Questions referred

1. Must Article 9(1) of Council Directive 2000/78/[E]C of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, ([1]) as regards the aspect of ensuring that judicial procedures are 'available to all persons who consider themselves wronged by failure to apply the principle of equal treatment to them', and the first paragraph of Article 47 of the Charter of Fundamental Rights of the European Union, as regards the aspect of guaranteeing the right to 'an effective remedy [and] a fair … hearing', be interpreted as precluding national legislation, such as that laid down in Article 211(c) of Legea dialogului social nr. 62/2011 (Law No 62/2011 on social dialogue), which provides that the three-year time limit for bringing claims for compensation runs 'from the date on which the damage occurred', irrespective of whether or not the claimants were aware of the occurrence of the damage (and the extent thereof)?

2. Must Article 2(1) and (2) of Council Directive 2000/78/[E]C of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, together with Article 3(1)(c), *in fine*, of that directive, be interpreted as precluding national legislation, such as that laid down in Article 1(2) of Legea-cadru nr. 330 din 5 noiembrie 2009 privind salarizarea unitară a personalului plătit din fonduri publice (Framework Law No 330 of 5 November 2009 on the uniform remuneration of staff paid from the public purse), as interpreted by Decizia nr. 7/2019 (Decision No 7/2019) (published in *Monitorul Oficial al României* — Official Journal of Romania — No 343 of 6 May 2019), given by the Înalta Curte de Casație și Justiție (High Court of Cassation and Justice, Romania), ruling on an appeal on a point of law, in circumstances in which the claimants did not have the legal possibility of requesting an increase in their employment allowance on entering the judiciary at a date after the entry into force of [Framework Law No 330/2009], a legislative act which expressly provided that remuneration rights are to be and remain exclusively as provided in [that] law, thus creating remuneration discrimination as compared with their colleagues, including on the basis of the criterion of age, which means in fact that only older judges, who were appointed before January 2010 (who benefited from court rulings in the period from 2006 to 2009, the operative parts of which were subject to interpretation in 2019 pursuant to Decision [No 7/2019 of the Înalta Curte de Casație și Justiție (High Court of Cassation and Justice)]), received retroactive payment of remuneration rights (similar to those sought in the action which forms the subject matter of the present proceedings) during December 2019 and January 2020, in respect of the period from 2010 to 2015, even though during that period the claimants also acted as judges and performed the same work, under the same conditions and in the same institutions?

3. Must the provisions of Directive 2000/78/EC be interpreted as precluding discrimination only where it is based on one of the criteria referred to in Article 1 of that directive or, on the contrary, do those provisions, possibly supplemented by other provisions of EU law, generally preclude one employee from being treated differently from another, in respect of remuneration, where he or she performs the same work, for the same employer, [during the] same period, and under the same conditions?

([1]) OJ 2000 L 303, p. 16.

Request for a preliminary ruling from the Bundesarbeitsgericht (Germany) lodged on 8 November 2021 — ZQ v Medizinischer Dienst der Krankenversicherung Nordrhein, a body governed by public law

(Case C-667/21)

(2022/C 95/18)

Language of the case: German

Referring court

Bundesarbeitsgericht

Parties to the main proceedings

Applicant: ZQ

Defendant: Medizinischer Dienst der Krankenversicherung Nordrhein, Körperschaft des öffentlichen Rechts

Questions referred

1. Is Article 9(2)(h) of Regulation (EU) 2016/679 ([1]) (General Data Protection Regulation; 'the GDPR') to be interpreted as prohibiting a medical service of a health insurance fund from processing its employee's data concerning health which are a prerequisite for the assessment of that employee's working capacity?

2. If the Court answers Question 1 in the negative, with the consequence that an exception to the prohibition on the processing of data concerning health laid down in Article 9(1) of the GDPR is possible under Article 9(2)(h) of the GDPR: in a case such as the present one, are there further data protection requirements, beyond the conditions set out in Article 9(3) of the GDPR, that must be complied with, and, if so, which ones?

3. If the Court answers Question 1 in the negative, with the consequence that an exception to the prohibition on the processing of data concerning health laid down in Article 9(1) of the GDPR is possible under Article 9(2)(h) of the GDPR: does the permissibility or lawfulness of the processing of data concerning health depend on the fulfilment of at least one of the conditions set out in Article 6(1) of the GDPR?

4. Does Article 82(1) of the GDPR have a specific or general preventive character, and must that be taken into account in the assessment of the amount of non-material damage to be compensated at the expense of the controller or processor on the basis of Article 82(1) of the GDPR?

5. Is the degree of fault on the part of the controller or processor a decisive factor in the assessment of the amount of non-material damage to be compensated on the basis of Article 82(1) of the GDPR? In particular, can non-existent or minor fault on the part of the controller or processor be taken into account in their favour?

([1]) Regulation (EU) 2016/679 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 (General Data Protection Regulation) (OJ 2016 L 119, p. 1).

Request for a preliminary ruling from the Verwaltungsgericht Cottbus (Germany) lodged on 29 November 2021 — Stadt Frankfurt (Oder) and FWA Frankfurter Wasser- und Abwassergesellschaft mbH v Landesamt für Bergbau, Geologie und Rohstoffe

(Case C-723/21)

(2022/C 95/19)

Language of the case: German

Referring court

Verwaltungsgericht Cottbus

Parties to the main proceedings

Applicants: Stadt Frankfurt (Oder), FWA Frankfurter Wasser- und Abwassergesellschaft mbH

Defendant: Landesamt für Bergbau, Geologie und Rohstoffe

Questions referred

1. a. Is Article 7(3) of Directive 2000/60/EC ([1]) to be interpreted as meaning that all members of the public directly concerned by a project are entitled to bring judicial proceedings asserting breaches of the duty:

   (i) to avoid deterioration in the quality of bodies of water intended for the production of drinking water,

   (ii) to reduce the level of purification treatment required in the production of drinking water,

   on the basis of third-party protection in the context of the ban on deterioration of groundwater (see CJEU, judgment of 28 May 2020, *Land Nordrhein-Westfalen*, C-535/18, ([2]) paragraph 132 et seq., and judgment of 3 October 2019, *Wasserleitungsverband Nördliches Burgenland and Others*, C-197/18, ([3]) paragraphs 40 and 42)?