Reports of Cases

JUDGMENT OF THE COURT (Fifth Chamber)

30 October 2025 *

(Reference for a preliminary ruling – Social policy – Directive 98/59/EC – Collective redundancies – First subparagraph of Article 3(1) – Requirement of prior notification of projected collective redundancies to the competent public authority – Whether notification meets the requirements of that directive – Not consistent – Validity of the dismissal – First subparagraph of Article 4(1) – 30-day standstill period)

In Case C-134/24 [Tomann], [i]

REQUEST for a preliminary ruling under Article 267 TFEU from the Bundesarbeitsgericht (Federal Labour Court, Germany), made by decision of 1 February 2024, received at the Court on 20 February 2024, in the proceedings

UR, acting as insolvency practitioner for V GmbH,

v

DF,

THE COURT (Fifth Chamber),

composed of M.L. Arastey Sahún (Rapporteur), President of the Chamber, J. Passer, E. Regan, D. Gratsias and B. Smulders, Judges,

Advocate General: R. Norkus,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– UR, acting as insolvency practitioner for V GmbH, by M. Richter, Rechtsanwalt,

– the European Commission, by S. Delaude and B.-R. Killmann, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 27 February 2025,

* Language of the case: German.

[i] The name of the present case is a fictitious name. It does not correspond to the real name of any party to the proceedings.

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 3(1), the first subparagraph of Article 4(1) and Article 6 of Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies (OJ 1998 L 225, p. 16), as amended by Directive (EU) 2015/1794 of the European Parliament and of the Council of 6 October 2015 (OJ 2015 L 263, p. 1) ('Directive 98/59').

2 The request has been made in the proceedings between UR, acting as insolvency practitioner for V GmbH, and DF concerning the validity of DF's dismissal, occurring in the context of collective redundancies.

Legal context

European Union law

3 Recitals 2 and 12 of Directive 98/59 state:

'(2) Whereas it is important that greater protection should be afforded to workers in the event of collective redundancies while taking into account the need for balanced economic and social development within the Community;

…

(12) Whereas Member States should ensure that workers' representatives and/or workers have at their disposal administrative and/or judicial procedures in order to ensure that the obligations laid down in this Directive are fulfilled'.

4 Article 1(1) of that directive provides:

'For the purposes of this Directive:

(a) "collective redundancies" means dismissals effected by an employer for one or more reasons not related to the individual workers concerned where, according to the choice of the Member States, the number of redundancies is:
(i) either, over a period of 30 days:

– at least 10 in establishments normally employing more than 20 and less than 100 workers,

…
(ii) or, over a period of 90 days, at least 20, whatever the number of workers normally employed in the establishments in question;

…

For the purpose of calculating the number of redundancies provided for in the first subparagraph of point (a), terminations of an employment contract which occur on the employer's initiative for one or more reasons not related to the individual workers concerned shall be assimilated to redundancies, provided that there are at least five redundancies.'

5 Article 2 of the directive provides:

'1. Where an employer is contemplating collective redundancies, he shall begin consultations with the workers' representatives in good time with a view to reaching an agreement.

2. These consultations shall, at least, cover ways and means of avoiding collective redundancies or reducing the number of workers affected, and of mitigating the consequences by recourse to accompanying social measures aimed, inter alia, at aid for redeploying or retraining workers made redundant.

…

3. To enable workers' representatives to make constructive proposals, the employers shall in good time during the course of the consultations:

…

(b) in any event notify them in writing of:
(i) the reasons for the projected redundancies;
(ii) the number and categories of workers to be made redundant;
(iii) the number and categories of workers normally employed;
(iv) the period over which the projected redundancies are to be effected;
(v) the criteria proposed for the selection of the workers to be made redundant in so far as national legislation and/or practice confers the power therefor upon the employer;

…

The employer shall forward to the competent public authority a copy of, at least, the elements of the written communication which are provided for in the first subparagraph, point (b), subpoints (i) to (v).'

6 The first and fourth subparagraphs of Article 3(1) of that directive provide:

'1. Employers shall notify the competent public authority in writing of any projected collective redundancies.

…

This notification shall contain all relevant information concerning the projected collective redundancies and the consultations with workers' representatives provided for in Article 2, and particularly the reasons for the redundancies, the number of workers to be made redundant, the number of workers normally employed and the period over which the redundancies are to be effected.'

7 According to Article 4 of Directive 98/59:

‘1. Projected collective redundancies notified to the competent public authority shall take effect not earlier than 30 days after the notification referred to in Article 3(1) without prejudice to any provisions governing individual rights with regard to notice of dismissal.

