

bovine animals by sea to a destination outside of the Community in a vehicle loaded on to a ferry without unloading the animals — Failure to state in the route plan the times at which the animals transported were fed and watered during the journey

Operative part of the judgment

1. Article 1 of Commission Regulation (EC) No 615/98 of 18 March 1998 laying down specific detailed rules of application for the export refund arrangements as regards the welfare of live bovine animals during transport cannot be interpreted as meaning that point 48(7)(b) of the annex to Council Directive 91/628/EEC of 19 November 1991 on the protection of animals during transport and amending Directives 90/425/EEC and 91/496/EEC, as amended by Council Directive 95/29/EC of 29 June 1995, must be applied to the case of transport by sea on a link between a geographical point of the European Community and a geographical point in a third country by means of vehicles loaded onto vessels without unloading of the animals.
2. Point 48(7)(a) of the annex to Directive 91/628, as amended by Directive 95/29, must be interpreted as meaning that, in the case of transport by sea between a geographical point of the European Community and a geographical point situated in a third country by means of vehicles loaded onto vessels without unloading the animals, the duration of the transport does not have to be taken into account if the animals are transported in accordance with the conditions laid down in point 48(3) and (4) of the annex to Directive 91/628, apart from journey times and rest periods. If that is the case, a further period of transport by road may begin immediately after unloading the lorry at the port of destination in the third country, in accordance with point 48(4)(d).
3. A route plan containing a pre-typed statement indicating that during the ferry journey animals are fed and watered 'in the evenings and mornings, at midday, and in the evenings and mornings' may satisfy the requirements of Directive 91/628, as amended by Directive 95/29, provided that it is established that the animals were in fact fed and watered as stated. If the competent authority considers, in the light of all the documents submitted by the exporter, that the requirements of that directive have not been complied with, it is for that authority to assess whether that non compliance had an effect on the welfare of the animals, whether such non compliance may, where appropriate, be remedied and whether it must result in the export refund being forfeited, reduced or retained.

(¹) OJ C 190, 12.8.2006.

Judgment of the Court (Grand Chamber) of 17 July 2008 (reference for a preliminary ruling from the Employment Tribunal (United Kingdom)) — *S. Coleman v Attridge Law, Steve Law*

(Case C-303/06) (¹)

(Social policy — Directive 2000/78/EC — Equal treatment in employment and occupation — Articles 1, 2(1), (2)(a) and (3) and 3(1)(c) — Direct discrimination on grounds of disability — Harassment related to disability — Dismissal of an employee who is not himself disabled but whose child is disabled — Included — Burden of proof)

(2008/C 223/08)

Language of the case: English

Referring court

Employment Tribunal

Parties to the main proceedings

Applicant: S. Coleman

Defendants: Attridge Law, Steve Law

Re:

Reference for a preliminary ruling — Employment Tribunal — Interpretation of Articles 1, 2(2)(a) and 2(3) of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment (OJ 2000 L 303, p. 16) — Scope of the term 'disability' — Possibility of extending it to a person who is closely associated with a disabled person and has been discriminated against by reason of that association — Employee bringing up a disabled child on her own

Operative part of the judgment

1. Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, and, in particular, Articles 1 and 2(1) and (2)(a) thereof, must be interpreted as meaning that the prohibition of direct discrimination laid down by those provisions is not limited only to people who are themselves disabled. Where an employer treats an employee who is not himself disabled less favourably than another employee is, has been or would be treated in a comparable situation, and it is established that the less favourable treatment of that employee is based on the disability of his child, whose care is provided primarily by that employee, such treatment is contrary to the prohibition of direct discrimination laid down by Article 2(2)(a).

2. Directive 2000/78, and, in particular, Articles 1 and 2(1) and (3) thereof, must be interpreted as meaning that the prohibition of harassment laid down by those provisions is not limited only to people who are themselves disabled. Where it is established that the unwanted conduct amounting to harassment which is suffered by an employee who is not himself disabled is related to the disability of his child, whose care is provided primarily by that employee, such conduct is contrary to the prohibition of harassment laid down by Article 2(3).

(¹) OJ C 237, 30.9.2006.

Judgment of the Court (Second Chamber) of 17 July 2008
(reference for a preliminary ruling from the Tribunale amministrativo regionale per la Lombardia (Italy)) — ASM Brescia SpA v Comune di Rodengo Saiano

(Case C-347/06) (¹)

(Articles 43 EC, 49 EC and 86 EC — Concession for a public gas-distribution service — Directive 2003/55 — Early cessation at the end of a transitional period — Principles of the protection of legitimate expectations and legal certainty)

(2008/C 223/09)

Language of the case: Italian

Referring court

Tribunale amministrativo regionale per la Lombardia

Parties to the main proceedings

Applicant: ASM Brescia SpA

Defendant: Comune di Rodengo Saiano

Intervener: Anigas — Associazione Nazionale Industriali del Gas

Re:

Reference for a preliminary ruling — Tribunale amministrativo regionale per la Lombardia — Interpretation of Articles 43, 49 and 86(1) EC and of Article 23(1) of Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC (OJ 2003 L 176, p. 57) — Automatic extension of concessions for the operation of the public gas-distribution service

Operative part of the judgment

1. Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC does not preclude legislation of a Member State, such as that at issue in the main proceedings, from providing for the extension, on conditions which it lays down, of the length of the transitional period at the end of which the early cessation of a concession for the distribution of natural gas such as that in question in those proceedings must occur. In those circumstances, it must also be held that neither Article 10 EC nor the principle of proportionality precludes such legislation.

2. Articles 43 EC, 49 EC and 86(1) EC do not preclude legislation of a Member State, such as that at issue in the main proceedings, from providing for the extension, on conditions which it lays down, of the length of the transitional period at the end of which the early cessation of a concession for the distribution of natural gas such as that in question in those proceedings must occur, provided that such an extension can be regarded as being necessary to enable the contracting parties to untie their contractual relations on acceptable terms both from the point of view of the requirements of the public service and from the economic point of view.

(¹) OJ C 281, 18.11.2006.

Judgment of the Court (Grand Chamber) of 10 July 2008
— Bertelsmann AG, Sony Corporation of America v Commission of the European Communities Independent Music Publishers and Labels Association (Impala, an international association), Sony BMG Music Entertainment BV

(Case C-413/06 P) (¹)

(Appeals — Competition — Control of concentrations between undertakings — Sony BMG joint venture — Appeal against the annulment of a Commission decision declaring a concentration compatible with the common market — Judicial review — Scope — Standard of proof — Role of the statement of objections — Strengthening or creation of a collective dominant position — Statement of reasons for a decision approving a concentration — Use of confidential information)

(2008/C 223/10)

Language of the case: English

Parties

Appellants: Bertelsmann AG (represented by: P. Chappatte and J. Boyce, Solicitors), Sony Corporation of America (represented by: N. Levy, Barrister, R. Snelders, avocat, and T. Graf, Rechtsanwalt)