

(mentioned in category 6 of Annex IA) 'contracts for financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments'.

⁽¹⁾ OJ L 209 of 24.7.1992, p. 1.

⁽²⁾ Translator's note: it would appear, from the words quoted, that the provision referred to is actually Article 1(b)(vii), not Article 2(a)(viii).

Reference for a preliminary ruling from the Oberlandesgericht Köln, by order of that court of 8 May 1998 in proceedings concerning an administrative fine imposed on Alois Pfennigmann
(Case C-193/98)
(98/C 234/30)

Reference has been made to the Court of Justice of the European Communities by order of the Oberlandesgericht Köln (Higher Regional Court, Cologne) of 8 May 1998, received at the Court Registry on 20 May 1998, for a preliminary ruling in the proceedings concerning an administrative fine imposed on Alois Pfennigmann, on the following question ⁽¹⁾:

Is the answer to the question whether a motor vehicle or articulated vehicle combination within the meaning of Article 2(1) of the Agreement in conjunction with the fourth indent of Article 2 of Council Directive 93/89/EEC ⁽²⁾ is intended exclusively for the carriage of goods by road conditional on the time at which, and the manner in which, it is used, or does the answer to that question depend — irrespective of the purpose for which such a vehicle or combination is used in an individual case — on whether the general purpose for which the use of that vehicle or combination is intended is the carriage of goods by road?

⁽¹⁾ Concerning the interpretation of Article 2(1) of the Agreement of 9 February 1994 on the levying of charges for the use of certain roads by heavy commercial vehicles (Bundesgesetzblatt [Federal Gazette], Part II, p. 1768).

⁽²⁾ OJ L 279 of 12.11.1993, p. 32.

Reference for a preliminary ruling from the Oberlandesgericht Köln, by order of that court of 8 May 1998 in proceedings concerning an administrative fine imposed on Eckard Pörschke
(Case C-194/98)
(98/C 234/31)

Reference has been made to the Court of Justice of the European Communities by order of the Oberlandesgericht Köln (Higher Regional Court, Cologne) of 8 May 1998, received at the Court Registry on 20 May 1998, for a preliminary ruling in the proceedings concerning an administrative fine imposed on Eckard Pörschke, on the following question ⁽¹⁾:

Does the amount of the charge payable under Article 8(1) of the Agreement depend solely on the number of axles fitted to the motor vehicle or articulated vehicle combination in question, regardless of the distance between them and irrespective of whether an axle is used or raised during the journey, or are tandem axles/raisable axles to be left out of account in calculating the charge?

⁽¹⁾ Concerning the interpretation of Article 8(1) of the Agreement of 9 February 1994 on the levying of charges for the use of certain roads by heavy commercial vehicles (Bundesgesetzblatt [Federal Gazette], Part II, p. 1768).

Reference for a preliminary ruling from the Oberster Gerichtshof by order of that court of 30 April 1998 in the case of Österreichischer Gewerkschaftsbund, Gewerkschaft öffentlicher Dienst v Republic of Austria
(Case C-195/98)
(98/C 234/32)

Reference has been made to the Court of Justice of the European Communities by an order of the Oberster Gerichtshof (Austrian Supreme Court) of 30 April 1998, which was received at the Court Registry on 20 May 1998, for a preliminary ruling in the case of Österreichischer Gewerkschaftsbund, Gewerkschaft öffentlicher Dienst v Republic of Austria on the following questions:

1. May a preliminary ruling of the Court of Justice of the European Communities under Article 177 of the EC Treaty be sought in proceedings in which the Oberster Gerichtshof has to decide, as a court of first and final instance, on the basis of a factual situation independent of particular named persons, alleged by one party and presumed to be true, on an application by that party for a declaration that rights or legal relationships in the field of employment law, which according to the submissions of that party, which are presumed to be true, are of importance for at least three employers or employees, do or do not exist?

