- in order to avoid a 'divide' between higher and lower pensions (caused by periodic adjustment at a single rate), even though this would be purely nominal and would leave the differential between the two unchanged,
- in order to put in place a general 'social component' in the form of steps to increase the purchasing power of those on lower pensions, even though (a) that objective could be attained even without limiting the adjustment of higher pensions and (b) the legislature does not also provide for the same type of measure to increase purchasing power when it comes to adjusting for inflation the salaries of lower-paid civil servants (to the detriment of the adjustment applied to the salaries of higher-paid civil servants), and has also not laid down rules for a comparable intervention in the adjustment applied to the value of pensions under other occupational social security schemes (in which the State does not participate) in order to increase the purchasing power of lower pensions (to the detriment of the adjustment of higher pensions),
- in order to maintain and finance 'the scheme', even though civil service pensions are payable not by an insurer-operated scheme organised in the form of insurance and financed from contributions, but by the Federal Government as employer of retired civil servants and in consideration for work performed, so that the maintenance or financing of a scheme is not decisive, the only relevant considerations, ultimately, being budgetary,
- because the fact that the statistically much higher representation of men among recipients of higher pensions is to be regarded as the consequence of the lack of equal opportunities for women in matters of employment and occupation that was typical in the past in particular, constitutes an independent ground of justification or (upstream of that) rules out from the outset any assumption of indirect discrimination on grounds of sex, within the meaning of Directive 2006/54/EC, to the detriment of men, or
- because the scheme is permissible as positive action for the purposes of Article 157(4) TFEU.

Case C-411/20, Free Movement, Social Insurance

S – v – Familienkasse Niedersachsen-Bremen der Bundesagentur für Arbeit, reference lodged by the Finanzgericht Bremen (Germany) on 2 September 2020

Must Article 24 of Directive 2004/38/EC and Article 4 of Regulation (EC) No 883/2004 be interpreted as precluding legislation of a Member State under which a national of another Member State, who establishes a permanent residence or habitual residence in the Member State concerned and does not prove that he has national income from agriculture and forestry, business, employment or self-employment, has no entitlement to family benefits within the meaning of Article 3(1)(j) of Regulation (EC) No 883/2004, in conjunction with Article 1(z) thereof, for the first three months of establishing a permanent residence or habitual residence, whilst a national of the Member State concerned, who is in the same situation, does have an entitlement to family benefits within the meaning of Article 3(1)(j) of Regulation (EC) No 883/2004, in conjunction with Article 1(z) thereof, without proving national income from agriculture and forestry, business, employment or self-employment?

Case C-426/20, Temporary Agency Work

GD and ES – v – Luso Temp – Empresa de Trabalho Temporário, S. A., reference lodged by the Tribunal Judicial da Comarca de Braga – Juízo do Trabalho de Barcelos (Portugal) on 10 September 2020

Do Article 3(1)(f) and Article 5(1) of Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work preclude a provision of law such as that in Article 185(6) of the Código do Trabalho (Employment Code) (adopted by Law No 7/2009 of 12 February [2009]), under which temporary agency workers are, in all cases, entitled to paid holiday and the corresponding holiday bonus pay only pro rata to the period of service in the user undertaking, even where their employment relationship commences in one calendar year and ends two or more calendar years later, whereas a worker recruited directly by the user undertaking who occupies the same job for the same period of time will be subject to the general holiday provisions, meaning that he or she will be entitled to a longer period of paid holiday and more

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holiday bonus pay, since these are not pro rata to the period of service?

Case C-485/20, Disability Discrimination

X – v – HR Rail, SA de droit public, reference lodged by Conseil d'État (Belgium) on 29 September 2020

Is Article 5 of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation to be interpreted as meaning that an employer has an obligation, in relation to a person who, due to his disability, is no longer capable of performing the essential functions of the post to which he was assigned, to assign him to another post, for which he has the requisite skills, capabilities and availability, where such a measure would not impose a disproportionate burden on the employer?'

Case C-502/20, Free Movement, Work and Residence Permit

TP – v – Institut des experts en automobiles, reference lodged by the Cour d'appel de Mons (Belgium) on 5 October 2020

1. Can the provisions of Article 5[(1)(2)](b) and Article 6 of the Belgian Law of 15 May 2007 on the recognition and protection of the profession of automotive expert, read in conjunction with the provisions of the Law of 12 February 2008 establishing a general framework for the recognition of EU professional qualifications, in particular Articles 6, 8 and 9 thereof, be interpreted as meaning that a service provider who changes his or her place of establishment to another Member State cannot, after that change, be entered, in his or her country of origin (in this instance, Belgium), in the IEA's register of temporary and occasional service providers with a view to pursuing temporary and occasional activity in that country? Is such an interpretation compatible with the freedom of establishment granted under EU law?
2. Are the provisions of Article 5[(1)(2)](b) and Article 6 of the Belgian Law of 15 May 2007 on the recognition and protection of the profession of automotive expert, read in conjunction with the provisions of the Law of 12 February 2008 establishing a general framework for the recognition of EU professional qualifications, in particular Articles 6, 8 and 9 thereof, interpreted as meaning that the concept of temporary and occasional activity precludes the possibility for a service provider established in one Member State to provide services in another Member State if those services are to a degree recurrent, without being regular, or to possess some forms of infrastructure in that other Member State, compatible with the abovementioned provisions of the directive?

Case C-514/20, Paid Leave

DS – v – Koch Personaldienstleistungen GmbH, reference lodged by the Bundesarbeitsgericht (Germany) on 13 October 2020

Do Article 31(2) of the Charter of Fundamental Rights of the European Union and Article 7 of Directive 2003/88/EC preclude a provision in a collective labour agreement which, for the purpose of calculating whether an employee is entitled to overtime pay and for how many hours, takes account only of the hours actually worked and not also of the hours during which the employee takes his paid minimum annual leave?

Case C-518/20, Paid Leave

XP – v – St. Vincenz-Krankenhaus GmbH, reference lodged by the Bundesarbeitsgericht (Germany) on 16 October 2020

1. Do Article 7 of Directive 2003/88 and Article 31(2) of the Charter preclude an interpretation of a rule of national law such as Paragraph 7(3) of the German Bundesurlaubsgesetz (Federal Law on leave; 'the BUrIG') according to which the as yet unexercised entitlement to paid annual leave of a worker who suffers, on health grounds, a full reduction of earning capacity in the course of the leave year, but who could still have taken – at least some of – the leave in the leave year before the onset of his reduction of earning capacity, lapses 15 months after the end of the leave year in the event of a continuing uninterrupted reduction of earning capacity even if the employer has not actually enabled the worker to exercise his leave entitlement by informing him of the leave concerned and inviting him to take it?
2. If Question 1 is answered in the affirmative: Under these conditions, is it also impossible for the entitlement to lapse at a later point in time in cases where a full reduction of earning capacity persists?

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