Member States may grant the competent public authority the power to reduce the period provided for in the preceding subparagraph.

2. The period provided for in paragraph 1 shall be used by the competent public authority to seek solutions to the problems raised by the projected collective redundancies.

3. Where the initial period provided for in paragraph 1 is shorter than 60 days, Member States may grant the competent public authority the power to extend the initial period to 60 days following notification where the problems raised by the projected collective redundancies are not likely to be solved within the initial period.

Member States may grant the competent public authority wider powers of extension.

The employer must be informed of the extension and the grounds for it before expiry of the initial period provided for in paragraph 1.

…’

8 Article 6 of that directive is worded as follows:

‘Member States shall ensure that judicial and/or administrative procedures for the enforcement of obligations under this Directive are available to the workers’ representatives and/or workers.’

German law

The Civil Code

9 Under Paragraph 134 of the Bürgerliches Gesetzbuch (Civil Code; ‘the BGB’):

‘Any legal act contrary to a statutory prohibition shall be void except as otherwise provided by law.’

10 Paragraph 615 of the BGB provides:

‘If the person entitled to services is in default in accepting the services, the party owing the services may then demand the agreed remuneration for the services not rendered as the result of the default without being obliged to provide subsequent service. …’

Law on protection against dismissal

11 Paragraph 17 of the Kündigungsschutzgesetz (Law on protection against dismissal), in the version applicable to the dispute in the main proceedings ('the KSchG'), provides:

'(1) The employer is under an obligation to notify the employment agency before it makes redundant:

1. in establishments normally employing more than 20 and fewer than 60 workers, more than 5 workers,

   …

   over a period of 30 calendar days. …

   …

(3) … The notification referred to in subparagraph 1 shall be given in writing and shall enclose the observations of the works council on the redundancies. If the works council has not made any observations, the notification shall be valid if the employer can demonstrate that the works council was notified at least two weeks prior to the notification given in accordance with the first sentence of subparagraph 2 and sets out the stage reached in consultations. The notification must include information on the name of the employer, the registered office and type of establishment, as well as the reasons for the projected redundancies, the number and professional categories of workers to be made redundant, the number of workers normally employed, the period over which it is planned to carry out the redundancies and the criteria for selecting the workers to be made redundant. The notification shall also include, for the purposes of job placement and in agreement with the works council, information on the sex, age, profession and nationality of the workers to be made redundant. …'

12 Paragraph 18(1) and (2) of the KSchG reads as follows:

'(1) Redundancies which must be notified under Paragraph 17 may take effect less than one month after the employment agency has received the notification only with the latter's consent; consent may be given with retroactive effect up to the date of the application.

(2) In certain cases, the employment agency may decide that the redundancies shall take effect not earlier than at most two months after receipt of the notification.'

Book X of the Social Security Code

13 Under Paragraph 20(1) and (2) of the Sozialgesetzbuch, Zehntes Buch (Book X of the Social Security Code), in the version applicable to the dispute in the main proceedings:

'(1) The authority shall investigate the facts on its own initiative. It shall determine the nature and scope of the investigations; it shall not be bound by the arguments and requests for evidence of the interested persons or parties.

(2) The authority shall take account of all the facts relevant to the particular case, including those favourable to the interested persons or parties.'

Law on the organisation of labour courts

14 Paragraph 45 of the Arbeitsgerichtsgesetz (Law on the organisation of labour courts), in the version applicable to the dispute in the main proceedings ('the ArbGG'), provides:

'(1) A Grand Chamber shall be established at the [Bundesarbeitsgericht (Federal Labour Court, Germany) ('the Grand Chamber')].

(2) The Grand Chamber shall decide where a chamber wishes to deviate from the decision of another chamber or the Grand Chamber on a matter of law.

(3) A referral before the Grand Chamber shall be admissible only if the chamber from whose decision another chamber wishes to deviate has declared, upon request from the latter chamber, that it maintains its legal position. … The respective chamber shall rule on the question and the answer by means of an order in the composition required for judgments.'

The dispute in the main proceedings and the questions referred for a preliminary ruling

15 DF had been an employee of V GmbH since 1994.

16 On 1 December 2020, insolvency proceedings were initiated in respect of that company and UR was appointed as insolvency practitioner.

17 On 2 December 2020, UR gave notice of termination of DF's contract of employment with effect from 31 March 2021. It is common ground that UR dismissed more than five employees in the 30-calendar day period.

18 DF subsequently brought an action before the Arbeitsgericht Hamburg (Labour Court, Hamburg, Germany) seeking, first, a declaration that the employment relationship continued to exist and, second, that UR be ordered to continue to employ DF until the proceedings to have the dismissal annulled have been definitively concluded.

19 In support of his action, DF submits that the termination of his contract of employment is void because UR had not given prior notification of the collective redundancies in accordance with Paragraph 17(1) of the KSchG.

20 UR contends that DF's action should be dismissed, submitting that the rules on collective redundancies were not applicable in the present case, since V GmbH had only 19 employees at the time the insolvency proceedings were initiated against it. Thus, in the present case, the threshold above which notification of collective redundancies under Paragraph 17(1) of the KSchG becomes mandatory has not been reached. It is also apparent from the order for reference that, prior to 31 March 2021, being the date on which the termination of DF's employment contract took effect, UR had neither given such notification nor rectified the absence thereof.

21 By judgment of 20 April 2021, the Arbeitsgericht Hamburg (Labour Court, Hamburg) upheld DF's action.

22 By judgment of 3 February 2022, the Landesarbeitsgericht Hamburg (Higher Labour Court, Hamburg, Germany) dismissed UR's appeal against that judgment.

23 UR brought an appeal on a point of law against that judgment before the Bundesarbeitsgericht (Federal Labour Court), which is the referring court, which assigned the case in the main proceedings to the Sixth Chamber of that court ('the Sixth Chamber').

24 By order of 11 May 2023, that chamber found that V GmbH 'normally' employed more than 20 workers at the time of the dismissal at issue in the main proceedings, with the result that UR should have notified the collective redundancy under Paragraph 17(1) of the KSchG before terminating DF's contract of employment.

25 By a further order of 14 December 2023, the Sixth Chamber stated that it harboured doubts as to the penalty to be imposed in the event of the absence of such notification and of failure to satisfy the conditions required in connection with the notification procedure under the KSchG. Contrary to its own previous case-law, that chamber takes the view that that absence of notification or those other failures should not render the termination of the contract void under Paragraph 134 of the BGB. It is for the legislature alone to provide for such a penalty.

26 First, Paragraph 17(1) and (3) of the KSchG, which provides for the obligation to give prior notification of collective redundancies, cannot be regarded as a 'statutory prohibition' within the meaning of Paragraph 134 of the BGB. Second, a 'penalty' of being rendered void is also not provided for in Article 4(1) of Directive 98/59.

27 The Sixth Chamber nevertheless takes the view that, in the light of the case-law of the Zweiter Senat des Bundesarbeitsgerichts (Second Chamber of the Federal Labour Court) ('the Second Chamber') concerning the penalties to be imposed in the event of failings in the procedure for notification of collective redundancies, it cannot refrain, in the case before it, from declaring the dismissal at issue void by departing from its own previous case-law, without having first carried out an internal consultation under Paragraph 45(3) of the ArbGG, with the aim of resolving differences of interpretation between the various chambers of that court.

28 Therefore, on the basis of that provision, the Sixth Chamber, in an order of 14 December 2023, asked the Second Chamber whether '[that] chamber [maintained] the legal position … that termination of an employment contract, as a legal act, is contrary to a statutory prohibition within the meaning of Paragraph 134 of the [BGB], meaning that the termination is invalid if there was no valid notification pursuant to Paragraph 17(1)(3) of the [KSchG] when the notice of termination was given'.

29 It is apparent from the order for reference that that Second Chamber, which is the formation of the referring court that made the present request for a preliminary ruling, has until now held that termination of an employment contract without such prior notification is void and cannot bring the employment contract to an end.

30 In the light of the question put to it by the Sixth Chamber, the Second Chamber considers, as does the Sixth Chamber, that it may be disproportionate to find, in particular by virtue of the obligations imposed by EU law, that, in the absence of prior notification of collective redundancies, the termination of the employment contract concerned must be annulled. According to the Second Chamber, a distinction should be drawn between when there is no such notification at all and when notification of collective redundancies does not satisfy the formal or substantive conditions laid down by national or EU law.

31 As regards the first situation, namely the complete absence of prior notification of collective redundancies, the Second Chamber states that, under national law, the contract of employment subject to a notice of termination continues to have effect until expiry of a one-month standstill period, in accordance with Paragraph 18(1) of the KSchG. Accordingly, the termination of an employment contract in the context of projected collective redundancies subject to the obligation of prior notification cannot take effect until such notification has taken place.

32 That chamber also states that, pursuant to that Paragraph 18(1), the effects of such a termination are to be 'suspended' until the notification of collective redundancies that was originally omitted has been given, in order to enable the competent employment agency to find employment for the workers affected by the collective redundancies.

33 Since that provision must be interpreted in accordance with EU law, that chamber asks whether Article 4(1) of Directive 98/59 must be interpreted as meaning that such termination cannot take effect until expiry of the 30-day period provided for therein.

34 As regards the second situation referred to in paragraph 30 above, the Second Chamber is of the opinion that Article 4(1) must be interpreted as meaning that the 30-day period laid down in that provision and the period laid down in Paragraph 18(1) of the KSchG can start to run, and therefore expire, only if the notification of collective redundancies is consistent with the fourth subparagraph of Article 3(1) of Directive 98/59.

35 That interpretation is supported, first, by the reference in Article 4(1) of that directive to Article 3(1) thereof and, second, by the objective pursued by the requirement to notify collective redundancies, which is to enable the competent public authority to seek solutions to the problems raised by the projected collective redundancies, in accordance with Article 4(2) and (3) of that directive.

36 In addition, the Second Chamber raises the question whether an employer who has terminated employment contracts without prior notification of the projected collective redundancies of which those terminations form part may rectify that absence of notification at a later stage, with the result that those terminations take effect on expiry of the 30-day period laid down in Article 4(1), without it being necessary to terminate those contracts again.

37 According to that chamber, the fact that that 30-day period does not start to run until such rectification ensures that the competent public authority has a minimum period in which to seek solutions to the problems raised by the collective redundancies concerned, in accordance with Article 4(2) and (3) of that directive.

38 That chamber considers that the judgment of 27 January 2005, *Junk* (C-188/03, EU:C:2005:59), does not preclude that interpretation. It argues that in that judgment, the Court merely held that employment contracts may be terminated only after notification to the competent public authority, but did not rule that the terminations are 'irremediably' void in the absence of prior notification of collective redundancies in the prescribed manner.

39 Thus, the 'penalty' for late notification of collective redundancies would be the temporary suspension of the legal effects of the termination of the employment contracts and the obligation for the employer to pay the employees concerned until expiry of the 30-day period.

40 Lastly, the Second Chamber seeks to ascertain, in the light of Article 6 of Directive 98/59, according to which Member States must ensure that administrative and/or judicial procedures for the enforcement of the obligations laid down by that directive are available to the workers' representatives and/or workers, whether national law may confer on the competent public authority alone the task of examining whether the prior notification of projected collective redundancies is compliant and establishing that the 30-day period laid down in Article 4(1) of that directive has expired. That finding would thus be binding on the labour courts and on an employee seeking to challenge, in the context of a dispute concerning the end of the employment relationship, such an administrative finding by way of a judicial remedy.

41 The Second Chamber observes that it does indeed follow from the judgment of 5 October 2023, *Brink's Cash Solutions* (C-496/22, EU:C:2023:741, paragraph 45), that Article 6 of Directive 98/59 requires Member States to ensure effective judicial protection for worker's representatives and/or workers. However, that requirement relates solely to the consultation procedure laid down in Article 2 of Directive 98/59, in which no authority is involved, and which, unlike the procedure for prior notification of projected collective redundancies laid down in Articles 3 and 4 thereof, is intended to prevent the employment contracts of the workers concerned from being terminated. Any other interpretation would be inconsistent with the use of the terms 'and/or' in Article 6 and recital 12 of that directive.

42 In those circumstances, the Bundesarbeitsgericht (Federal Labour Court) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) Must Article 4(1) of [Directive 98/59] be interpreted as meaning that a dismissal as part of a collective redundancy subject to compulsory notification can terminate the employment relationship of an employee concerned only once the standstill period has expired?

If the answer to Question 1 is in the affirmative:

(2) Does the expiry of the standstill period not only require a collective redundancy notification, but must it also satisfy the conditions laid down in the fourth subparagraph of Article 3(1) of Directive [98/59]?

(3) Can an employer who has announced dismissals subject to compulsory notification without a (proper) collective redundancy notification give such notification at a later stage with the consequence that, after the expiry of the standstill period, the employment relationship of the employees concerned can be terminated by the dismissals previously announced?

If the answers to Questions 1 and 2 are in the affirmative:

(4) Is it compatible with Article 6 of Directive [98/59] for national law to leave it to the competent authority to determine, in a manner which is incontestable for the employee and binding on the labour courts, when the standstill period expires in a particular case, or must the employee necessarily be able to bring an action before a court for review of the accuracy of the authority's determination?'