If Question 1 is answered in the affirmative,

2. Does Article 48 of the EC Treaty or any other provision of Community law, in particular Article 7 of Council Regulation No 1612/68 ⁽¹⁾, preclude the material date of advancement for classification in the relevant pay scheme of contractual teachers and contractual teaching assistants employed by the respondent from being determined differently, in that the periods completed by such persons in employment, to at least one half of the extent prescribed for full-time employees, in the service of an Austrian local authority or in a teaching post at an Austrian public school, university, college or academy of the visual arts or at an Austrian publicly recognised private school are treated as preceding in full the date on which those persons were engaged, whereas periods completed at comparable institutions of Member States are taken into account only with the consent of the Federal Minister for Financial Affairs, in full if

they are of special importance for the successful deployment of the contractual employee, otherwise to the extent of one half if the service started not later than 30 April 1995, and if it started later to the extent of one half but only in so far as they do not exceed a total of three years?

If Questions 1 and 2 are answered in the affirmative,

3. Are periods completed in institutions in Member States comparable to the said institutions to be taken into account without temporal limitation?

(¹) OJ, English Special Edition 1968 (II), p. 475.

Reference for a preliminary ruling by the Social Security Commissioner, by order of 8 May 1998, in the cases of Regina Virginia Hepple, Anna Stec, Patrick Vincent Lunn, Oliver Kimber and Sybil Spencer against the Adjudication Officer

(Case C-196/98)

(98/C 234/33)

Reference has been made to the Court of Justice of the European Communities by an order of the Social Security Commissioner of 8 May 1998, which was received at the Court Registry on 22 May 1998, for a preliminary ruling in the cases of Regina Virginia Hepple, Anna Stec, Patrick Vincent Lunn, Oliver Kimber and Sybil Spencer against the Adjudication Officer, on the following questions:

1. Does Article 7 of Council Directive 79/7/EEC(¹) permit a Member State to impose unequal age conditions linked to the different pension ages for men and women under its statutory old-age pension scheme, on entitlement to a benefit having the characteristics of Reduced Earnings Allowance under a statutory occupational accident and disease scheme, so as to produce different weekly cash payments under that scheme for men and women in otherwise similar circumstances, in particular where the inequality:
 - (a) is not necessary for any financial reason connected with either scheme; and
 - (b) never having been imposed before, is imposed for the first time many years after the inception of the two schemes and also after 23 December 1984, the latest date for the Directive to be given full effect under Article 8?
2. If the answer to Question 1 is Yes, what are the considerations that determine whether unequal age

conditions such as those imposed in Great Britain for Reduced Earnings Allowance from 1988—89 onwards are necessary to ensure coherence between schemes or otherwise fall within the permitted exclusion in Article 7?

3. If those unequal age conditions are not within the permitted exclusion in Article 7, then does the doctrine of direct effect require the national court (in the absence of national legislation to comply with the Directive) to rectify the inequality by awarding an additional payment to each individual concerned in any week when the payment prescribed under the occupational accident and disease scheme for him or her is lower than for a person of the other sex but in otherwise similar circumstances ('the comparator'), without regard to:
 - (a) any converse advantage in other weeks when, for the same individual, a higher payment is prescribed than for the comparator; and/or
 - (b) the existence or exercise of sex-differentiated options under the pension scheme to choose the pension starting age, the effect of which in conjunction with the unequal conditions under the occupational accident and disease scheme may be to cause altered (and unequal) weekly payments under that scheme: in some weeks to the advantage of the individual, in others to the comparator?

Or should some account be taken of such matters, and if so what are the principles to be applied in relation to them in giving direct effect to Article 4?

(¹) Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security (OJ L 6 of 10.1.1979, p. 24).

Action brought on 20 May 1998 by the Commission of the European Communities against the Hellenic Republic

(Case C-197/98)

(98/C 234/34)

An action against the Hellenic Republic was brought before the Court of Justice of the European Communities on 20 May 1998 by the Commission of the European Communities, represented by M. Patakia and B. Mongin, both of its Legal Service, with an address for service in Luxembourg at the office of Carlos Gómez de la Cruz, of its Legal Service, Wagner Centre, Kirchberg.