Request for a preliminary ruling from the Finanzgericht Münster (Germany) lodged on 27 December 2016 — EV v Finanzamt Lippstadt

(Case C-685/16)

(2017/C 144/23)

Language of the case: German

Referring court

Finanzgericht Münster

Parties to the main proceedings

Applicant: EV

Defendant: Finanzamt Lippstadt

Question referred

Are the provisions regarding the free movement of capital and payment transactions in Article 63 et seq. of the Treaty on the Functioning of the European Union to be interpreted as precluding Paragraph 9 No 7 of the Gewerbesteuergesetz 2002, as amended by the 2008 Jahressteuergesetz (annual tax act) of 20 December 2007 (BGBl. I 2007, 3150) in so far as those provisions cause the trade tax deduction of the profit and add-backs by the amount of the profits from shares in a capital company whose management and registered office are located outside the Federal Republic of Germany to be tied to stricter requirements than for the deduction of the profit and the add-backs by the amount of the profits from shares in a non-tax-exempt domestic capital company or by that part of the trade earnings of a domestic undertaking allocated to a permanent establishment not located in Germany?

Request for a preliminary ruling from the Verwaltungsgerichtshof (Austria) lodged on 16 January 2017 — Danieli & C. Officine Meccaniche SpA and Others v Arbeitsmarktservice Leoben

(Case C-18/17)

(2017/C 144/24)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Applicants: Danieli & C. Officine Meccaniche SpA, Dragan Panic, Ivan Arnautov, Jakov Mandic, Miroslav Brnjac, Nikolai Dorassevitch, Alen Mihovic

Defendant: Arbeitsmarktservice Leoben

Questions referred

1. Are Articles 56 and 57 TFEU, Directive 96/71/EC ([1]) of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services, Paragraph 2 and Paragraph 12 of Chapter 2, Free movement of persons, of Annex V to the Act concerning the conditions of accession of the Republic of Croatia and the adjustments to the Treaty on European Union, the Treaty on the Functioning of the European Union, and to the Treaty establishing the European Atomic Energy Community, to be interpreted as meaning that Austria is entitled to restrict the posting of workers employed in an undertaking established in Croatia by requiring a work permit, where this posting takes place by means of transfer to a company established in Italy **[Or. 2]** so that the Italian company can provide a service in Austria, and the work carried out by the Croatian workers for the Italian company on the construction of a wire rod mill in Austria is restricted to providing this service in Austria and there is no employment relationship between them and the Italian company?

2. Are Articles 56 and 57 TFEU and Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services to be interpreted as meaning that Austria is entitled to restrict the posting of Russian and Belarusian workers employed in a company established in Italy by requiring a work permit, if this posting takes place by means of transfer to a second company established in Italy for the purpose of the provision by the second company of a service in Austria, and the work of the Russian and/or Belarusian workers for the second company is restricted to providing its service in Austria and there is no employment relationship between them and the second company?

(1) OJ L 18, 21.1.1997, p. 1.

Request for a preliminary ruling from the Landesarbeitsgericht Bremen (Germany) lodged on 30 January 2017 — Hubertus John v Freie Hansestadt Bremen

(Case C-46/17)

(2017/C 144/25)

Language of the case: German

Referring court

Landesarbeitsgericht Bremen

Parties to the main proceedings

Applicant: Hubertus John

Defendant: Freie Hansestadt Bremen

Questions referred

1. Is clause 5, point 1, of the Framework Agreement on fixed-term work concluded on 18 March 1999, which is attached as an Annex to Council Directive 1999/70/EC (1) of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP, to be interpreted as meaning that it precludes national legislation allowing the parties to an employment contract, without additional requirements, to agree during the employment relationship indefinitely to postpone the agreed termination of the relationship upon the worker reaching the normal retirement age, including on more than one occasion if necessary, simply because the worker has a right to a retirement pension upon reaching the normal retirement age?

2. If the Court answers the Question 1 in the affirmative:

   Does the incompatibility of the national legislation referred to Question 1 with clause 5, point 1, of the Framework Agreement also apply when the termination is postponed for the first time?

3. Are Articles 1, 2(1) and 6(1) of Council Directive 2000/78/EC (2) of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (Directive 2000/78/EC) and/or the general principles of Community law to be interpreted as meaning that they preclude national legislation allowing the parties to an employment contract, without additional requirements, to agree during the employment relationship indefinitely to postpone the agreed termination of the relationship upon the worker reaching the normal retirement age, including on more than one occasion if necessary, simply because the worker has a right to a retirement pension upon reaching the normal retirement age?

(1) OJ 1999 L 175, p. 43.
(2) OJ 2000 L 303, p. 16.