

Question referred

Is agricultural land permanent pasture within the meaning of Article 2(2) of the regulation ⁽¹⁾ if used currently and for at least five years for the cultivation of grass or other herbaceous forage but during this period the area has been ploughed and instead of the previous herbaceous forage (in this case clover) another herbaceous forage (in this case field grass) sown, or do such cases constitute a crop rotation precluding the creation of permanent pasture?

⁽¹⁾ Council Regulation (EC) No 796/2004 of 21 April 2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers (OJ 2004 L 141, p. 18).

Request for a preliminary ruling from the Tribunal Central Administrativo Norte (Portugal) lodged on 4 February 2013 — Marina da Conceição Pacheco Almeida v Fundo de Garantia Salarial, IP, Instituto da Segurança Social, IP

(Case C-57/13)

(2013/C 108/35)

Language of the case: Portuguese

Referring court

Tribunal Central Administrativo Norte

Parties to the main proceedings

Appellant: Marina da Conceição Pacheco Almeida

Respondent: Fundo de Garantia Salarial, IP, Instituto da Segurança Social, 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 employee has brought an action against that 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).

Action brought on 7 February 2013 — European Parliament v European Commission

(Case C-65/13)

(2013/C 108/36)

Language of the case: French

Parties

Applicant: European Parliament (represented by: A. Tamás and J. Rodrigues, acting as Agents)

Defendant: European Commission

Form of order sought

— Annul Commission Implementing Decision [2012/733/EU] of 26 November 2013 implementing Regulation (EU) No 492/2011 of the European Parliament and of the Council as regards the clearance of vacancies and applications for employment and the re-establishment of EURES;

— order the European Commission to pay the costs.

Pleas in law and main arguments

In support of its action for annulment, the European Parliament raises a single plea in law, alleging infringement of Article 38 of Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union. ⁽¹⁾ By adopting the contested decision, the Commission has misused the powers conferred upon it by the European Union legislature.

Article 38 of that regulation confers only implementing powers on the Commission, the limits of which are set out in Article 291 TFEU. In the view of the Parliament, that article must be interpreted as meaning that it precludes the adoption of acts of general application which supplement certain non-essential elements of the legislative act. Only legislative acts or delegated acts within the meaning of Article 290 TFEU may supplement non-essential elements of a basic act.

The act adopted by the Commission, being an implementing act within the meaning of Article 291 TFEU, also supplements certain non-essential elements of Regulation (EU) No 492/2011. Accordingly, the Parliament submits that, if it is necessary to supplement non-essential elements of Regulation (EU) No 492/2011, the Commission, in the absence of powers to adopt delegated acts within the meaning of Article 290 TFEU, ought to have made a proposal to the legislature supplementing or amending the basic act.

⁽¹⁾ Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union (OJ 2011 L 141, p. 1).