3. *Refers the case back to the Court of First Instance of the European Communities for it to rule on the pleas in law of Athinaïki Techniki AE, seeking annulment of the decision of the Commission of the European Communities of 2 June 2004 to take no further action concerning State aid allegedly granted by the Hellenic Republic to the Hyatt Regency consortium in the disposal of 49 % of the capital of the Casino Mont Parnès.*

4. *Orders that the costs be reserved.*

([1]) OJ C 42, 24.2.2007.

Judgment of the Court (First Chamber) of 10 July 2008 (reference for a preliminary ruling from the Tribunal Dâmbovița — Romania) — Ministerul Administrației și Internelor — Direcția Generală de Pașapoarte București v Gheorghe Jipa

(Case C-33/07) ([1])

(Citizenship of the Union — Article 18 EC — Directive 2004/38/EC — Right of citizens of the Union and their family members to move and reside freely within the territory of the Member States)

(2008/C 223/16)

Language of the case: Romanian

Referring court

Tribunal Dâmbovița

Parties to the main proceedings

Applicant: Ministerul Administrației și Internelor — Direcția Generală de Pașapoarte București

Defendant: Gheorghe Jipa

Re:

Reference for a preliminary ruling — Tribunal Dâmbovița — Interpretation of Article 18 EC and Article 27 of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ 2004 L 158, p. 77)

Operative part of the judgment

Article 18 EC and Article 27 of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC do not preclude national legislation that allows the right of a national of a Member State to travel to another Member State to be restricted, in particular on the ground that he has previously been repatriated from the latter Member State on account of his 'illegal residence' there, provided that the personal conduct of that national constitutes a genuine, present and sufficiently serious threat to one of the fundamental interests of society and that the restrictive measure envisaged is appropriate to ensure the achievement of the objective it pursues and does not go beyond what is necessary to attain it. It is for the national court to establish whether that is so in the case before it.

([1]) OJ C 140, 23.6.2006.

Judgment of the Court (Second Chamber) of 10 July 2008 (reference for a preliminary ruling from the Arbeidshof te Brussel (Belgium)) — Centrum voor gelijkheid van kansen en voor racismebestrijding v Firma Feryn NV

(Case C-54/07) ([1])

(Directive 2000/43/EC — Discriminatory criteria for selecting staff — Burden of proof — Penalties)

(2008/C 223/17)

Language of the case: Dutch

Referring court

Arbeidshof te Brussel

Parties to the main proceedings

Applicant: Centrum voor gelijkheid van kansen en voor racismebestrijding

Defendant: Firma Feryn NV

Re:

Preliminary ruling — Arbeidshof te Brussel — Interpretation of Articles 2(2)(a), 8(1) and 15 of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (OJ 2000 L 180, p. 22) — Staff selection criteria that discriminate directly on grounds of racial or ethnic origin — Burden of proof — Appraisal and establishment by a national court — Whether the national court is, or is not, under an obligation to order that an end be put to the discrimination

Operative part of the judgment

1. *The fact that an employer states publicly that it will not recruit employees of a certain ethnic or racial origin constitutes direct discrimination in respect of recruitment within the meaning of Article 2(2)(a) of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, such statements being likely strongly to dissuade certain candidates from submitting their candidature and, accordingly, to hinder their access to the labour market.*

2. *Public statements by which an employer lets it be known that under its recruitment policy it will not recruit any employees of a certain ethnic or racial origin are sufficient for a presumption of the existence of a recruitment policy which is directly discriminatory within the meaning of Article 8(1) of Directive 2000/43. It is then for that employer to prove that there was no breach of the principle of equal treatment. It can do so by showing that the undertaking's actual recruitment practice does not correspond to those statements. It is for the national court to verify that the facts alleged are established and to assess the sufficiency of the evidence submitted in support of the employer's contentions that it has not breached the principle of equal treatment.*

3. *Article 15 of Directive 2000/43 requires that rules on sanctions applicable to breaches of national provisions adopted in order to transpose that directive must be effective, proportionate and dissuasive, even where there is no identifiable victim.*

([1]) OJ C 82, 14.4.2007.

Judgment of the Court (Second Chamber) of 17 July 2008 — Franco Campoli v Commission of the European Communities, Council of the European Union

(Case C-71/07 P) ([1])

(Appeal — Officials — Remuneration — Pension — Application of the correction coefficient calculated on the basis of the average cost of living in the country of residence — Transitional arrangements established by the Regulation amending the Staff Regulations — Objection of illegality)

(2008/C 223/18)

Language of the case: French

Parties

Appellant: Franco Campoli (represented by: G. Vandersanden, L. Levi and S. Rodrigues, avocats)

Other parties to the proceedings: Commission of the European Communities (represented by: V. Joris and D. Martin, acting as Agents), Council of the European Union (represented by: M. Arpio Santacruz and I. Šulce, acting as Agents)

Re:

Appeal brought against the judgment of the Court of First Instance (Second Chamber, Extended Composition) of 29 November 2006 in Case T-135/05 *Campoli* v *Commission*, by which the Court dismissed as partially inadmissible and partially unfounded the action for annulment of the appellant's pension payslips from May to July 2004, in as much as they applied for the first time a weighting calculated in an allegedly unlawful manner on the basis of the average cost of living in the appellant's country of residence, rather than, as previously, in relation to the cost of living in the capital of that country — Effect of the entry into force of the new Staff Regulations of Officials on the system of weighting — Transitional system for officials who retired before 1 April 2004 — Method of calculating weighting and respect for the principle of the equality of treatment — Obligation to state reasons

Operative part of the judgment

The Court:

1. *Dismisses the principal appeal and the cross-appeal.*

2. *Orders the parties to bear their own costs.*

([1]) OJ C 117, 26.5.2007.

Judgment of the Court (Fifth Chamber) of 17 July 2008 (reference for a preliminary ruling from the Arbeitsgericht Bonn — Germany) — Andrea Raccanelli v Max-Planck-Gesellschaft zur Förderung der Wissenschaften eV

(Case C-94/07) ([1])

(Article 39 EC — Concept of 'worker' — Non-governmental organisation operating in the public interest — Doctoral grant — Employment contract — Conditions)

(2008/C 223/19)

Language of the case: German

Referring court

Arbeitsgericht Bonn