

**Judgment of the Court (Third Chamber) of 13 July 2017 (request for a preliminary ruling from the Tribunal Superior de Justicia del País Vasco — Spain) — E v Subdelegación del Gobierno en Álava**

(Case C-193/16) <sup>(1)</sup>

*(Reference for a preliminary ruling — Citizenship of the Union — Right to move and reside freely in the territory of the Member States — Directive 2004/38/EC — The second subparagraph of Article 27(2) — Restrictions on the right of entry and the right of residence on grounds of public policy, public security or public health — Expulsion from the territory for reasons of public policy or public security — Conduct representing a sufficiently serious present and genuine threat for a fundamental interest of society — Present and genuine threat — Concept — Union citizen residing in the host Member State where he is serving a prison sentence for repeated child sexual abuse offences)*

(2017/C 293/11)

Language of the case: Spanish

**Referring court**

Tribunal Superior de Justicia del País Vasco

**Parties to the main proceedings**

Applicant: E

Defendant: Subdelegación del Gobierno en Álava

**Operative part of the judgment**

The second subparagraph of Article 27(2) of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC, must be interpreted as meaning that the fact that a person is imprisoned at the time the expulsion decision was adopted, without the prospect of being released in the near future, does not exclude that his conduct represents, as the case may be, a present and genuine threat for a fundamental interest of the society of the host Member State.

<sup>(1)</sup> OJ C 251, 11.7.2016.

**Judgment of the Court (First Chamber) of 13 July 2017 (request for a preliminary ruling from the Arbeitsgericht Verden — Germany) — Ute Kleinsteuber v Mars GmbH**

(Case C-354/16) <sup>(1)</sup>

*(Reference for a preliminary ruling — Social policy — Directive 2000/78/EC — Articles 1, 2 and 6 — Equal treatment — Prohibition of any discrimination on grounds of sex — Occupational pension — Directive 97/81/EC — Framework Agreement on part-time work — Clause 4.1 and 4.2 — Method for calculating acquired pension rights — Legislation of a Member State — Different treatment of part-time workers)*

(2017/C 293/12)

Language of the case: German

**Referring court**

Arbeitsgericht Verden

**Parties to the main proceedings**

Applicant: Ute Kleinstüber

Defendant: Mars GmbH

**Operative part of the judgment**

- 1) Clause 4.1 and 4.2 of the Framework Agreement on part-time work concluded on 6 June 1997, annexed to Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC, as amended, and Article 4 of Directive 2006/54/EC 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, must be interpreted as not precluding national legislation which, in calculating the amount of an occupational pension, distinguishes between employment income falling below the ceiling for the calculation of contributions to the statutory pension scheme and employment income above that ceiling, and which does not treat income from part-time employment by calculating first the income payable in respect of corresponding full-time employment, then determining the proportion above and below the contribution assessment ceiling and finally applying that proportion to the reduced income from part-time employment.
- 2) Clause 4.1 and 4.2 of the Framework Agreement and Article 4 of Directive 2006/54 must be interpreted as not precluding national legislation which, in calculating the amount of the occupational pension of an employee who has accumulated full-time and part-time employment periods, determines a uniform rate of activity for the total duration of the employment relationship, in so far as that calculation method of the pension does not violate the pro rata temporis rule. It is for the national court to satisfy itself that this is the case.
- 3) Articles 1 and 2 and Article 6(1) of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation must be interpreted as not precluding national legislation which provides for an occupational pension in the amount corresponding to the ratio between (i) the employee's length of service and (ii) the length of the period between taking up employment in the undertaking and the normal retirement age under the statutory pension scheme, and in so doing applies a maximum limit of reckonable years of service.

---

<sup>(1)</sup> OJ C 350, 26.9.2016.

---

**Judgment of the Court (Eighth Chamber) of 13 July 2017 (request for a preliminary ruling from the Højesteret — Denmark) — Assens Havn v Navigators Management (UK) Limited**

(Case C-368/16) <sup>(1)</sup>

*(Reference for a preliminary ruling — Judicial cooperation in civil matters — Regulation (EC) No 44/2001 — Jurisdiction in insurance matters — National legislation providing, on certain conditions, for an injured person's right to bring legal proceedings directly against the insurer of the person responsible for an accident — Agreement on jurisdiction concluded between the insurer and the party which caused the damage)*

(2017/C 293/13)

Language of the case: Danish

**Referring court**

Højesteret

**Parties to the main proceedings**

Applicant: Assens Havn

Defendant: Navigators Management (UK) Limited