

Parties to the main proceedings

Applicant: AB

Defendant: Finanzamt Köln-Süd

Question referred

Are the provisions of the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons,⁽¹⁾ which entered into force on 1 June 2002 ('the Agreement on the Free Movement of Persons'; 'the AFMP'), in particular Articles 7 and 15 of the AFMP, read in conjunction with Article 9(2) of Annex I to the AFMP (right to equal treatment), to be interpreted as precluding legislation of a Member State under which employees who are nationals of an EU or EEA Member State (including Germany) and who reside (with their place of residence or habitual abode) in Germany or in EU/EEA States may voluntarily apply for an assessment of income tax that takes into account income from employment that is taxable in Germany ('voluntary assessment'), in particular in order to receive an income tax refund allowing for expenses (income-related expenses) and crediting German wage tax withheld as part of the tax deduction procedure, but that right is denied to German and Swiss nationals residing in Switzerland?

⁽¹⁾ OJ 2002 L 114, p. 6.

Request for a preliminary ruling from the Bundesarbeitsgericht (Germany) lodged on 10 October 2022 — JK v Kirchliches Krankenhaus

(Case C-630/22)

(2023/C 15/30)

Language of the case: German

Referring court

Bundesarbeitsgericht

Parties to the main proceedings

Applicant, respondent and appellant on a point of law: JK

Defendant, appellant and respondent on a point of law: Kirchliches Krankenhaus

Questions referred

1. Is it compatible with EU law, in particular Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation ('Directive 2000/78/EC')⁽¹⁾ in light of Article 21 of the Charter of Fundamental Rights of the European Union ('the Charter'), if a national provision provides

that a private organisation whose ethos is based on religious principles

- (a) may deem unsuitable for employment in its establishment persons who have left a particular religious community prior to the establishment of the employment relationship, or
- (b) may require of its staff that they have not left a particular religious community prior to the establishment of the employment relationship, or
- (c) may make it a condition of employment that a member of staff who has left a particular religious community prior to the establishment of the employment relationship rejoin said community,

if it does not also require its staff to belong to that religious community?

2. If the first question is answered in the affirmative: What, if any, further requirements apply under Directive 2000/78/EC in light of Article 21 of the Charter in order to justify such a difference of treatment on grounds of religion?

⁽¹⁾ OJ 2000 L 303, p. 16.

**Request for a preliminary ruling from the Nejvyšší správní soud (Czech Republic) lodged on
20 October 2022 — RK v Ministerstvo zdravotnictví**

(Case C-659/22)

(2023/C 15/31)

Language of the case: Czech

Referring court

Nejvyšší správní soud

Parties to the main proceedings

Applicant: RK

Defendant: Ministerstvo zdravotnictví

Question referred

Does the verification, using the national ‘čTečka’ application, of the validity of interoperable Covid-19 vaccination, test, or recovery certificates, issued pursuant to Regulation (EU) 2021/953 ⁽¹⁾ of the European Parliament and of the Council of 14 June 2021 on a framework for the issuance, verification and acceptance of interoperable COVID-19 vaccination, test and recovery certificates (EU Digital COVID Certificate) to facilitate free movement during the COVID-19 pandemic, which are used by the Czech Republic for national purposes, amount to automated processing of personal data pursuant to Article 4, point (2), of Regulation (EU) 2016/679 ⁽²⁾ 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), and hence, is the material scope of the General Data Protection Regulation thus established, pursuant to Article 2(1) of that regulation?

⁽¹⁾ OJ 2021 L 211, p. 1.

⁽²⁾ OJ 2016 L 119, p. 1.

Action brought on 10 November 2022 — European Commission v Republic of Malta

(Case C-694/22)

(2023/C 15/32)

Language of the case: English

Parties

Applicant: European Commission (represented by: M. Björkland, K. Mifsud-Bonnici, R. Valletta Mallia, Agents)

Defendant: Republic of Malta