

4. If question 2 is answered in the affirmative and question 3 is answered in the negative, which of the parties — the applicant worker or the defendant employer — has, in accordance with Article 19 of Directive 2006/54/EC, the burden of proving, once it has been established that performance of the job creates risks to the mother or the breast-fed child, (1) that the adjustment of working conditions or working hours is not feasible or that, despite such adjustment, the working conditions are liable to have an adverse effect on the health of the pregnant worker or breast-fed child (Article 26(2), in conjunction with Article 26(4), of the Law on the Prevention of Occupational Risks, which transposes Article 5(2) of Directive 92/85/EEC), and (2) that it is not technically or objectively feasible to move the worker to another job or that such a move cannot reasonably be required on substantiated grounds (Article 26(3), in conjunction with Article 26(4), of the Law on the Prevention of Occupational Risks, which transposes Article 5(3) of Directive 92/85/EEC)?

⁽¹⁾ OJ 2006 L 204, p. 23.

⁽²⁾ OJ 1992 L 348, p. 1.

Request for a preliminary ruling from the Audiencia Provincial de Zaragoza (Spain) lodged on 9 October 2015 — Euroseamamientos, S.L. and Others v ArcelorMittal Zaragoza, S.A.

(Case C-532/15)

(2015/C 429/15)

Language of the case: Spanish

Referring court

Audiencia Provincial de Zaragoza

Parties to the main proceedings

Applicants: Euroseamamientos, S.L., Entidad Urbanística Conservación Parque Tecnológico de reciclado López Soriano, UTE PTR Acciona Infraestructuras, S.A.

Defendant: ArcelorMittal Zaragoza, S.A.

Questions referred

1. Is the fact that there is a legal provision laid down by the State that requires State control in the fixing of the fees of *procuradores*, by means of rules setting the exact and mandatory amount of those fees, and conferring authority on the courts, in particular in the event of an order for costs, in each particular case to fix those costs subsequently, although that authority is limited to ensuring the strict application of the tariff without the possibility of departing, in exceptional cases and by way of a reasoned decision, from the limits set in the legal provision on tariffs consistent with Articles 4(3) [TEU] and 101 TFEU?
2. Does the definition of the concepts ‘overriding reasons relating to the public interest’, ‘proportionality’ and ‘necessity’ in Articles [4] and [15] of the Directive on services in the internal market ⁽¹⁾ as applied by the EU courts, allow the courts of the Member States, in circumstances where there is State regulation in relation to the fixing of fees and there is an implied declaration, in the absence of any rules in the implementing legislation, that there is an overriding reason relating to the public interest, although its inconsistency with EU case-law does not allow it to be upheld, to hold in a particular case that there is a limitation which is not in the public interest and, therefore, to disregard or to amend the legal provision imposing rules on the remuneration of *procuradores*?

3. Is the application of a legal provision of that nature contrary to the right to a fair trial as defined by the EU courts?

⁽¹⁾ Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ 2006 L 376, p. 36).

Request for a preliminary ruling from the Juzgado de Primera Instancia de Olot (Spain) lodged on 15 October 2015 — Francesc de Bolós Pi v Urbaser, S.A.

(Case C-538/15)

(2015/C 429/16)

Language of the case: Spanish

Referring court

Juzgado de Primera Instancia de Olot

Parties to the main proceedings

Applicant: Francesc de Bolós Pi

Defendant: Urbaser, S.A.

Questions referred

- 1) Is Article 101 TFEU, read in conjunction with Article 10 and Article 4(3) TEU, compatible with rules laid down in the regulation on the tariff applying to *procuradores*, namely Royal Decree 1373/2003 of 7 November 2003, which provides that their remuneration is subject to a minimum tariff or scale, which can be varied, upwards or downwards, only by 12 % and when it is impossible for the authorities of the Member State, including the courts, to depart from those minima even in exceptional circumstances?
- 2) For the purpose of applying the abovementioned statutory scale without applying the minimum levels laid down therein: may the fact that the amount of fees payable under the scale is disproportionate to the work actually done be regarded as exceptional circumstances?
- 3) Is Article 56 TFEU compatible with Royal Decree 1373/2006?
- 4) Does Royal Decree 1373/2006 meet the requirements of necessity and proportionality referred to in Article 15(3) of Directive 2006/123/EC? ⁽¹⁾
- 5) Does Article 6 of the European Convention on Human Rights include the right to defend oneself properly in a situation in which the figure at which the fees of a *procurador* are set is disproportionately high and does not correspond to the work actually carried out?

⁽¹⁾ Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ 2006 L 376, p. 36).