

Defendant: Estate of Karsten Eigil Rasmussen

### Operative part of the judgment

1. The general principle prohibiting discrimination on grounds of age, as given concrete expression by 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, including in disputes between private persons, national legislation, such as that at issue in the proceedings before the referring court, which deprives an employee of entitlement to a severance allowance where the employee is entitled to claim an old-age pension from the employer under a pension scheme which the employee joined before reaching the age of 50, regardless of whether the employee chooses to remain on the employment market or take his retirement.
2. EU law is to be interpreted as meaning that a national court adjudicating in a dispute between private persons falling within the scope of Directive 2000/78 is required, when applying provisions of national law, to interpret those provisions in such a way that they may be applied in a manner that is consistent with the directive or, if such an interpretation is not possible, to disapply, where necessary, any provision of national law that is contrary to the general principle prohibiting discrimination on grounds of age. Neither the principles of legal certainty and the protection of legitimate expectations nor the fact that it is possible for the private person who considers that he has been wronged by the application of a provision of national law that is at odds with EU law to bring proceedings to establish the liability of the Member State concerned for breach of EU law can alter that obligation.

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(<sup>1</sup>) OJ C 421, 24.11.2014.

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**Judgment of the Court (Tenth Chamber) of 7 April 2016 (request for a preliminary ruling from the Hoge Raad der Nederlanden — Netherlands) — Johannes Evert Antonius Massar v DAS Nederlandse Rechtsbijstand Verzekeringsmaatschappij NV**

(Case C-460/14) (<sup>1</sup>)

**(Reference for a preliminary ruling — Legal expenses insurance — Directive 87/344/EEC — Article 4 (1) — Free choice of lawyer for an insured person — Inquiry or proceedings — Definition — Authorisation granted by a public body to an employer for the purpose of terminating an employment contract)**

(2016/C 211/14)

Language of the case: Dutch

### Referring court

Hoge Raad der Nederlanden

### Parties to the main proceedings

Applicant: Johannes Evert Antonius Massar

Defendant: DAS Nederlandse Rechtsbijstand Verzekeringsmaatschappij NV

### Operative part of the judgment

Article 4(1)(a) of Council Directive 87/344/EEC of 22 June 1987 on the coordination of laws, regulations and administrative provisions relating to legal expenses insurance must be interpreted as meaning that the term 'inquiry' referred to in that provision includes a procedure at the end of which a public body authorises an employer to dismiss an employee who is covered by legal expenses insurance.

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(<sup>1</sup>) OJ C 448, 15.12.2014.