

Questions referred

1. Does the sixth indent of Article 3(1)(a) of Council Regulation (EC) No 2201/2003 ⁽¹⁾ of 27 November 2003 infringe the prohibition of discrimination in Article 18 TFEU on the ground that it provides, as a precondition to the jurisdiction of the courts of the State of residence, depending on the nationality of the applicant, for a shorter period of residence than the fifth indent of Article 3(1)(a) of Council Regulation (EC) No 2201/2003 of 27 November 2003?
2. If the answer to Question 1 is in the affirmative:

Does that infringement of the prohibition of discrimination mean that, based on the fundamental rule laid down in the fifth indent of Article 3(1)(a) of Council Regulation (EC) No 2201/2003 of 27 November 2003, a period of residence of 12 months is required for all applicants, irrespective of their nationality, in order to rely upon the jurisdiction of the courts in the place of residence or is it to be assumed that a period of 6 months' residence is the precondition for all applicants?

⁽¹⁾ Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 (OJ 2003 L 338, p. 1).

**Request for a preliminary ruling from the Conseil d'État (France) lodged on 19 October 2020 —
Association France Nature Environnement v Premier ministre and Ministre de la Transition
écologique et solidaire**

(Case C-525/20)

(2021/C 35/37)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: Association France Nature Environnement

Defendants: Premier ministre, Ministre de la Transition écologique et solidaire

Questions referred

1. Should Article 4 of Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy ⁽¹⁾ be interpreted as permitting Member States, when authorising a programme or project, not to take into account their temporary, short-term impacts on surface water status which are without lasting consequences?
2. If so, what conditions should those programmes and projects meet for the purposes of Article 4 of that directive and in particular paragraphs 6 and 7 thereof?

⁽¹⁾ OJ 2000 L 327, p. 1.

**Request for a preliminary ruling from the Bundesfinanzhof (Germany) lodged on 21 October
2020 — Finanzamt B v W AG**

(Case C-538/20)

(2021/C 35/38)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Appellant on a point of law: Finanzamt B

Respondent in the appeal on a point of law: W AG

Other Party: Bundesministerium der Finanzen

Questions referred

1. Is Article 43, in conjunction with Article 48, of the Treaty establishing the European Community (now Article 49, in conjunction with Article 54, of the Treaty on the Functioning of the European Union) to be interpreted as precluding legislation of a Member State which prevents a resident company from deducting losses incurred by a permanent establishment in another Member State from its taxable profits where, first, the company has exhausted the possibilities to deduct those losses available under the law of the Member State in which the permanent establishment is situated and, second, it has ceased to receive any income from that establishment, so that there is no longer any possibility of account being taken of the losses in that Member State ('final' losses), if the legislation in question concerns an exemption for profits and losses under a bilateral convention for the avoidance of double taxation between the two Member States?

2. If the first question is answered in the affirmative:

Is Article 43, in conjunction with Article 48, of the Treaty establishing the European Community (now Article 49, in conjunction with Article 54, of the Treaty on the Functioning of the European Union) to be interpreted as also precluding the legislation under the German *Gewerbesteuer*gesetz (Law on local business tax) which prevents a resident company from deducting from its taxable business earnings 'final' losses of the type referred to in the first question of a permanent establishment in another Member State?

3. If the first question is answered in the affirmative:

In the event of the closure of the permanent establishment in the other Member State, can there be 'final' losses of the type referred to in the first question, even though there is at least a theoretical possibility that the company might once more open in the Member State concerned a permanent establishment, any profits of which could be offset against the previous losses?

4. If the first and third questions are answered in the affirmative:

Can the losses of the permanent establishment which, under the law of the State in which that establishment is situated, could have been carried forward to a subsequent tax period on at least one occasion also be considered to be 'final' losses of the type referred to in the first question of which account is to be taken by the State in which the parent establishment is resident?

5. If the first and third questions are to be answered in the affirmative:

Is the obligation to take account of cross-border 'final' losses limited as to amount by the amounts of losses which the company could have calculated in the State in which the permanent establishment is situated, were the taking account of losses not precluded there?

Request for a preliminary ruling from the Landgericht Saarbrücken (Germany) lodged on 26 October 2020 — Koch Media GmbH v FU

(Case C-559/20)

(2021/C 35/39)

Language of the case: German

Referring court

Landgericht Saarbrücken

Parties to the main proceedings

Applicant: Koch Media GmbH

Defendant: FU

Questions referred

1. a) Is Article 14 of Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights ('the Enforcement Directive')⁽¹⁾ to be interpreted as meaning that the provision covers necessary lawyers' fees as 'legal costs' or as 'other expenses' incurred by a holder of intellectual property rights within the meaning of Article 2 of the Enforcement Directive by virtue of the fact that he asserts, out of court, a right to apply for a prohibitory injunction against an infringer of those rights by way of a warning notice?