

**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

**Operative part of the judgment**

Point 5 of Article 13 of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, considered in conjunction with Article 14, point 2(a), thereof, must be interpreted as meaning that a victim entitled to bring a direct action against the insurer of the party which caused the harm which he has suffered is not bound by an agreement on jurisdiction concluded between the insurer and that party.

<sup>(1)</sup> OJ C 314, 29.8.2016.

---

**Judgment of the Court (Tenth Chamber) of 13 July 2017 — European Commission v Kingdom of Spain**

(Case C-388/16) <sup>(1)</sup>

*(Failure of a Member State to fulfil obligations — Judgment of the Court establishing a failure to fulfil obligations — Non-execution — Article 260(2) TFEU — Pecuniary penalties — Lump sum)*

(2017/C 293/14)

Language of the case: Spanish

**Parties**

*Applicant:* European Commission (represented by: L. Nicolae and S. Pardo Quintillán, acting as Agents)

*Defendant:* Kingdom of Spain (represented by: A. Sampol Pucurull and A. Rubio González, acting as Agents)

**Operative part of the judgment**

*The Court:*

- 1) Declares that, by failing to adopt the measures necessary to comply with the judgment of 11 December 2014 in *Commission v Spain* (C-576/13, not published, EU:C:2014:2430) by the expiry of the period prescribed in the letter of formal notice sent by the European Commission, namely 20 September 2015, the Kingdom of Spain has failed to fulfil its obligations under Article 260(1) TFEU.
- 2) Orders the Kingdom of Spain to pay the European Commission a lump sum of EUR 3 million.
- 3) Orders the Kingdom of Spain to pay the costs.

<sup>(1)</sup> OJ C 314, 29.8.2016.

---

**Judgment of the Court (Second Chamber) of 13 July 2017 (request for a preliminary ruling from the Corte suprema di cassazione — Italy) — Bayerische Motoren Werke AG v Acacia Srl**

(Case C-433/16) <sup>(1)</sup>

*(Reference for a preliminary ruling — Jurisdiction in civil and commercial matters — Regulation (EC) No 44/2001 — Intellectual property — Community designs — Regulation (EC) No 6/2002 — Articles 81 and 82 — Action for a declaration of non-infringement — Jurisdiction of Community design courts of the Member State where the defendant is domiciled)*

(2017/C 293/15)

Language of the case: Italian

**Referring court**

Corte suprema di cassazione