Case C-802/18, Social Insurance

Caisse pour l'avenir des enfants – v – FV, GW, reference lodged by the Conseil supérieur de la Sécurité sociale (Luxembourg) on 19 December 2018

1. Must Luxembourg family allowances awarded pursuant to Articles 269 and 270 of the *Code de la sécurité sociale* (Social Security Code) be treated as a social advantage within the meaning of Article 45 TFEU and Article 7(2) of Regulation 492/2011 on freedom of movement for workers within the Union?
2. If they are so treated, the definition of member of the family applicable under Article 1(i) of Regulation 883/2004 is at odds with the broader definition of family member in Article 2(2) of Directive 2004/38/EC of the European Parliament and of the Council when the latter excludes, contrary to what is established by the Coordination Regulation, all autonomy of the Member State in defining a member of the family, and excludes any, subsidiary, concept of a person who is mainly dependent. Must the definition of member of the family under Article 1(i) of Regulation 883/2004 prevail given its specificity in the context of the coordination of social security systems and, above all, does the Member State retain competence to define members of the family who are entitled to family allowances?
3. If Article 2(2) of Directive 2004/38/EC of the European Parliament and of the Council is applicable to family benefits and more precisely to Luxembourg family allowances, can the exclusion of the child of a spouse from the definition of a member of the family be considered indirect discrimination that is justified in view of the domestic objective of the Member State of safeguarding the personal right of the child and the need to protect the authorities of the Member State of employment when extension of the personal field of application amounts to an unreasonable burden for the Luxembourg family benefits system, which, in particular, exports almost 48% of its family benefits?

Case C-804/18, Religious Discrimination

IX – v – WABE e. V., reference lodged by the Arbeitsgericht Hamburg (Germany) on 20 December 2018

1. Does a unilateral instruction from the employer prohibiting the wearing of any visible sign of political, ideological or religious beliefs constitute direct discrimination on the grounds of religion, within the meaning of Article 2(1) and Article 2(2)(a) of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, against employees who, due to religious covering requirements, follow certain clothing rules?
2. Does a unilateral instruction from the employer prohibiting the wearing of any visible sign of political, ideological or religious beliefs constitute indirect discrimination on the grounds of religion and/or gender, within the meaning of Article 2(1) and Article 2(2)(b) of Directive 2000/78/EC, against a female employee who, due to her Muslim faith, wears a headscarf? In particular:
   a. Can discrimination on the grounds of religion and/or gender be justified under Directive 2000/78/EC with the employer's subjective wish to pursue a policy of political, ideological and religious neutrality even where the employer thereby seeks to meet the subjective wishes of his customers?
   b. Do Directive 2000/78/EC and/or the fundamental right of freedom to conduct a business under Article 16 of the Charter of Fundamental Rights of the European Union in view of Article 8(1) of Directive 2000/78/EC preclude a national regulation according to which, in order to protect the fundamental right of freedom of religion, a ban on religious clothing may be justified not simply on the basis of an abstract capacity to endanger the neutrality of the employer, but only on the basis of a sufficiently specific risk, in particular of a specifically threatened economic disadvantage for the employer or an affected third party?

Case C-811/18, Social Insurance, Gender Discrimination

KA– v – Instituto Nacional de la Seguridad Social (INSS) and Tesorería General de la Seguridad Social (TGSS), reference lodged by the Tribunal Superior de Justicia de Canarias (Spain) on 21 December 2018

1. Must Article 157 TFEU be interpreted as meaning that a 'maternity supplement' applicable to contributory retirement, survivor's and permanent incapacity pensions, such as that at issue in the main proceedings, entitlement to which in the case of fathers in receipt of a pension who are able to prove that they have assumed the task of bringing up their children is absolutely and unconditionally excluded,

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