In proceedings in which the existence of a situation of risk for a worker who is breastfeeding is at issue, do the special rules on burden of proof in Article 19(1) of Directive 2006/54/EC, 2 transposed into Spanish law by, inter alia, Article 96(1) of Ley 36/2011 (Law 36/2011), apply in conjunction with the requirements set out in Article 5 of Directive 92/85/EEC, transposed into Spanish law by Article 26 of the Ley de Prevención de Riesgos Laborales (Law on the Prevention of Occupational Risks), relating to the granting of leave to a breastfeeding worker and, as the case may be, payment of the relevant allowance under national legislation by virtue of Article 11(1) of Directive 92/85/EEC?

In proceedings in which the existence of a risk during breastfeeding giving entitlement to leave, as provided for in Article 5 of Directive 92/85/EEC and transposed into Spanish law by Article 26 of the Law on the Prevention of Occupational Risks, is at issue, can Article 19(1) of Directive 2006/54/EC be interpreted as meaning that the following are 'facts from which it may be presumed that there has been direct or indirect discrimination' in relation to a breastfeeding worker: (1) the fact that the worker does shift work as a security guard with some shifts being worked at night and alone; (2) in addition, that the work entails doing rounds and, where necessary, dealing with emergencies (criminal behaviour, fire and other incidents); and (3) furthermore that there is no evidence that the workplace has anywhere suitable for breastfeeding or, as the case may be, for expressing breast milk?
In proceedings in which the existence of a risk during breastfeeding giving entitlement to leave is at issue, when 'facts from which it may be presumed that there has been direct or indirect discrimination' have been established in accordance with Article 19(1) of Directive 2006/54/EC in conjunction with Article 5 of Directive 92/85/EEC, transposed into Spanish law by Article 26 of the Law on the Prevention of Occupational Risks, can a breastfeeding worker be required to demonstrate, in order to be granted leave in accordance with the domestic legislation transposing Article 5(2) and (3)of Directive 92/85/EEC, that the adjustment of her working conditions and/or working hours is not technically and/or objectively feasible, or cannot reasonably be required and that moving her to another job is not technically and/or objectively feasible or cannot reasonably be required or are these matters for the respondents (the employer and the mutual insurance company providing the social security benefit associated with the suspension of the contract of employment) to prove?

Case C-46/17. Fixed-term work and equal treatment

Hubertus John – v – Freie Hansestadt Bremen, reference lodged by the German Landesarbeitsgericht Bremen on 30 January 2017

Is clause 5, point 1, of the Framework Agreement on fixed-term work concluded on 18 March 1999, which is attached as an Annex to Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP, to be interpreted as meaning that it precludes national legislation allowing the parties to an employment contract, without additional requirements, to agree during the employment relationship indefinitely to postpone the agreed termination of the relationship upon the worker reaching the normal retirement age, including on more than one occasion if necessary, simply because the worker has a right to a retirement pension upon reaching the normal retirement age?

If the Court answers the Question 1 in the affirmative:

Does the incompatibility of the national legislation referred to Question 1 with clause 5, point 1, of the Framework Agreement also apply when the termination is postponed for the first time?

Are Articles 1, 2(1) and 6(1) of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (Directive 2000/78/EC) and/or the general principles of Community law to be interpreted as meaning that they preclude national legislation allowing the parties to an employment contract, without additional requirements, to agree during the employment relationship indefinitely to postpone the agreed termination of the relationship upon the worker reaching the normal retirement age, including on more than one occasion if necessary, simply because the worker has a right to a retirement pension upon reaching the normal retirement age?

Case C-60/17. Transfer of undertakings

Ángel Somoza Hermo – v – Esabe Vigilancia, S.A., Fondo de Garantía Salarial (FOGASA), reference lodged by the Spanish Tribunal Superior de Justicia de Galicia on 6 February 2017

Does Article 1(1) of Council Directive 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,

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businesses or parts of undertakings or businesses apply 1 when an undertaking ceases to hold the contract for the service it is engaged to provide for a client as a result of termination of the contract for the provision of the service, in a labour-intensive business (security of buildings), and the new holder of the contract for the service takes on the majority of the employees assigned to the performance of that service, when those employment contracts are taken over in accordance with the terms of the collective agreement on employment in the security sector?

If the answer to the first question should be in the affirmative, if the legislation adopted by the Member State in order to transpose the Directive provides, in accordance with Article 3(1) of Directive 2001/23/EC, that after the date of the transfer the transferor and the transferee are to be jointly and severally liable for obligations, including those relating to wages, which arose before the date of the transfer as a result of employment contracts existing on the date of the transfer, is an interpretation to the effect that joint and several liability for prior obligations does not apply when the majority of the workforce were taken on by the new contractor as a result of the requirements of the collective agreement for the sector, and the wording of that agreement excludes joint and several liability for obligations preceding the transfer, compatible with that article of the Directive?

Case C-61/17. Collective redundancies

Miriam Bichat – v – APSB — Aviation Passage Service Berlin GmbH & Co. KG, reference lodged by the German Landesarbeitsgericht Berlin-Brandenburg on 6 February 2017

Must the notion of a controlling undertaking specified in the first subparagraph of Article 2(4) of Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies be understood to mean only an undertaking whose influence is ensured through shareholdings and voting rights or does a contractual or de facto influence (e.g. as a result of the power of natural persons to give instructions) suffice?

If the answer to Question 1 is to the effect that an influence ensured through shareholdings and voting rights is not required:
Does it constitute a 'decision regarding collective redundancies' within the meaning of the first paragraph of Article 2(4) of Directive 98/59/EC if the controlling undertaking imposes requirements on the employer such that it is economically necessary for the employer to effect collective redundancies?

If Question 2 is answered in the affirmative:
Does the second subparagraph of Article 2(4) in conjunction with Article 2(3)(a), Article 2(3)(b)(i) and Article 2(1) of Directive 98/59/EC require the workers' representatives also to be informed of the economic or other grounds on which the controlling undertaking has taken its decisions that have led the employer to contemplate collective redundancies?

Is it compatible with Article 2(4) in conjunction with Article 2(3)(a), Article 2(3)(b)(i) and Article 2(1) of Directive 98/59/EC to place on workers pursuing a judicial process to assert the invalidity of their dismissal effected in the context of collective dismissals, on the basis that the employer effecting the dismissal did not properly consult the workers' representatives, a burden of presenting the facts and adducing evidence that goes beyond presenting the indicia for a controlling influence?

If Question 4 is answered in the affirmative:
What further obligations to present facts and adduce evidence may be placed on the workers in the present case pursuant to the abovementioned provisions?

Case C-68/17. Equal treatment

IR – v – JQ, reference lodged by the German Bundesarbeitsgericht on 9 February 2017

Is the second subparagraph of Article 4(2) of Council Directive 2000/78/EC 1 of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (Directive 2000/78/EC) to be interpreted as meaning that the church can determine with binding effect that an organisation such as the defendant in the present proceedings, where employees in managerial positions are required to act in good faith and with loyalty, shall differentiate between employees who belong to the church and those who belong to another church or to none at all?

If the first question is answered in the negative:

a. Must the provision of national law, in this case Paragraph 9(2) of the Allgemeines Gleichbehandlungsgesetz (General Law on equal treatment), according to which unequal treatment of this kind on the basis of the religious affiliation of employees is justified in accordance with the church's self-concept, be disapplied in these proceedings?
b. What requirements apply, in accordance with the second subparagraph of Article 4(2) of Directive 2000/78/EC, in respect of a requirement for employees of a church or one of the other organisations mentioned to act in good faith and with loyalty to the organisation's ethos?

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