3. Does Clause 5 of the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC on 18 March 1999, annexed to Directive 1999/70/EC, preclude the application of national legislation, such as the Italian legislation under which the fixed period of service of *giudici di pace*, as lay judges, originally set at eight years (four plus four years), may be systematically renewed for a further four years without any provision for effective and dissuasive penalties, instead of the employment relationship being converted into one of indefinite duration?

Case C-237/20, Transfer of Undertakings, Insolvency

Federatie Nederlandse Vakbeweging – v – Heiploeg Seafood International BV, Heitrans International BV, reference lodged by the Hoge Raad der Nederlanden (The Netherlands) on 4 June 2020

1. Must Article 5(1) of Directive 2001/23/EC be interpreted as meaning that the condition that 'bankruptcy proceedings or any analogous insolvency proceedings … have been instituted with a view to the liquidation of the assets of the transferor' has been met, where the bankruptcy of the transferor is inevitable and the transferor is therefore effectively insolvent under Dutch law, the objective of the bankruptcy proceedings is to secure the highest possible return for the joint creditors by liquidating the debtor's assets, and in a so-called pre-pack prior to the declaration of bankruptcy, preparations are made for the transfer of (part of) the undertaking but it is only carried out after the declaration of bankruptcy, in terms of which prior to the declaration of bankruptcy, the prospective insolvency administrator appointed by the *Rechtbank* (District Court) must be guided by the interests of the joint creditors as well as by social interests such as the importance of job preservation, and the prospective *Rechter-commissaris* (supervisory judge), also appointed by the *Rechtbank*, must exercise a supervisory function in that regard, the objective of the pre-pack is to enable, in the subsequent bankruptcy proceedings, a method of liquidation whereby (part of) the undertaking belonging to the assets of the transferor is sold as a going concern so as to obtain the highest possible return for the joint creditors and jobs are preserved as far as possible, and the structure of the procedure ensures that that objective is in fact the guiding principle?
2. Must Article 5(1) of the Directive be interpreted as meaning that the condition that 'the bankruptcy proceedings or any analogous insolvency proceedings are under the supervision of a competent public authority' is fulfilled if the transfer of (part of) the undertaking is prepared in a pre-pack prior to the declaration of bankruptcy and is carried out after the declaration of bankruptcy, and is monitored, prior to the declaration of bankruptcy, by a prospective insolvency administrator and a prospective *Rechter-commissaris* who have been appointed by the *Rechtbank* but who do not have legal powers, under Dutch law, prior to the declaration of bankruptcy, the prospective insolvency administrator is obliged to be guided by the interests of the joint creditors and by other social interests, such as the preservation of jobs, and the prospective *Rechter-commissaris* is obliged to exercise a supervisory function in that regard, the duties of the prospective insolvency administrator and the prospective *Rechter-commissaris* do not differ from those of the insolvency administrator and the *Rechter-commissaris* in a bankruptcy, the agreement on the basis of which the company is transferred and which has been prepared during a pre-pack is only concluded and executed after the bankruptcy has been declared, the *Rechtbank*, when declaring the bankruptcy, may proceed to appoint an insolvency administrator or a *Rechter-commissaris* other than the prospective insolvency administrator or the prospective *Rechter-commissaris*, and the same requirements of objectivity and independence apply to the insolvency administrator and the *Rechter-commissaris* as apply to an insolvency administrator and a *Rechter-commissaris* in a bankruptcy that was not preceded by a pre-pack and, irrespective of the degree of their involvement prior to the declaration of bankruptcy, they are obliged by virtue of their statutory duty to assess whether the transfer of (part of) the undertaking prepared prior to the declaration of bankruptcy is in the interests of the joint creditors, and if they answer that question in the negative, to decide that such a transfer will not take place, while they are also always entitled to decide on other grounds, for example, because other social interests, such as the interest of employment, are opposed to it, that the transfer of (part of) the undertaking prepared prior to the declaration of bankruptcy will not take place?

