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Case C-344/20, Religious Discrimination

L.F. – v – S.C.R.L., reference lodged by Tribunal du travail francophone de Bruxelles (Belgium) on 27 July 2020

1. Must Article 1 of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation be interpreted as meaning that religion and belief are two facets of the same protected criterion or, on the contrary, as meaning that religion and belief form different criteria, on the one hand, that of religion, including the associated beliefs and, on the other, that of belief, whatever that belief may be?
2. If Article 1 of Council Directive 2000/78/EC of 27 November 2000 is to be interpreted as meaning that religion and belief are two facets of the same protected criterion, would that prevent the national court, pursuant to Article 8 of that directive and in order to prevent a lowering of the level of protection against discrimination, from continuing to interpret a rule of national law such as Article 4(4) of the Law of 10 May 2007 to combat certain forms of discrimination, as meaning that religious, philosophical and political beliefs are separate protected criteria?
3. Can Article 2(2)(a) of Directive 2000/78 of 27 November 2000 establishing a general framework for equal treatment in employment and occupation be interpreted as meaning that the rule contained in a company's terms of employment prohibiting workers from 'manifest[ing] in any way, either by word or through clothing or any other way, their religious, philosophical or political beliefs, whatever those beliefs may be' constitutes direct discrimination, if the practical application of that internal rule shows that:
    - a female worker who intends to exercise her freedom of religion by wearing a visible sign (with connotations), in this case a headscarf, is treated less favourably than another worker who adheres to no religion, has no philosophical beliefs and no political allegiance and who, therefore, harbours no need to wear any political, philosophical or religious sign?
    - a female worker who intends to exercise her freedom of religion by wearing a visible sign (with connotations), in this case a headscarf, is treated less favourably than another worker who hold any philosophical or political beliefs but whose need to display them publicly by wearing a sign (with connotations) is less, or even non-existent?
    - a female worker who intends to exercise her freedom of religion by wearing a visible sign (with connotations), in this case a headscarf, is treated less favourably than another worker who adheres to another or the same religion, but whose need to display it publicly by wearing a sign (with connotations), is less, or even non-existent?
    - given that beliefs are not necessarily religious, philosophical or political and that they may be of another kind (artistic, aesthetic, sporting, musical, etc.), a female worker who intends to exercise her freedom of religion by wearing a visible sign (with connotations), in this case a headscarf, is treated less favourably than another worker who holds beliefs other than religious philosophical or political beliefs, and who manifests them through clothing?
    - assuming that the negative aspect of the freedom to manifest religious beliefs also means that a person cannot be required to reveal his or her religious affiliation or beliefs, a female worker who intends to exercise her freedom of religion by wearing a headscarf which is not in itself an unambiguous symbol of that religion, since another female worker might choose to wear it for aesthetic, cultural or even health reasons and it is not necessarily distinguishable from a simple bandana, is treated less favourably than another worker who manifests his or her religious, philosophical or political beliefs verbally, since for the female worker wearing the headscarf that implies an even more fundamental infringement of freedom of religion, on the basis of Article 9(1) of the ECHR since, unless prejudice is prevalent, the religious significance of a headscarf is not manifest and, more often than not, can only be brought to light if the person who is wearing it is required, if only implicitly, to reveal her reasons to her employer?
    - a female worker who intends to exercise her freedom of religion by wearing a visible sign (with connotations), in this case a headscarf, is treated less favourably than another worker with the same beliefs who chooses to manifest them by wearing a beard (which is not specifi-

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cally prohibited by the terms of employment, unlike manifestation through clothing)?

Case C-350/20, Social Insurance

O.D. and Others – v – Istituto nazionale della previdenza sociale (INPS), reference lodged by Corte costituzionale (Italy) on 30 July 2020

Is Article 34 of the Charter of Fundamental Rights of the European Union, proclaimed at Nice on 7 December 2000 and adjusted at Strasbourg on 12 December 2007, to be interpreted as applying to childbirth and maternity allowances under Article 3(1)(b) and (j) of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, referred to in Article 12(1)(e) of Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit, and is EU law therefore to be interpreted as precluding national legislation which fails to extend the abovementioned benefits, which are already granted to foreign nationals holding a long-term resident's EU residence permit, to foreign nationals who hold a single permit under that directive?

Case C-372/20, Social Insurance, Gender Discrimination

QE – v – Finanzamt Wien für den 8., 16. und 17. Bezirk, reference lodged by the Bundesfinanzgericht (Austria) on 6 August 2020

1. Is Article 11(3)(e) of Regulation (EC) No 883/2004 to be interpreted as covering a situation in which a female worker who is a national of a Member State in which she and her children also reside enters into an employment relationship as a development aid worker with an employer established in another Member State, and that employment relationship is subject to the compulsory insurance scheme under the legislation of the State of establishment, and she is posted by the employer to a third country not immediately after being employed but after completing a preparatory period and returning to the State of establishment for reintegration periods?
2. Does a legal provision of a Member State such as Paragraph 53(1) FLAG, which, inter alia, makes independent provision for equal status with nationals, infringe the prohibition on the transposition of regulations within the meaning of the second subparagraph of Article 288 TFEU?
3. (Questions 3 and 4 relate to the case where the applicant's situation falls within Article 11(3)(e) of Regulation No 883/2004 and where EU law requires only the Member State of residence to provide family benefits.) Is the prohibition of discrimination based on nationality enshrined for employees in Article 45(2) TFEU and, on a subsidiary basis, in Article 18 TFEU to be interpreted as meaning that it is incompatible with a national provision such as Paragraph 13(1) of the Entwicklungshelfergesetz (Law on development aid workers) in the version applicable until 31 December 2018 ('old version'), which connects entitlement to family benefits in the Member State not responsible under EU law with the fact that the development aid worker must have had his centre of interests or habitual residence in the territory of the Member State of establishment before commencing employment, whereby that requirement must also be met by nationals?
4. Are Article 68(3) of Regulation (EC) No 883/2004 and Article 60(2) and (3) of Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing social security systems, OJ 2009 L 284 ('Regulation (EC) No 987/2009' or 'the Implementing Regulation') to be interpreted as meaning that the institution of the Member State which was presumed by the applicant to be the State of employment with primary responsibility and to which the application for family benefits was submitted, but whose legislation is applicable on neither a primary nor secondary basis, but in which there is an entitlement to family benefits under an alternative rule of the law of the Member State, must apply by analogy the provisions relating to the obligation to forward the application, to inform the person concerned, to take a provisional decision on the priority rules to be applied and to provide provisional cash benefits?
5. Is the obligation to take a provisional decision on the priority rules to be applied incumbent solely on the respondent authority, as the institution, or also on the administrative court seised on appeal?
6. At what point in time is the administrative court obliged to take a provisional decision on the priority rules to be applied? Question 7 relates to the case where the applicant's situation falls within Article 11(3)(a) of Regulation No 883/2004 and EU law requires the Member State of employment and the Member State of residence to provide family benefits jointly.
7. Are the words 'th[e] institution shall forward the application' in Article 68(3)(a) of Regulation No 883/2004 and in Article 60 of Regulation No 987/2009 to be interpreted as meaning that those provisions link the institution of the Member State with primary responsibility and the institution of the Member State with secondary responsibility in

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