

Questions referred

1. Do the rules contained in Article 57 of the Workers' Statute in conjunction with Article 116(2) of the Recast Text of the Law on Employment Procedure, which provide for the practice operated by the Kingdom of Spain of paying directly to workers, in the event of the insolvency of their employer, 'salarios de tramitación' falling due beyond the 60th (now the 90th) working day after the date on which the action for unfair dismissal was brought before the competent court, fall within the scope of Directive 2008/94/EC ⁽¹⁾ of the European Parliament and of the Council of 22 October 2008 on the protection of employees in the event of the insolvency of their employer, in particular Articles 1(1), 2(3), 2(4), 3, 5 and 11 thereof?
2. If the reply is in the affirmative, would the practice operated by the Kingdom of Spain of paying directly to workers, in the event of the insolvency of their employer, 'salarios de tramitación' falling due beyond the 60th (now the 90th) working day after the date on which the action for unfair dismissal was brought, but of doing so only in the case of dismissals which have been declared by a court to be unfair and not in the case of dismissals which have been declared by a court to be null and void, be regarded as being contrary to Article 20 of the Charter of Fundamental Rights of the European Union ⁽²⁾ and, in any event, the general principle of equality and non-discrimination under European Union law?
3. In connection with the foregoing question, may a court such as the referring court refrain from applying a provision which permits the Kingdom of Spain to pay directly to workers, in the event of the insolvency of their employer, 'salarios de tramitación' falling due beyond the 60th (now the 90th) working day after the date on which the action for unfair dismissal was brought, but only in the case of dismissals which have been declared by a court to be unfair and not in the case of dismissals which have been declared by a court to be null and void, in circumstances where there do not appear to be any objective differences between the two types of dismissal within the context at issue ('salarios de tramitación')?

⁽¹⁾ OJ 2008 L 283, p. 36.

⁽²⁾ OJ 2000 C 364, p. 1.

Request for a preliminary ruling from the Hof van beroep te Brussel (Belgium) lodged on 17 April 2013 — Johan Deckmyn, Vrijheidsfonds VZW v Helena Vandersteen and Others

(Case C-201/13)

(2013/C 189/11)

Language of the case: Dutch

Referring court

Hof van beroep te Brussel

Parties to the main proceedings

Applicants: Johan Deckmyn, Vrijheidsfonds VZW

Defendants: Helena Vandersteen, Christiane Vandersteen, Liliana Vandersteen, Isabelle Vandersteen, Rita Dupont, Amoras II CVOH, WPG Uitgevers België

Questions referred

1. Is the concept of 'parody' an independent concept in European Union law?
2. If so, must a parody satisfy the following conditions or conform to the following characteristics:
 - the display of an original character of its own (originality);
 - and such that the parody cannot reasonably be ascribed to the author of the original work;
 - be designed to provoke humour or to mock, regardless of whether any criticism thereby expressed applies to the original work or to something or someone else;
 - mention the source of the parodied work?
3. Must a work satisfy any other conditions or conform to other characteristics in order to be capable of being labelled as a parody?

Reference for a preliminary ruling from High Court of Justice (England & Wales), Queen's Bench Division (Administrative Court) made on 17 April 2013 — Sean Ambrose McCarthy, Helena Patricia McCarthy Rodriguez, Natasha Caley McCarthy Rodriguez v Secretary of State for the Home Department

(Case C-202/13)

(2013/C 189/12)

Language of the case: English

Referring court

High Court of Justice (England & Wales), Queen's Bench Division (Administrative Court)

Parties to the main proceedings

Applicants: Sean Ambrose McCarthy, Helena Patricia McCarthy Rodriguez, Natasha Caley McCarthy Rodriguez

Defendant: Secretary of State for the Home Department

Questions referred

1. Does Article 35 of Directive 2004/38/EC ⁽¹⁾ on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States ('the Directive') entitle a Member State to adopt a measure of general application to refuse, terminate, or withdraw the right conferred by Article 5(2) of the Directive exempting non-national EU family members who are holders of residence cards issued pursuant to Article 10 of the Directive ('residence card holders') from visa requirements?