

Parties to the main proceedings

Applicant: Kakavetsos-Fragkopoulos AE Epexergasias kai Emporias Stafidas, formerly K. Fragkopoulos kai SIA OE

Defendant: Normarchiaki Aftodioikisi Korinthias

intervening parties: Ypourgos Georgias, Enosis Agrotikon Synaiterismou Aigialeias tou Nomou Achaias

Re:

Reference for a preliminary ruling — *Simvoulio tis Epikratias* — Free movement of goods — Quantitative restrictions on exports— Measures having equivalent effect — National legislation distinguishing between regions producing dried grapes according to their quality — Prohibition on bringing drying grapes from Region B, where the drying grapes are of inferior quality, into Region A, where they are of superior quality, to be processed and marketed — Prohibition on bringing into Region A best drying grapes from a particular area of that region to be processed and marketed — Compatibility with Articles 29 EC and 30 EC

Operative part of the judgment

Article 29 EC must be interpreted as precluding national legislation, such as that at issue in the main proceedings, which lays down an absolute prohibition on bringing in, storing, processing and packing for export dried grapes both as between the two sub-areas of area A and as between the second sub-area of area A and area B, since it does not enable the legitimate objectives pursued to be met consistently and goes beyond what is necessary to ensure the attainment of those objectives.

⁽¹⁾ OJ C 153, 4.7.2009.

Judgment of the Court (Grand Chamber) of 1 March 2011 (reference for a preliminary ruling from the Cour constitutionnelle (Belgium)) — Association Belge des Consommateurs Test-Achats ASBL, Yann van Vugt, Charles Basselier v Conseil des ministres

(Case C-236/09) ⁽¹⁾

(Reference for a preliminary ruling — Fundamental rights — Combating discrimination — Equal treatment for men and women — Access to and supply of goods and services — Insurance premiums and benefits — Actuarial factors — Sex as a factor in the assessment of insurance risks — Private life assurance contracts — Directive 2004/113/EC — Article 5(2) — Derogation not subject to any temporal limitation — Charter of Fundamental Rights of the European Union — Articles 21 and 23 — Invalidity)

(2011/C 130/06)

Language of the case: French

Referring court

Cour constitutionnelle (Belgium)

Parties to the main proceedings

Applicants: Association Belge des Consommateurs Test-Achats ASBL, Yann van Vugt, Charles Basselier

Defendant: Conseil des ministres

Re:

Reference for a preliminary ruling — Cour constitutionnelle (Belgium) — Validity of Article 5(2) of Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services (OJ 2004 L 373, p. 37) — Gender used as a determining factor in the assessment of risk and in the calculation of insurance premiums and benefits on the basis of relevant and accurate actuarial and statistical data — Life assurance contracts — Whether a difference in treatment is permissible and justified

Operative part of the judgment

Article 5(2) of Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services is invalid with effect from 21 December 2012.

⁽¹⁾ OJ C 205, 29.8.2009.

Judgment of the Court (Grand Chamber) of 8 March 2011 (reference for a preliminary ruling from the Najvyšší súd Slovenskej republiky (Slovakia)) — Lesoochranárske zoskupenie VLK v Ministerstvo životného prostredia Slovenskej republiky

(Case C-240/09) ⁽¹⁾

(Environment — Aarhus Convention — Public participation in the decision-making process and access to justice in environmental matters — Direct effect)

(2011/C 130/07)

Language of the case: Slovakian

Referring court

Najvyšší súd Slovenskej republiky

Parties to the main proceedings

Applicant: Lesoochranárske zoskupenie VLK

Defendant: Ministerstvo životného prostredia Slovenskej republiky

Re:

Request for a preliminary ruling — Supreme Court of the Slovak Republic — Interpretation of Article 9(3) of the Council Decision of 17 February 2005 on the conclusion, on behalf of the European Community, of the Aarhus Convention on access to information, public participation in decision-making and access to justice in environmental matters (OJ 2005 L 124, p. 1) — Direct effect of that provision — Interpretation of the concept of ‘acts of public authorities’ — Inclusion or not of the decisions of a public authority, the unlawfulness of which lies in their effect on the environment

