

**Parties to the main proceedings**

*Applicant:* EV

*Defendant:* Finanzamt Lippstadt

**Operative part of the judgment**

Articles 63 to 65 TFEU must be interpreted as precluding national legislation, such as that at issue in the main proceedings, which subjects a deduction of profits from shareholdings in a capital company with its management and head office in a non-member State to stricter conditions than a deduction of profits from shareholdings in a non-exempt capital company governed by national law.

<sup>(1)</sup> OJ C 144, 8.5.2017.

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**Judgment of the Court (Tenth Chamber) of 13 September 2018 — Birkenstock Sales GmbH v European Union Intellectual Property Office (EUIPO)**

(Case C-26/17 P) <sup>(1)</sup>

*(Appeal — EU trade mark — International registration designating the European Union — Figurative mark representing a pattern of wavy, crisscrossing lines — Regulation (EC) No 207/2009 — Article 7(1) (b) — Absolute ground for refusal — Distinctive character — Surface pattern)*

(2018/C 408/10)

Language of the case: German

**Parties**

*Appellant:* Birkenstock Sales GmbH (represented by: C. Menebröcker and V. Töbelmann, Rechtsanwälte)

*Other party to the proceedings:* European Union Intellectual Property Office (EUIPO) (represented by: D. Walicka, acting as Agent)

**Operative part of the judgment**

*The Court:*

1. Dismisses the appeal;
2. Orders Birkenstock Sales GmbH to pay the costs.

<sup>(1)</sup> OJ C 151, 15.5.2017.

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**Judgment of the Court (Fifth Chamber) of 19 September 2018 (request for a preliminary ruling from the Tribunal Superior de Justicia de Galicia — Spain) — Isabel González Castro v Mutua Umivale, Prosegur España SL, Instituto Nacional de la Seguridad Social (INSS)**

(Case C-41/17) <sup>(1)</sup>

*(Reference for a preliminary ruling — Directive 92/85/EEC — Articles 4, 5 and 7 — Protection of the safety and health of workers — Worker who is breastfeeding — Night work — Shift work performed in part at night — Risk assessment of her work — Prevention measures — Challenge by the worker concerned — Directive 2006/54/EC — Article 19 — Equal treatment — Discrimination on grounds of sex — Burden of proof)*

(2018/C 408/11)

Language of the case: Spanish

**Referring court**

Tribunal Superior de Justicia de Galicia

**Parties to the main proceedings**

*Applicant:* Isabel González Castro

*Defendants:* Mutua Umivale, Prosegur España SL, Instituto Nacional de la Seguridad Social (INSS)

**Operative part of the judgment**

1. Article 7 of Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding must be interpreted as applying to a situation, such as that at issue in the main proceedings, where the worker concerned does shift work during which only part of her duties are performed at night.
2. Article 19(1) 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 (recast) must be interpreted as applying to a situation, such as that at issue in the main proceeding, in which a worker, who has been refused a medical certificate indicating the existence of a risk to breastfeeding posed by her work and, consequently, an allowance in respect of risk during breastfeeding, challenges, before a court or other competent authority of the Member State concerned, the risk assessment of her work, provided that that worker adduces factual evidence to suggest that that evaluation did not include a specific assessment taking into account her individual situation and thus permitting the presumption that there is direct discrimination on the grounds of sex, within the meaning of Directive 2006/54, which it is for the referring court to ascertain. It is then for the respondent to prove that that risk assessment did actually include such a specific assessment and that, accordingly, the principle of non-discrimination was not infringed.

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<sup>(1)</sup> OJ C 121, 18.4.2017.

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**Judgment of the Court (Second Chamber) of 20 September 2018 (request for a preliminary ruling from the Fővárosi Ítéltábla — Hungary) — OTP Bank Nyrt., OTP Faktoring Követeléskezelő Zrt v Teréz Ilyés, Emil Kiss**

(Case C-51/17) <sup>(1)</sup>

*(Reference for a preliminary ruling — Consumer protection — Unfair terms — Directive 93/13/EEC — Scope — Article 1(2) — Mandatory statutory or regulatory provisions — Article 3(1) — Concept of ‘contractual term which has not been individually negotiated’ — Term incorporated in the contract after its conclusion following the intervention of the national legislature — Article 4(2) — Plain and intelligible drafting of a term — Article 6(1) — Examination by the national court of its own motion as to whether a term is unfair — Loan contract denominated in a foreign currency concluded between a seller or supplier and a consumer)*

(2018/C 408/12)

Language of the case: Hungarian

**Referring court**

Fővárosi Ítéltábla

**Parties to the main proceedings**

*Applicants:* OTP Bank Nyrt., OTP Faktoring Követeléskezelő Zrt

*Defendants:* Teréz Ilyés, Emil Kiss