

Questions referred

1. Are Article 1, Article 2(2)(b) and Article 3 of Directive 2000/78/EC ⁽¹⁾ and Clause 4 of the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP, implemented by Council Directive 1999/70/EC of 28 June 1999, ⁽²⁾ to be interpreted as meaning that a measure, such as that at issue in the main proceedings, is discriminatory, within the meaning of those provisions, where it enables an employer to decide that individuals who have reached the age of 65 may continue to perform their duties as *tenured members of staff* and *retain the rights which they enjoyed prior to retirement* only if they have *doctoral supervisor* status, thereby placing at a disadvantage other individuals in a similar situation who may do the same only if there are vacant posts and they meet certain requirements relating to professional performance, and to require individuals who do not have doctoral supervisor status to perform similar academic duties under successive fixed-term employment contracts under which they receive remuneration on an *'hourly basis'* at a level below that paid to tenured members of a university's staff?
2. Can the precedence in the application of EU law (the principle of the primacy of EU law) be interpreted as permitting a national court to disapply a final ruling of another national court in which it has been held that, in the factual situation described, Directive 2000/78/EC has been complied with and there has been no discrimination?

⁽¹⁾ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ 2000 L 303, p. 16).

⁽²⁾ Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP (OJ 1999 L 175, p. 43).

**Request for a preliminary ruling from the Hof van beroep te Brussel (Belgium) lodged on 30 August 2019 —
Facebook Ireland Limited, Facebook Inc., Facebook Belgium BVBA v Gegevensbeschermingsautoriteit**

(Case C-645/19)

(2019/C 406/17)

Language of the case: Dutch

Referring court

Hof van beroep te Brussel

Parties to the main proceedings

Applicants: Facebook Ireland Limited, Facebook Inc., Facebook Belgium BVBA

Defendant: Gegevensbeschermingsautoriteit

Questions referred

1. Should Articles [55(1)], 56 to 58 and 60 to 66 of Regulation (EU) 2016/679 ⁽¹⁾ of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC, read in conjunction with Articles 7, 8 and 47 of the Charter of Fundamental Rights of the European Union, be interpreted as meaning that a supervisory authority which, pursuant to national law adopted in implementation of Article [58(5)] of that regulation, has the power to commence legal proceedings before a court in its Member State against infringements of that regulation cannot exercise that power in connection with cross-border processing if it is not the lead supervisory authority for that cross-border processing?
2. Does it make a difference if the controller of that cross-border processing does not have its main establishment in that Member State but does have another establishment there?

3. Does it make a difference whether the national supervisory authority commences the legal proceedings against the controller's main establishment or against the establishment in its own Member State?
4. Does it make a difference if the national supervisory authority had already commenced the legal proceedings before the date on which the regulation entered into force (25 May 2018)?
5. If the first question is answered in the affirmative, does Article [58(5)] of the GDPR have direct effect, such that a national supervisory authority can rely on the aforementioned article to commence or continue legal proceedings against private parties even if Article [58(5)] of the GDPR has not been specifically transposed into the legislation of the Member States, notwithstanding the requirement to do so?
6. If the previous questions are answered in the affirmative, could the outcome of such proceedings prevent the lead supervisory authority from reaching a conclusion to the contrary, in the event that the lead supervisory authority investigates the same or similar cross-border processing activities in accordance with the mechanism laid down in Articles 56 and 60 of the GDPR?

(¹) OJ 2016, L 119, p. 1.

**Request for a preliminary ruling from the Landesgericht Korneuburg (Austria) lodged on 3 September 2019 —
FP Passenger Service v Austrian Airlines AG**

(Case C-654/19)

(2019/C 406/18)

Language of the case: German

Referring court

Landesgericht Korneuburg

Parties to the main proceedings

Applicant: FP Passenger Service

Defendant: Austrian Airlines AG

Question referred

Are Articles 5, 6 and 7 of Regulation (EC) No 261/2004 (¹) of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91, to be interpreted as meaning that, when calculating a delay — having regard to the decision of the Court of Justice in Case C-452/13, according to which account is to be taken of the time of the door opening — it is necessary to establish the difference between the actual time of the door opening and the scheduled time of arrival, or the difference between the actual time of the door opening and the time at which it is expected that the door would be opened if the time of arrival was as scheduled?

(¹) OJ 2004 L 46, p. 1.