

3. Must Article 2(2), (3) and (4) and Article 5 of Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, <sup>(1)</sup> vocational training and promotion, and working conditions be interpreted as precluding a measure like that at issue in the main proceedings which absolutely and unconditionally excludes fathers in receipt of a pension, who are able to prove that they have assumed the task of bringing up their children, from entitlement to the credit it establishes for the purposes of calculating retirement, survivor's and permanent incapacity pensions?
4. Is the exclusion of the applicant from entitlement to the credit derived from the Spanish 'maternity supplement' contrary to the requirement of non-discrimination laid down in Article 21(1) of the Charter of Fundamental Rights of the European Union (2000/C 364/01)?

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<sup>(1)</sup> OJ 1979 L 6, P. 24.

<sup>(2)</sup> OJ 1976 L 39, p. 40.

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**Request for a preliminary ruling from the Tribunal Superior de Justicia de Castilla-La Mancha (Spain) lodged on 28 December 2018 — Subdelegación del Gobierno en Ciudad Real v RH**

(Case C-836/18)

(2019/C 139/24)

*Language of the case: Spanish*

**Referring court**

Tribunal Superior de Justicia de Castilla-La Mancha

**Parties to the main proceedings**

*Applicant:* Subdelegación del Gobierno en Ciudad Real

*Defendant:* RH

**Questions referred**

1. Is the requirement that a Spanish citizen who has not exercised his right of free movement must satisfy the conditions laid down in Article 7(1) of Royal Decree 240/2007, as a necessary condition for the grant of a right of residence to his third-country spouse under Article 7(2) of that Royal Decree, liable, in the event that those conditions are not satisfied, to constitute an infringement of Article 20 TFEU if, as a result of the refusal to grant that right, the Spanish citizen is compelled to leave the territory of the European Union as a whole?

All of the above presupposes the requirement laid down in Article 68 of the Spanish Civil Code (Código Civil) for spouses to live together.

2. In any event, notwithstanding the foregoing, does the practice of the Spanish State of automatically applying the rule laid down in Article 7 of Royal Decree 240/2007, and refusing to grant a residence permit to a family member of an EU citizen where that EU citizen has never exercised freedom of movement, solely and exclusively on the ground that the EU citizen does not satisfy the conditions laid down in that provision, without having examined specifically and individually whether there exists a relationship of dependency between that EU citizen and the third-country national of such a nature that, for any reason and in the light of the circumstances, it would mean that were the third-country national refused a right of residence, the EU citizen could not be separated from the family member on which he is dependent and would have to leave the territory of the European Union, infringe Article 20 TFEU in the terms set out above?

All of this is in the light of the case-law of the Court of Justice of the European Union, including, inter alia, the judgment of 8 May 2018, C-82/16, *K.A. and Others v Belgische Staat*.<sup>(1)</sup>

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<sup>(1)</sup> Judgment of 8 May 2018, *K.A. and Others (Family reunification in Belgium)* (C-82/16, EU:C:2018:308).

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**Request for a preliminary ruling from the Gerechtshof Arnhem-Leeuwarden (Netherlands) lodged on 15 January 2019 — Criminal proceedings against XN**

(Case C-21/19)

(2019/C 139/25)

*Language of the case: Dutch*

**Referring court**

Gerechtshof Arnhem-Leeuwarden, sitting in Arnhem

**Party to the main proceedings**

XN

**Questions referred**

1. Is a substance which is not a by-product within the meaning of the Waste Framework Directive<sup>(1)</sup> by definition also not an animal by-product within the meaning of the Animal By-Products Regulation 2009, such that that substance is not excluded from the operation EWSR<sup>(2)</sup> pursuant to Article 1(3) EWSR? Or can it not be ruled out that a substance falls within the definition of animal by-products within the meaning of the Animal By-Products Regulation 2009 if that substance does not meet the requirements of Article 5(1) of the Waste Framework Directive, such that that substance does not necessarily fall under the EWSR?
2. How should a shipment covered by the approval requirements of Regulation (EC) No 1774/2002<sup>(3)</sup> (now Regulation (EC) No 1069/2009<sup>(4)</sup>) be understood within the meaning of Article 1(3) EWSR: does it refer to the transport (between one country and another country) of animal by-products, irrespective of the category to which that material belongs? Or does it refer to the transport of material referred to in Article 48 of the Animal By-Products Regulation 2009 (formerly Article 8 of Regulation 1774/2002), which is limited to animal by-products or derived products within the meaning of that provision, thus Category 1 material and Category 2 material, and certain products derived therefrom, including processed animal proteins derived from Category 3 material?