Operative part of the judgment

Article 9(3) of the Convention on access to information, public participation in decision-making and access to justice in environmental matters approved on behalf of the European Community by Council Decision 2005/370/EC of 17 February 2005 does not have direct effect in European Union law. It is, however, for the referring court to interpret, to the fullest extent possible, the procedural rules relating to the conditions to be met in order to bring administrative or judicial proceedings in accordance with the objectives of Article 9(3) of that convention and the objective of effective judicial protection of the rights conferred by European Union law, in order to enable an environmental protection organisation, such as the Lesoochrannárske zoskupenie, to challenge before a court a decision taken following administrative proceedings liable to be contrary to European Union environmental law.

(¹) OJ C 233, 26.9.2009.

Judgment of the Court (First Chamber) of 3 March 2011 (reference for a preliminary ruling from the Tribunal de grande instance de Périgueux (France)) — AG2R Prévoyance v Beaudout Père et Fils SARL

(Case C-437/09) (¹)

(Competition — Articles 101 TFEU, 102 TFEU and 106 TFEU — Scheme for supplementary reimbursement of healthcare costs — Collective agreement — Compulsory affiliation to a specific insuring body — Express exclusion of any possibility of exemption from affiliation — Concept of an undertaking)

(2011/C 130/08)

Language of the case: French

Referring court

Tribunal de grande instance de Périgueux

Parties to the main proceedings

Applicant: AG2R Prévoyance

Defendant: Beaudout Père et Fils SARL

Re:

Reference for a preliminary ruling — Tribunal de Grande Instance de Périgueux — Competition — National legislation making affiliation to a single designated insurer compulsory for all undertakings in a given professional sector — Concept of undertaking within the meaning of Article 81 EC — Body claiming payment of contributions from an undertaking which had already entered into a contract of insurance offering better cover — Explicit exclusion of any possibility of waiver of the affiliation obligation — Whether such an affiliation scheme is compatible with Articles 81 EC and 82 EC — Possible risk of abuse of a dominant position

Operative part of the judgment

1. Article 101 TFEU, read in conjunction with Article 4(3) EU, must be interpreted as not precluding the decision by the public

authorities to make compulsory, at the request of the organisations representing employers and employees within a given occupational sector, an agreement which is the result of collective bargaining and which provides for compulsory affiliation to a scheme for supplementary reimbursement of healthcare costs for all undertakings within the sector concerned, without any possibility of exemption.

2. Inasmuch as the activity consisting in the management of a scheme for supplementary reimbursement of healthcare costs such as that at issue in the main proceedings is to be classified as economic — this being a matter for the national court to determine — Articles 102 TFEU and 106 TFEU must be interpreted as not precluding, in circumstances such as those of the case in the main proceedings, public authorities from granting a provident society an exclusive right to manage that scheme, without any possibility for undertakings within the occupational sector concerned to be exempted from affiliation to that scheme.

(¹) OJ C 24, 30.1.2010.

Judgment of the Court (Fifth Chamber) of 3 March 2011 (reference for a preliminary ruling from the Sąd Najwyższy — Poland)) — Zakład Ubezpieczeń Społecznych Oddział w Nowym Sączu v Stanisława Tomaszewska

(Case C-440/09) (¹)

(Social security for migrant workers — Article 45(1) of Regulation (EEC) No 1408/71 — Minimum period required by national law for acquisition of entitlement to a retirement pension — Account to be taken of the period of contribution completed in another Member State — Aggregation — Rules for calculation)

(2011/C 130/09)

Language of the case: Polish

Referring court

Sąd Najwyższy

Parties to the main proceedings

Applicant: Zakład Ubezpieczeń Społecznych Oddział w Nowym Sączu

Defendant: Stanisława Tomaszewska

Re:

Reference for a preliminary ruling — Sąd Najwyższy — Interpretation of Article 45(1) of Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community (OJ, English Special Edition 1971 (II), p. 416) and of Article 15(1)(a) of Regulation (EEC) No 574/72 of the Council of 21 March 1972 fixing the procedure for implementing Regulation (EEC) No 1408/71 (OJ, English Special Edition 1972 (I), p. 159) — Early retirement