

Is it reasonable and necessary, on the one hand, to impede the taking of voluntary retirement at the age of 60 or 63 years, with a permanent reduction in pension, and, on the other hand, to rule out the voluntary continuation of employment after the age of 65 years unless the employer has, by way of exception, a special interest in its continuation?

Do the rules on retirement ages laid down in Paragraph 50(1) of the Hessisches Beamtengesetz cease to be reasonable and necessary as a result of the more favourable rules on part-time work on the grounds of age on the one hand and fixed-term civil servants on the other?

What significance for coherence can be attributed to the various rules laid down in employment (public and private sector) and social insurance law which, first, are seeking permanently to raise the age at which a full pension can be drawn, second, prohibit the termination of employment on the grounds that the age specified for the standard retirement pension has been reached and, third, make it compulsory for employment to terminate when that precise age is reached?

Is it relevant to coherence that the gradual raising of retirement ages in the social insurance and civil service law relating to the Federal German authorities and some *Länder* primarily serves the interests of employees in delaying as long as possible the need to meet the more stringent requirements for a full retirement pension? Are these questions insignificant because retirement ages have not yet been raised for civil servants governed by the Hessisches Beamtengesetz, although this is due to become effective in the near future in the case of employees in employment relationships?

Reference for a preliminary ruling from the High Court of Ireland made on 7 April 2010 — Phonographic Performance (Ireland) Ltd v Ireland and the Attorney General

(Case C-162/10)

(2010/C 161/36)

Language of the case: English

Referring court

High Court of Ireland

Parties to the main proceedings

Applicant: Phonographic Performance (Ireland) Ltd

Defendant: Ireland and the Attorney General

Questions referred

- (i) Is a hotel operator which provides in guest bedrooms televisions and/or radios to which it distributes a broadcast signal a 'user' making a 'communication to the public' of a phonogram which may be played in a broadcast for the purposes of Article 8(2) of Codified Directive 2006/115/EC⁽¹⁾ of the European Parliament and the Council of 12th December 2006?
- (ii) If the answer to paragraph (i) is in the affirmative, does Article 8(2) of Directive 2006/115/EC oblige Member States to provide a right to payment of equitable remuneration from the hotel operator in addition to equitable remuneration from the broadcaster for the playing of the phonogram?
- (iii) If the answer to paragraph (i) is in the affirmative, does Article 10 of Directive 2006/115/EC permit Member States to exempt hotel operators from the obligation to pay 'a single equitable remuneration' on the grounds of 'private use' within the meaning of Article 10(1)(a)?
- (iv) Is a hotel operator which provides in a guest bedroom apparatus (other than a television or radio) and phonograms in physical or digital form which may be played on or heard from such apparatus a 'user' making a 'communication to the public' of the phonograms within the meaning of Article 8(2) of Directive 2006/115/EC?
- (v) If the answer to paragraph (iv) is in the affirmative, does Article 10 of Directive 2006/115/EC permit Member States to exempt hotel operators from the obligation to pay 'a single equitable remuneration' on the grounds of 'private use' within the meaning of Article 10(1)(a) of Directive 2006/115/EC?

⁽¹⁾ Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property (codified version)
OJ L 376, p. 28

Reference for a preliminary ruling from the Tribunale di Isernia (Italy) lodged on 2 April 2010 — Criminal proceedings against Aldo Patriciello

(Case C-163/10)

(2010/C 161/37)

Language of the case: Italian

Referring court

Tribunale di Isernia

Party to the main proceedings

Aldo Patriciello

Question referred

Do the facts construed *in abstracto* as a criminal offence committed by Aldo Patriciello — a Member of the European Parliament, described in the indictment and in favour of whom the European Parliament adopted a decision on 5 May 2009 to support a defence of immunity — which is categorised as slander under Article 368 of the Penal Code correspond to the expression of an opinion in the performance of parliamentary duties for the purposes of Article 9 of the Protocol of 8 April 1965 on the privileges and immunities of the European Communities?

Reference for a preliminary ruling from the Tribunale Amministrativo Regionale del Lazio (Italy) lodged on 2 April 2010 — Emanuele Ferazzoli v Ministero dell'Interno

(Case C-164/10)

(2010/C 161/38)

Language of the case: Italian

Referring court

Tribunale Amministrativo Regionale del Lazio

Parties to the main proceedings

Applicant: Emanuele Ferazzoli

Defendant: Ministero dell'Interno

Question referred

Is a national system under national legislation (introduced as from the Bersani Decree, Decree-Law No 223 of 4 July 2006, converted into Law No 248 of 4 August 2006) compatible with Articles 43 and 49 of the EC Treaty, when it, *inter alia*:

(a) tends generally to protect holders of licences issued at an earlier period following a tendering procedure that unlawfully excluded some operators;

(b) in fact ensures the maintenance of acquired commercial positions (by, for example, prohibiting new licensees from locating their kiosks within a specified distance of those already in existence);

(c) provides for cases in which the licence may lapse when the licensee directly or indirectly carries on cross-border gaming activities analogous to those under the licence?

Reference for a preliminary ruling from the Tribunale Amministrativo Regionale per il Lazio lodged on 2 April 2010 — Cosmia Barberio v Ministero dell'Interno

(Case C-165/10)

(2010/C 161/39)

Language of the case: Italian

Referring court

Tribunale Amministrativo Regionale per il Lazio

Parties to the main proceedings

Applicant: Cosmia Barberio

Defendant: Ministero dell'Interno

Question referred

Is a national system under national legislation (introduced as from the Bersani Decree, Decree-Law No 223 of 4 July 2006, converted into Law No 248 of 4 August 2006) compatible with Articles 43 and 49 of the EC Treaty, when it, *inter alia*:

(a) tends generally to protect holders of licences issued at an earlier period following a tendering procedure that unlawfully excluded some operators;

(b) in fact ensures the maintenance of acquired commercial positions (by, for example, prohibiting new licensees from locating their kiosks within a specified distance of those already in existence);

(c) provides for cases in which the licence may lapse when the licensee directly or indirectly carries on cross-border gaming activities analogous to those under the licence?
