Form of order sought

The applicant claims that the Court should:

— declare that, by maintaining in force provisions of Netherlands legislation contrary to Article 1(2)(a) and (b), Article 15 and Article 28(2) of Directive 2006/54/EC [1] of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast), the Kingdom of the Netherlands has failed to fulfil its obligations under that directive;

— order the Kingdom of the Netherlands to pay the costs of the proceedings.

Pleas in law and main arguments

The Commission takes the view that Netherlands employment law does not establish sufficiently clearly that, if female workers returning after the end of the period of maternity leave are confronted with less favourable employment conditions, this is contrary to the prohibition on discrimination on the grounds of pregnancy, childbirth and motherhood.

In its view, that prohibition is not established sufficiently clearly by the mere fact that an employer who unilaterally alters the duties and employment conditions agreed in the employment contract fails to fulfil his obligations.

The Commission regards as insufficient the argument that, when a legal right to leave is recognised, that automatically implies that that any less favourable treatment is unlawful. Equally, the possibility of bringing an action on the basis of the general prohibition of discrimination and the principle of sound employer practice, which are contained in the Burgerlijk Wetboek (Civil Code), does not amount to a sufficiently clear and precise transposition of those provisions of the Directive. Those general principles of Netherlands law do not constitute sufficiently clear transposition of the provisions of the Directive.

That state of affairs does not fulfil the requirements relating to transparency and legal certainty laid down by the Court of Justice for the transposition of a directive in the national legal order.

[1] OJ 2006 L 204, p. 23.

Request for a preliminary ruling from the Hof van beroep te Brussel (Belgium) lodged on 8 May 2013 — Orgacom BVBA v Vlaamse Landmaatschappij

(Case C-254/13)

(2013/C 207/41)

Language of the case: Dutch

Referring court

Hof van beroep te Brussel

Parties to the main proceedings

Appellant: Orgacom BVBA

Respondent: Vlaamse Landmaatschappij

Questions referred

1. Is the import levy described in Article 21(5) of the Decree [of the Flanders Region] of 23 January 1991 on protection of the environment against fertiliser pollution, which is imposed only on the importation from the other Member States of surpluses of manure derived both from livestock manure and from other manure, irrespective of whether these are further processed or marketed within the territory, and whereby the levy on those imported surpluses of manure is imposed on the importer, whereas in the case of surpluses of manure produced domestically the levy is imposed on the producer, to be regarded as a charge having equivalent effect to a customs duty on imports, within the terms of Article 30 TFEU, even though the Member State from which the surpluses of manure are exported itself provides for a reduction of the levy on the exportation of those surpluses of manure to other Member States?

2. In so far as the import levy described in Article 21(5) of the Decree [of the Flanders Region] of 23 January 1991 on protection of the environment against fertiliser pollution, which is imposed only on the importation from the other Member States into the Flanders Region of surpluses of manure derived both from livestock manure and from other manure, cannot be regarded as a charge having equivalent effect to a customs duty on imports, is that import levy to be regarded as constituting discriminatory taxation of the products of other Member States, within the terms of Article 110 TFEU, since livestock manure produced domestically is subject to a basic levy provided for by national legislation, the rate of which differs according to the production process, whereas in the case of imported surpluses of manure, irrespective of the production process (inter alia, the animal origin or the P_2O_5N content), an import levy is imposed at a uniform rate which is higher than the lowest rate of the basic levy for livestock manure produced in the Flanders Region (EUR 0.00), even though the Member State from which the surpluses of manure are exported itself provides for a reduction of the levy on the exportation of those surpluses of manure to other Member States?

Request for a preliminary ruling from the Hof van beroep te Antwerpen (Belgium) lodged on 10 May 2013 — Provincie Antwerpen v Belgacom NV van publiek recht

(Case C-256/13)

(2013/C 207/42)

Language of the case: Dutch

Referring court

Hof van beroep te Antwerpen

Parties to the main proceedings

Appellant: Provincie Antwerpen

Respondent: Belgacom NV van publiek recht

Question referred

Must Article 6 and/or Article 13 of Directive 2002/20/EC [1] of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) be interpreted as precluding a public authority of a Member State from being allowed to tax, for budgetary or other reasons, the economic activity of telecommunications operators which arises in the territory or a part thereof through the presence on public or private property of GSM masts, pylons or antennae which are used for that activity?

[1] OJ 2002 L 108, p. 21.

Request for a preliminary ruling from the Tribunal des affaires de sécurité sociale des Bouches-du-Rhône (France) lodged on 13 May 2013 — Anouthani Mlalali v CAF des Bouches-du-Rhône

(Case C-257/13)

(2013/C 207/43)

Language of the case: French

Referring court

Tribunal des affaires de sécurité sociale des Bouches-du-Rhône

Parties to the main proceedings

Applicant: Anouthani Mlalali

Defendant: CAF des Bouches-du-Rhône

Question referred

Must Article 11 of Directive 2003/109/EC [1] of 25 November 2003 be interpreted as precluding the requirements laid down by Articles L.512 and D.512-2 of the Code de la sécurité sociale français (French Social Security Code)?

[1] Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJ 2004 L 16, p. 44).

Appeal brought on 8 May 2013 by Peter Schönberger against the judgment of the General Court (Sixth Chamber) delivered on 7 March 2013 in Case T-186/11 Peter Schönberger v European Parliament

(Case C-261/13 P)

(2013/C 207/44)

Language of the case: German

Parties

Appellant: Peter Schönberger (represented by: O. Mader, Rechtsanwalt)

Other party to the proceedings: European Parliament

Form of order sought

— Set aside the judgment of the General Court of 7 March 2013 in Case T-186/11;

— Uphold the application made by the appellant at first instance. Annul the respondent's decision, communicated to the appellant by letter of 25 January 2011, by which the examination of his petition No 1188/2010 was terminated, without the Committee on Petitions examining the substance of the petition;

— Order the respondent to pay the costs.

Pleas in law and main arguments

In its presentation of the facts, the General Court suppressed the fact that the chairperson of the Committee on Petitions informed the appellant without giving further reasons that, although his petition was admissible, the Committee on Petitions could not examine its substance. Subsequently the General Court assumed — thereby distorting the facts — that the petition had been examined.

The General Court misrepresented the scope of protection of the fundamental right of petition by unlawfully presuming that it was limited to the examination of the admissibility of a petition. The scope of protection also however encompasses the right to a substantive examination of the petition and to a decision on the substance, if the petition is admissible (right to have case examined).

The General Court contradicted itself by holding that the Parliament's failure to examine an admissible petition, unlike the failure to examine an inadmissible petition, does not produce any legal effects.

The General Court ruled in a manner contrary to its own case-law in Case T-308/07 *Tegebauer*. [1] It held in that case that the effectiveness of the right of petition can be impaired where the substance of a petition has not been examined.