Request for a preliminary ruling from the Juzgado de lo Social 2 de Terrassa (Barcelona) lodged on 15 May 2013 — Emiliano Torralbo Marcos v Korota S.A. and Fondo de Garantía Salarial

(Case C-265/13)

(2013/C 207/47)

Language of the case: Spanish

Referring court

Juzgado de lo Social 2 de Terrassa

Parties to the main proceedings

Applicant: Emiliano Torralbo Marcos

Defendants: Korota S.A. and Fondo de Garantía Salarial

Questions referred

1. Are Articles 1, 2(f), 3(1), 4(2)(a), 4(3), 5(3), 6, 7 and 8(1) and 8(2) of Law No 10/2012 of 20 November 2012 regulating certain fees relating to the administration of justice and to the National Institute of Toxicology and Forensic Science (Ley 10/201, de 20 de noviembre 2012, por la que se regulan determinadas tasas en el ámbito de la Administración de Justicia y del Instituto Nacional de Toxicología y Ciencias Forenses) contrary to Article 47 of the Charter of Fundamental Rights of the European Union [1] in that they do not permit a national court to: (a) adjust judicial fees or to assess reasons of proportionality (relating to the basis for charging the fees on the part of the State or to their amount as constituting an obstacle to obtaining an effective remedy) for the purposes of exemption; (b) have regard to the principle of effectiveness in the application of provisions of Union law; or (c) assess the importance of the proceedings to the parties in the light of the circumstances, when payment of judicial fees is a prerequisite to obtaining leave to proceed with the appeal lodged?

2. Are Articles 1, 2(f), 3(1), 4(2)(a), 4(3), 5(3), 6, 7 and 8(1) and 8(2) of Law No 10/2012 of 20 November 2012 regulating certain fees relating to the administration of justice and to the National Institute of Toxicology and Forensic Science (Ley 10/2012, de 20 de noviembre, por la que se regulan determinadas tasas en el ámbito de la Administración de justicia y del Instituto Nacional de Toxicología y Ciencias Forenses) contrary to Article 47 of the Charter of Fundamental Rights of the European Union in that the latter applies to special procedures, as in the case of an employment court or tribunal, in which Union law is commonly applied as a fundamental aspect of balanced economic and social development in the Community?

3. In connection with the foregoing questions, is it open to a court such as the referring court to refrain from applying legislation such as the legislation at issue which does not permit a national court to: (a) adjust judicial fees or to assess reasons of proportionality (relating to the basis for charging the fees on the part of the State or to their amount as constituting an obstacle to obtaining an effective remedy) for the purposes of exemption; (b) have regard to the principle of effectiveness in the application of provisions of Union law; or (c) assess the importance of the proceedings to the parties in the light of the circumstances, when payment of judicial fees is a prerequisite to obtaining leave to proceed with the appeal lodged?

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[1] OJ 2000 C 364, p. 1.

Request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on 15 May 2013 — L. Kik, other party: Staatssecretaris van Financiën

(Case C-266/13)

(2013/C 207/48)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Appellant: L. Kik

Respondent: Staatssecretaris van Financiën

Questions referred

1. (a) Must the rules regarding the personal scope of application of Regulation (EEC) No 1408/71 [1] and the rules which determine the territorial scope of the designation rules in Title II of that regulation be interpreted as meaning that those designation rules apply in a case such as the present, which concerns (a) a worker residing in the Netherlands who (b) is a national of the Netherlands, (c) in any event, was previously compulsorily insured in the Netherlands, (d) is employed as a seafarer by an employer established in Switzerland, (e) carries out his work on board a pipelayer which flies the Panamanian flag, and (f) carries out those activities first outside the territory of the Union (approximately 3 weeks above the continental shelf of the United States and approximately 2 weeks in international waters) and then above the continental shelf of the Netherlands (periods of one month and approximately one week) and of the United Kingdom (a period of slightly more than one week), while (g) the income earned thereby is subject to income tax levied by the Netherlands?

   (b) If so, is Regulation (EEC) No 1408/71 then only applicable on the days when the person concerned works above the continental shelf of a Member State of the Union, or also during the preceding period in which he worked elsewhere outside the territory of the Union?

2. If Regulation (EEC) No 1408/71 applies to a worker as referred to in question 1(a), what legislation or sets of legislation does the Regulation then designate as applicable?

(1) Council Regulation 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 (OJ, English Special Edition 1971(II), p. 416).

Request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on 15 May 2013 — Nutricia NV; other party: Staatssecretaris van Financiën

(Case C-267/13)

(2013/C 207/49)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Appellant: Nutricia NV

Other party: Staatssecretaris van Financiën

Questions referred

1. Must the concept of 'medicament' within the meaning of heading 3004 of the Combined Nomenclature be interpreted as also including food preparations such as the products at issue, which are intended exclusively to be administered enterally (by means of a stomach tube) under medical supervision to persons who are undergoing medical treatment for a disease or ailment and who have the product administered to them as part of the control of that disease or ailment in order to control or prevent malnutrition?

2. Must the concept of 'beverages' within the meaning of heading 2202 of the Combined Nomenclature be interpreted as including liquid foodstuffs such as the products at issue, which are not intended to be drunk but to be administered enterally (by means of a stomach tube)?

Request for a preliminary ruling from the Tribunalul Sibiu (Romania) lodged on 16 May 2013 — Elena Petru v Casa Județeană de Asigurări de Sănătate Sibiu and Casa Națională de Asigurări de Sănătate

(Case C-268/13)

(2013/C 207/50)

Language of the case: Romanian

Referring court

Tribunalul Sibiu

Parties to the main proceedings

Applicant: Elena Petru

Defendants: Casa Județeană de Asigurări de Sănătate Sibiu, Casa Națională de Asigurări de Sănătate

Question referred

In the light of the second subparagraph of Article 22(2) of Regulation (EEC) No 1408/71, (1) is the requirement that the person concerned be unable to obtain treatment in the country of residence to be construed as categorical or as reasonable; that is to say, where, although the required surgery could, in technical terms, be carried out in good time in the country of residence — in that the necessary specialists are present there and have the same level of specialist skills as those abroad — does the lack of medicines and basic medical consumables mean that such a situation can, for the purposes of that provision, be equated with a situation in which the necessary medical treatment cannot be provided?

(1) Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community (OJ 1971 L 149, p. 2, English special edition: Series I Volume 1971(II) P. 416 — 463).

Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 17 May 2013 — Iraklis Haralambidis v Calogero Casilli

(Case C-270/13)

(2013/C 207/51)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Applicant: Iraklis Haralambidis

Defendant: Calogero Casilli

Questions referred

1. Given that the exclusion laid down in Article 45(4) TFEU does not appear to apply to the present case [which concerns the appointment of a national of another Member State of the European Union as President of a Port Authority, a legal entity which can be classed as a body governed by public law] in that it relates to. employment in the public service (which is not an issue. in the present case) and given also that the fiduciary role of President of a Port Authority may nevertheless be regarded as an 'employment activity' in the broad sense,. does the provision reserving that post exclusively to Italian nationals constitute discrimination on grounds of nationality prohibited by Article 45 TFEU?