

**Parties to the main proceedings**

*Applicant:* Honda Giken Kogyo Kabushiki Kaisha

*Defendant:* Maria Patmanidi AE

**Operative part of the order**

Articles 5 and 7 of the First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks, as amended by the Agreement on the European Economic Area of 2 May 1992, and Articles 9 and 13 of Regulation (EC) No 40/94 on the Community trade mark must be interpreted as meaning that the proprietor of a trade mark may oppose the initial placing on the market within the European Economic Area or the European Union of goods bearing that mark without his consent.

<sup>(1)</sup> OJ C 377, 21.12.2013.

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**Order of the Court (Eighth Chamber) of 4 September 2014 (request for a preliminary ruling from the Consiglio di Stato — Italy) — *Autorità per l'energia elettrica e il gas v Antonella Bertazzi and Others***

(Case C-152/14) <sup>(1)</sup>

*(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court — Social policy — Directive 1999/70/EC — Framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP — Clause 4 — Fixed-term employment contracts in the public sector — Stabilisation procedure — Recruitment of workers employed for a fixed term as career civil servants without a public competition — Determination of length of service — Complete disregard of periods of service completed under fixed-term employment contracts — Principle of non-discrimination)*

(2014/C 409/38)

Language of the case: Italian

**Referring court**

Consiglio di Stato

**Parties to the main proceedings**

*Applicant:* Autorità per l'energia elettrica e il gas

*Defendant:* Antonella Bertazzi, Annalise Colombo, Maria Valeria Contin, Angela Filippina Marasco, Guido Guissani, Lucia Lizzi and Fortuna Peranio

**Operative part of the order**

1. Clause 4 of the Framework Agreement on Fixed-Term Work, concluded on 18 March 1999 and annexed to Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP, must be interpreted as precluding a provision of national law, such as that at issue in the main proceedings, which completely excludes periods of service completed by a fixed-term worker for a public authority from being taken into account in order to determine the length of service of that worker upon his recruitment on a permanent basis by that same authority as a career civil servant under a stabilisation procedure specific to his employment relationship, where the duties performed under fixed-term contracts are the same as those performed by a career civil servant in the same category for that authority, unless that exclusion is justified on 'objective grounds' for the purposes of clause 4(1) and/or (4), this being a matter for the referring court to determine. The mere fact that the fixed-term worker completed those periods of service on the basis of an employment relationship or contract for a fixed term does not constitute such an objective ground.

2. The objective of preventing reverse discrimination against career civil servants recruited after passing a general competition cannot constitute an 'objective ground' for the purposes of clause 4(1) and/or (4) of the framework agreement where, as in the case in the main proceedings, the provision of national law at issue completely and in all circumstances excludes all periods of service completed by workers under fixed-term employment contracts from being taken into account in order to determine the length of service of those workers upon their recruitment on a permanent basis and, thus, their level of remuneration.

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(<sup>1</sup>) OJ C 194, 24.6.2014.

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**Action brought on 24 June 2014 — European Commission v Republic of Poland**

**(Case C-303/14)**

(2014/C 409/39)

*Language of the case: Polish*

**Parties**

*Applicant:* European Commission (represented by: K. Mifsud-Bonnici and K. Herrmann, Agents)

*Defendant:* Republic of Poland

**Form of order sought**

The applicant claims that the Court should:

- Declare that, by not notifying the Commission of the certification bodies for personnel and companies and the titles of certificates for personnel and companies designed to record activities in relation to specific fluorinated greenhouse gases which are the subject-matter of the Commission's implementing regulations, and by failing to adopt the provisions on penalties for breaches of the provisions of Regulation (EC) No 842/2006 of the European Parliament and of the Council of 17 May 2006 on certain fluorinated greenhouse gases (<sup>1</sup>) and to notify those provisions to the Commission, the Republic of Poland has failed to fulfil its obligations under Article 5(2) of that regulation, in conjunction with Article 12(3) of Commission Regulation (EC) No 303/2008, (<sup>2</sup>) Article 12(3) of Commission Regulation (EC) No 304/2008, (<sup>3</sup>) Article 7(1) of Commission Regulation (EC) No 305/2008, (<sup>4</sup>) Article 6(1) of Commission Regulation (EC) No 306/2008, (<sup>5</sup>) Article 4(2) of Commission Regulation (EC) No 307/2008, (<sup>6</sup>) Article 1 of Commission Regulation (EC) No 308/2008, (<sup>7</sup>) and Article 13(2) of Regulation (EC) No 842/2006 of the European Parliament and of the Council;
- Order the Republic of Poland to pay the costs.

**Pleas in law and main arguments**

Article 5(2) of Regulation No 842/2006 requires Member States to notify the Commission of their training and certification programmes for companies and personnel involved in the installation, maintenance or servicing of equipment and systems covered by Article 3(1) of that regulation and in the recovery of fluorinated greenhouse gases. This obligation is set out in greater detail by the Commission's implementing regulations adopted on the basis of Article 5(1) of Regulation No 842/2006.

The first plea is therefore based on the fact that the Republic of Poland has not to date forwarded to the Commission the names of the certification bodies for personnel and companies which carry out checks for leakage, installation, servicing or maintenance of stationary refrigeration equipment, air-conditioning equipment, heat-pump equipment, fire-protection systems and fire extinguishers, and which perform activities in connection with the recovery of those fluorinated greenhouse gases; nor has it forwarded to the Commission the titles of the certificates for personnel and companies which satisfy the requirements for certification set out in the Commission's implementing regulations. In addition, no names have been forwarded of the certification bodies for personnel carrying out activities in connection with the recovery of fluorinated greenhouse gases from high-voltage switchgear and recovering solvents containing fluorinated greenhouse gases from equipment; nor have the titles been provided of certificates for personnel satisfying the requirements for certification set out in the Commission's implementing regulations. Moreover, the Polish authorities have failed to forward to the Commission, in the form prescribed by Commission Regulation No 308/2008, the names of the attestation bodies for personnel and the titles of the attestation certificates for personnel meeting the requirements of Article 3(2) and of the annex to Regulation No 307/2008.