Case C-244/20, Social Insurance, Gender Discrimination, Pension

FCI – v – Instituto Nacional de la Seguridad Social (INSS), reference lodged by the Tribunal Superior de Justicia de Cataluña (Spain) on 8 June 2020

1. Must Article 3(2) of Directive 79/7 of [19] December 1978 on the progressive implementation of the

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principle of equal treatment for men and women in matters of social security, which does not apply to survivors' benefits or family benefits, be declared invalid or treated as such on the ground that it is contrary to a fundamental principle of European Union law, namely equality between men and women, which is declared a founding principle of the European Union in Articles 2 and 3 of the Treaty on European Union and in Article 19 of the Treaty on the Functioning of the European Union, and a fundamental right in Article 21(1) of the Charter of Fundamental Rights of the European Union and also in the long-established and settled case-law of the Court of Justice?

2. Must Article 6 of the Treaty on European Union and Article 17(1) of the Charter of Fundamental Rights of the European Union be interpreted, in the light of Article 1 of Additional Protocol No 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950, as precluding a national measure such as that under consideration in the main proceedings (which was prompted by Constitutional Court judgment No 40/2014 of 11 March 2014, the ensuing national case-law and the legislative amendments that implemented the judgment) which – in practice, given the general lack of awareness of the need for formalisation and the absence of any transition period for complying with the requirement – initially prevented members of de facto partnerships governed by the Código Civil Catalán (Catalan Civil Code) from obtaining a survivor's pension, and has subsequently made it extremely difficult for them to access this benefit?
3. Must the fundamental principle of European Union law of equality between men and women, which is included as a founding value in Articles 2 and 3 of the Treaty on European Union, and the prohibition of discrimination on ground of sex, which is recognised as a fundamental right in Article 21 of the Charter of Fundamental Rights of the European Union in conjunction with Article 14 of the European Convention on Human Rights, be interpreted as precluding a national measure such as that under consideration in the main proceedings (which was prompted by Constitutional Court judgment No 40/2014 of 11 March 2014, the ensuing national case-law and the legislative amendments that implemented the judgment) which – in practice, given the general lack of awareness of the need for formalisation and the absence of any transition period for complying with the requirement – initially prevented members of de facto partnerships governed by the Catalan Civil Code from obtaining a survivor's pension, and has subsequently made it extremely difficult for them to access this benefit, to the disadvantage of a far greater percentage of women than men?
4. Must the prohibition on grounds of 'birth' or, alternatively of 'membership of a national minority' as reasons or 'grounds' for discrimination prohibited by Article 21(1) of the Charter of Fundamental Rights of the European Union in conjunction with Article 14 of the European Convention on Human Rights, be interpreted as precluding a national measure such as that under consideration in the main proceedings (which was prompted by Constitutional Court judgment No 40/2014 of 11 March 2014, the ensuing national case-law and the legislative amendments that implemented the judgment) which – in practice, given the general lack of awareness of the need for formalisation and the absence of any transition period for complying with the requirement – initially prevented members of de facto partnerships governed by the Catalan Civil Code from obtaining a survivor's pension, and has subsequently made it extremely difficult for them to access this benefit?

Case C-261/20, Other Forms of Free Movement

Thelen Technopark Berlin GmbH – v – MN, reference lodged by the Bundesgerichtshof (Germany) on 15 June 2020

1. Does it follow from EU law, in particular from Article 4(3) TEU, the third paragraph of Article 288 TFEU and Article 260(1) TFEU, that, in the context of ongoing court proceedings between private persons, Article 15(1), (2)(g) and (3) of Directive 2006/123 on services in the internal market has direct effect in such a way that the national provisions contrary to that directive that are contained in Paragraph 7 of the German *Verordnung über die Honorare für Architekten- und Ingenieurleistungen* (Decree on fees for services provided by architects and engineers ('the HOAI')), pursuant to which the minimum rates for planning and supervision services provided by architects and engineers laid down in that official scale of fees are mandatory – save in certain exceptional cases – and any fee agreement in contracts with architects or engineers which falls short of the minimum rates is invalid, are no longer to be applied?
2. If Question 1 is to be answered in the negative:
   a. Does the Federal Republic of Germany's scheme of mandatory minimum rates for planning and supervision services provided by architects and engineers in Paragraph 7 of the HOAI constitute an infringement of the freedom of establishment under Article 49 TFEU or of other general principles of EU law?
   b. If Question 2(a) is to be answered in the affirmative: Does it follow from such an infringement that the national rules on mandatory minimum rates (in this case: Paragraph 7 of the

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