, for an obligation of cooperation under which the employee must give his employer the evidence relating to those periods. Nevertheless, there is no abuse of law in (i) an employee's refusal to cooperate for the purpose of the application of national legislation such as that at issue in the main proceedings, which entails discrimination based on age contrary to Directive 2000/78, and (ii) his action seeking to obtain payment intended to re-establish equal treatment with employees who have obtained, after reaching that age, experience of the same type and a duration comparable to his;
4. The principle of effectiveness must be interpreted as meaning that, in a case such as that at issue in the main proceedings, it does not preclude a national limitation period for claims which are founded in EU law from starting to run before the date of delivery of a judgment of the Court which has clarified the legal position on the matter.

⁽¹⁾ OJ C 325, 9.11.2013.

Judgment of the Court (Fourth Chamber) of 22 January 2015 (request for a preliminary ruling from the Hoge Raad der Nederlanden — Netherlands) — Art & Allposters International BV v Stichting Pictoright

(Case C-419/13) ⁽¹⁾

(Reference for a preliminary ruling — Intellectual property — Copyright and related rights — Directive 2001/29/EC — Article 4 — Distribution right — Exhaustion rule — Concept of 'object' — Transfer of the image of a protected work from a paper poster to a painter's canvas — Replacement of the medium — Impact on exhaustion)

(2015/C 107/07)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden