

**Judgment of the Court (First Chamber) of 27 April 2006
(reference for a preliminary ruling from the Social
Security Commissioner) — Sarah Margaret Richards v
Secretary of State for Work and Pensions**

(Case C-423/04) ⁽¹⁾

*(Equal treatment for men and women in matters of social
security — Directive 79/7/EEC — Refusal to award a retire-
ment pension at the age of 60 to a transsexual who has
undergone male-to-female gender reassignment surgery)*

(2006/C 143/23)

Language of the case: English

Referring court

Social Security Commissioner

Parties to the main proceedings

Applicant: Sarah Margaret Richards

Defendant: Secretary of State for Work and Pensions

Re:

Reference for a preliminary ruling — Social Security Commissioner — Interpretation of Articles 4 and 7 of Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security — Refusal to award a retirement pension at the age of 60 to a male-to-female transsexual, the age at which entitlement to such a pension would have arisen if that person had been born female.

Operative part of the judgment

The Court:

1. Article 4(1) of Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security is to be interpreted as precluding legislation which denies a person who, in accordance with the conditions laid down by national law, has undergone male-to-female gender reassignment entitlement to a retirement pension on the ground that she has not reached the age

of 65, when she would have been entitled to such a pension at the age of 60 had she been held to be a woman as a matter of national law.

2. There is no need to limit the temporal effects of this judgment.

⁽¹⁾ OJ C 300, 4.12.2004.

**Judgment of the Court (Third Chamber) of 6 April 2006
— Commission of the European Communities v Republic
of Austria**

(Case C-428/04) ⁽¹⁾

*(Failure to fulfil obligations — Directive 89/391/EEC —
Measures to encourage improvements in the safety and health
of workers at work — Failure to notify implementing
measures — Incorrect or inadequate implementation — Arti-
cles 2(1), 7(3), 8(2), 11(2)(c) and (d), 13(2)(b) and 18)*

(2006/C 143/24)

Language of the case: German

Parties

Applicant: Commission of the European Communities (represented by: V. Kreuzschitz, N. Yerrell and H. Kreppel, Agents)

Defendant: Republic of Austria (represented by: C. Pesendorfer, Agent)

Re:

Failure of a Member State to fulfil obligations — Incomplete and incorrect transposition of Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (OJ 1989 L 183, p. 1)