

JUDGMENT OF THE COURT

(Fifth Chamber)

of 15 May 2003

in Case C-160/01 (Reference for a preliminary ruling from the Sozialgericht Leipzig): Karin Mau v Bundesanstalt für Arbeit ⁽¹⁾

(Council Directive 80/987/EEC — National legislation fixing the final date for the guarantee period as that of the decision to open the procedure for the collective settlement of claims where the employment relationship still exists at that date — Article 141 EC — Indirect discrimination against female employees on child raising leave — Liability of a Member State in the event of infringement of Community law)

(2003/C 158/06)

(Language of the case: German)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case C-160/01: Reference to the Court under Article 234 EC by the Sozialgericht Leipzig (Germany) for a preliminary ruling in the proceedings pending before that court between Karin Mau and Bundesanstalt für Arbeit, on the interpretation of Articles 3 and 4 of Council Directive 80/987/EEC of 20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer (OJ 1980 L 283, p. 23) and of Article 141 EC, the Court (Fifth Chamber), composed of: M. Wathelet, President of the Chamber, C.W.A. Timmermans, D.A.O. Edward (Rapporteur), P. Jann and S. von Bahr, Judges; J. Mischo, Advocate General; H.A. Rühl, Principal Administrator, for the Registrar, has given a judgment on 15 May 2003, in which it has ruled:

- Articles 3(2) and 4(2) of Council Directive 80/987/EEC of 20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer must be interpreted as precluding a provision of national law, such as Paragraph 183(1) of Sozialgesetzbuch III (German Social Code, Part III), which defines the date of the onset of the employer's insolvency as the date of the decision ruling on the request for opening of the insolvency procedure and not the date on which that request was lodged.
- The expression 'employment relationship' within the meaning of Articles 3 and 4 of Directive 80/987, must be interpreted as excluding periods which, by their very nature, cannot give rise to outstanding salary claims. A period during which the employment relationship is suspended on account of child raising leave and, for that reason, confers no right to remuneration, is therefore excluded.

⁽¹⁾ OJ C 173 of 16.6.2001.

JUDGMENT OF THE COURT

(Fifth Chamber)

of 15 May 2003

in Case C-193/01 P: Athanasios Pitsiorlas ⁽¹⁾

(Appeal — Decision 93/731/EC — Access to Council documents — Decision 1999/284/EC — Access to documentation and archives of the European Central Bank — 'Basle/Nyborg' Agreement on the reinforcement of the European Monetary System — Refusal of access — Application out of time against that decision — Excusable error)

(2003/C 158/07)

(Language of the case: Greek)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case C-193/01 P, Athanasios Pitsiorlas, residing at Thessaloniki (Greece), represented by D. Papafilippou, lawyer: Appeal against the judgment of the Court of First Instance of the European Communities (First Chamber) of 14 February 2001 in Case T-3/00 Pitsiorlas v Council and ECB [2001] ECR II-717, seeking to have that judgment set aside, the other parties to the proceedings being: Council of the European Union (Agents: M. Bauer and D. Zachariou) and European Central Bank, the Court (Fifth Chamber), composed of: M. Wathelet, President of the Chamber, C.W.A. Timmermans (Rapporteur), D.A.O. Edward, P. Jann and A. Rosas, Judges; A. Tizzano, Advocate General; L. Hewlett, Principal Administrator, Registrar, has given a judgment on 15 May 2003, in which it:

- Sets aside the order of the Court of First Instance of the European Communities of 14 February 2001 in Case T-3/00 Pitsiorlas v Council and ECB;
- Rejects the plea of inadmissibility raised by the Council of the European Union before the Court of First Instance;
- Refers the case back to the Court of First Instance for judgment on Mr Pitsiorlas' application for annulment of the decision of the Council of 30 July 1999 and the decision of the European Central Bank of 8 November 1999 refusing him access to a document;
- Reserves the costs.

⁽¹⁾ OJ C 200 of 14.7.2001.