Parties to the main proceedings

Appellant: Loutfi Management Propriété Intellectuelle SARL

Respondents: AMJ Meatproducts NV, Halalsupply NV

Question referred

In view of, inter alia, Articles 21 and 22 of the Charter of Fundamental Rights of the European Union, ([1]) must Article 9(1)(b) of Council Regulation (EC) No 207/2009 ([2]) of 26 February 2009 on the Community trade mark be interpreted as meaning that, in the assessment of the likelihood of confusion between a Community trade mark in which an Arabic word is dominant and a sign in which a different, but visually similar, Arabic word is dominant, the difference in pronunciation and meaning between those words may, or even must, be examined and taken into account by the competent courts of the Member States, even though Arabic is not an official language of the European Union or of the Member States?

([1]) OJ 2000 C 364, p. 1.
([2]) OJ 2009 L 78, p. 1.

Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 1 April 2014 — AEEG v Antonella Bertazzi and Others

(Case C-152/14)

(2014/C 194/16)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Appellant: Autorità per l'energia elettrica e il gas (AEEG)

Respondents: Antonella Bertazzi, Annalise Colombo, Maria Valeria Contin, Angela Filippina Marasco, Guido Guissani, Lucia Lizzi, Fortuna Peranio

Questions referred

1) Is it possible, in principle, to regard as compatible with Clause 4(4) of the Framework Agreement [in the Annex to] Directive 1999/70/EC ([1]) a provision of national law (Article 75(2) of Decree-Law No 112 of 2008), under which — in relation to duties which have remained unchanged and which are completely the same for fixed-term staff as for permanent staff — no account whatsoever is to be taken of length of service accrued with independent public authorities under fixed-term employment contracts where the employment position of the persons concerned has been 'stabilised' on the basis of selection tests which, albeit not wholly comparable with the more rigorous public competitive examination procedure undergone by other staff members, are provided for by statute and accordingly, under the terms of the third paragraph of Article 97 of the Italian Constitution, a legitimate means of verifying the candidate's suitability to perform the duties to be assigned?

2) a) In the event that the above legislation is held to be inconsistent with the principles of Community law as regards the fixed-term employees concerned, is it possible to identify objective reasons for derogating from the principle that those employees should be treated no differently from permanent employees, for considerations relating to social policy purposes, construed in these circumstances as the need to prevent the insertion of 'stabilised' employees in parallel with those already placed on the permanent staff in accordance with the general rule requiring a competitive examination for access to posts with the public administrative authorities (the rule imposed by the third paragraph of Article 97 of the Constitution and subject only to derogation by statute, such as the legislation at issue, under which the sole requirement is success in a simple selection procedure) and is it possible — in the light of the Court's observations in [paragraph] 47 of its order of 7 March 2013 [in Case C-393/11 *AEEG* v *Bertazzi and Others* [2013] ECR] — for [the needs underlying] those objective reasons to be regarded as satisfied, in terms of proportionality, merely by giving workers in precarious employment whose position has been 'stabilised' personal salary compensation which can be absorbed by future pay rises and is not open to reassessment, with an interruption of the normal advancement in salary level and of access to higher grades?

b) On the other hand, if, once suitability for particular duties has been determined, periodic appraisals were undertaken to verify that the duties are being performed correctly, with a view to permitting the employees concerned to progress to higher grades and salary levels with the possibility of moving to a different category on the strength of a competitive examination held later, would that be sufficient to redress the balance between the position of 'stabilised' employees and the position of staff members recruited on the basis of a public competitive examination, without it being necessary for length of service to be set at nought and salaries to be set at the starting level in the case of the former group (in the absence, moreover, of any appreciable advantage in favour of the second group under the AEEG rules governing career advancement, as described above), with the result that, in the case under consideration, there would be no objective reasons, of the requisite objectivity and transparency, for derogating from Directive 1999/70/EC that could be applied to the employment conditions in question in the particular context of relevance here?

3) Is it, in any event, necessary — as appears to be a legitimate inference from paragraphs 47 and 54 of the order of 7 March 2013 — to recognise that the practice of setting the length of service accrued at nought is disproportionate and discriminatory (with the consequence that it would be necessary to refrain from applying the relevant national legislation) — while continuing to recognise the need to protect the positions of successful candidates in the competitive examinations, without prejudice to the fact that it is for the administrative authority to decide, on the basis of prudent assessment, upon the measures to adopt in this regard (in the form of a 'bonus'; or the right of those who have been recruited on the basis of success in a competitive examination to preferential treatment in the selection procedure for access to higher grades; or by other means within the discretion enjoyed by the national authorities for the organisation of the national public administrative authorities)?

([1]) Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP (OJ 1999 L 175, p. 43).

Request for a preliminary ruling from the Raad van State (Netherlands) lodged on 3 April 2014 — Minister van Buitenlandse Zaken; other parties: K and A

(Case C-153/14)

(2014/C 194/17)

Language of the case: Dutch

Referring court

Raad van State

Parties to the main proceedings

Appellant: Minister van Buitenlandse Zaken

Other parties: K, A

Questions referred

1. (a) Can the term 'integration measures' — contained in Article 7(2) of … Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJ 2003 L 251, [p. 12]) … — be interpreted as meaning that the competent authorities of the Member States may require a member of a sponsor's family to demonstrate that he or she has knowledge of the official language of the Member State concerned at a level corresponding to level A1 of the Common European Framework of Reference for Languages, as well as a basic knowledge of the society of that Member State, before those authorities authorise that family member's entry and residence?

   (b) Is it relevant to the answer to that question that, also in the context of the proportionality test as described in the European Commission's Green Paper of 15 November 2011 ([1]) on the right to family reunification [of third-country nationals living in the European Union], the national legislation containing the requirement referred to in Question 1(a) provides that, leaving aside the case in which the family member has shown that, due to a mental or physical disability, he/she is permanently unable to take the civic integration examination, it is only in the case where there is a combination of very special individual circumstances which justifies the assumption that the family member will be permanently unable to comply with the integration measures that the request for authorisation of entry and residence cannot be rejected?

2. Does the purpose of Directive 2003/86/EC, and in particular Article 7(2) thereof, given the proportionality test as described in the abovementioned Green Paper, preclude costs of EUR 350 per attempt for the examination which assesses whether the family member complies with the aforementioned integration measures, and costs of EUR 110 as a single payment for the pack to prepare for the examination?

([1]) COM(2011)735 final.