

3. In circumstances such as those in the main proceedings, the Court's finding, in a judgment following a reference for a preliminary ruling, that the retroactive nature of a national law at issue is incompatible with EU law has no bearing on the starting date of the limitation period laid down by national law in respect of claims against the State.

<sup>(1)</sup> OJ C 113, 1.5.2010.

**Judgment of the Court (Grand Chamber) of 6 September 2011 (reference for a preliminary ruling from the Tribunale di Venezia — Italy) — Ivana Scattolon v Ministero dell'Istruzione, dell'Università e della Ricerca**

(Case C-108/10) <sup>(1)</sup>

*(Social policy — Directive 77/187/EEC — Maintenance of the rights of workers in the event of a transfer of an undertaking — Meaning of 'undertaking' and 'transfer' — Transferor and transferee governed by public law — Application, from the date of transfer, of the collective agreement in force with the transferee — Salary treatment — Whether length of service completed with the transferor to be taken into account)*

(2011/C 311/12)

Language of the case: Italian

**Referring court**

Tribunale Ordinario di Venezia

**Parties to the main proceedings**

*Applicant:* Ivana Scattolon

*Defendant:* Ministero dell'Istruzione, dell'Università e della Ricerca

**Re:**

Reference for a preliminary ruling — Tribunale Ordinario di Venezia — Scope of Council Directives 77/187/EEC of 14 February 1977 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses (OJ 1977 L 61, p. 26) and 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses (OJ 2001 L 82, p. 16) — Interpretation of Article 3(1) of Directive 77/187/EEC — Transfer of local authority cleaning staff from a local authority to the State — Safeguarding of rights, including length of service with the local authority

**Operative part of the judgment**

1. The takeover by a public authority of a Member State of staff employed by another public authority and entrusted with the supply to schools of auxiliary services including, in particular, tasks of maintenance and administrative assistance constitutes a transfer of an undertaking falling within Council Directive 77/187/EEC of 14 February 1977 on the approximation of the laws of the Member States relating to the safeguarding of

employees' rights in the event of transfers of undertakings, businesses or parts of businesses, where that staff consists in a structured group of employees who are protected as workers by virtue of the domestic law of that Member State.

2. Where a transfer within the meaning of Directive 77/187 leads to the immediate application to the transferred workers of the collective agreement in force with the transferee, and where the conditions for remuneration are linked in particular to length of service, Article 3 of that directive precludes the transferred workers from suffering, in comparison with their situation immediately before the transfer, a substantial loss of salary by reason of the fact that their length of service with the transferor, equivalent to that completed by workers in the service of the transferee, is not taken into account when determining their starting salary position with the latter. It is for the national court to examine whether, at the time of the transfer at issue in the main proceedings, there was such a loss of salary.

<sup>(1)</sup> OJ C 134, 22.5.2010.

**Judgment of the Court (First Chamber) of 8 September 2011 (reference for a preliminary ruling from the Conseil d'État — Belgium) — European Air Transport SA v Collège d'environnement de la Région de Bruxelles-Capitale, Région de Bruxelles-Capitale**

(Case C-120/10) <sup>(1)</sup>

*(Air transport — Directive 2002/30/EC — Noise-related operating restrictions at Community airports — Noise level limits that must be observed when overflying built-up areas near an airport)*

(2011/C 311/13)

Language of the case: French

**Referring court**

Conseil d'État

**Parties to the main proceedings**

*Applicant:* European Air Transport SA

*Defendants:* Collège d'environnement de la Région de Bruxelles-Capitale, Région de Bruxelles-Capitale

**Re:**

Reference for a preliminary ruling — Conseil d'État — Interpretation of Articles 2(e), 4(4) and 6(2) of Directive 2002/30/EC of the European Parliament and of the Council of 26 March 2002 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports (OJ 2002 L 85, p. 40) — Limits on noise levels to be complied with by aircraft over-flying urban territories located near an airport — Concept of 'operating restrictions' — Restrictions adopted in connection with aircraft which are marginally compliant — Whether it is possible to impose such restrictions on the basis of the noise level as measured on the ground — Effect of the Convention on International Civil Aviation (Chicago Convention)