Admissibility of the request for a preliminary ruling

43 It is settled case-law that the procedure provided for in Article 267 TFEU is an instrument of cooperation between the Court of Justice and the national courts, by means of which the Court provides the national courts with the points of interpretation of EU law which they need in order to decide the disputes before them and that the justification for a reference for a preliminary ruling is not that it enables advisory opinions on general or hypothetical questions to be delivered, but rather that it is necessary for the effective resolution of a dispute (judgment of 16 May 2024, *Toplofikatsia Sofia (Concept of the defendant's domicile)*, C-222/23, EU:C:2024:405, paragraph 39 and the case-law cited).

44 As is apparent from the very wording of Article 267 TFEU, the preliminary ruling sought must be 'necessary' to enable the referring court to 'give judgment' in the case before it (judgment of 16 May 2024, *Toplofikatsia Sofia (Concept of the defendant's domicile)*, C-222/23, EU:C:2024:405, paragraph 40 and the case-law cited).

45 The Court has thus pointed out that it is apparent from both the wording and the scheme of Article 267 TFEU that a national court or tribunal is not empowered to bring a matter before the Court by way of a reference for a preliminary ruling unless a case is pending before it, in which it is called upon to give a decision which is capable of taking account of the preliminary ruling (judgment of 16 May 2024, *Toplofikatsia Sofia (Concept of the defendant's domicile)*, C-222/23, EU:C:2024:405, paragraph 41 and the case-law cited).

46 In the present case, although the admissibility of the request for a preliminary ruling has not been challenged by any of the interested parties who submitted written observations in the present case, it must be held that the dispute in the main proceedings, ultimately, will not be decided by the Second Chamber, since that dispute is currently pending before the Sixth Chamber.

47 The fact remains that, according to the information provided by the Second Chamber as summarised in paragraphs 25 to 28 above, the decision which that chamber is called upon to give, as the case may be by taking into consideration the future preliminary ruling to be delivered by the Court in that case, constitutes a step that is necessary in order to resolve the dispute in the main proceedings.

48 The Second Chamber was seised by the Sixth Chamber on the basis of Paragraph 45(3) of the ArbGG. In accordance with that provision, read in conjunction with Paragraph 45(2) of the ArbGG, where a chamber of the Bundesarbeitsgericht (Federal Labour Court) intends to depart from the decision of another chamber or of the Grand Chamber on a legal question, it is for the Grand Chamber to decide, provided, however, that the chamber from whose decision it is proposed to deviate has previously declared, upon request from the chamber seised, that it maintains its legal position.

49 That said, it appears that the internal consultation procedure provided for in Paragraph 45(3) of the ArbGG is required, as a mandatory intermediate stage required by national law, before the Sixth Chamber can rule on the substance of the case in the main proceedings pending before it (see, to that effect and by analogy, judgment of 6 October 2021, *W.Ż. (Chamber of Extraordinary Control and Public Affairs of the Supreme Court – Appointment)*, C-487/19, EU:C:2021:798, paragraph 94 and the case-law cited).

50 That internal consultation procedure therefore appears to meet an objective need of that Sixth Chamber, namely that of resolving differences of interpretation between the various chambers of the Bundesarbeitsgericht (Federal Labour Court), thus enabling that chamber, which intends to depart from the decision of another chamber or of the Grand Chamber on a legal question, to rule *in fine* on the substance of the dispute in the main proceedings pending before it.

51 In that regard, it should be noted that, according to the case-law of the Court, the concept 'to give judgment', within the meaning of the second paragraph of Article 267 TFEU, must be interpreted broadly, as encompassing the whole of the procedure leading to the judgment of the referring court (judgment of 11 June 2015, *Fahnenbrock and Others*, C-226/13, C-245/13 and C-247/13, EU:C:2015:383, paragraph 30 and the case-law cited), that concept covering the entire process of creating the judgment (judgment of 17 February 2011, *Weryński*, C-283/09, EU:C:2011:85, paragraph 42).

52 It follows that the Second Chamber is entitled to make a reference to the Court of Justice for a preliminary ruling under the internal consultation procedure provided for in Paragraph 45(3) of the ArbGG.

53 It follows from all of the foregoing that the request for a preliminary ruling is admissible.

Consideration of the questions referred

The first question

54 By its first question, the referring court asks, in essence, whether the first subparagraph of Article 4(1) of Directive 98/59 must be interpreted as meaning that the termination of an employment contract, occurring in the context of projected collective redundancies subject to the obligation to notify the competent public authority laid down in the first subparagraph of Article 3(1) of that directive, cannot take effect until expiry of the 30-day period laid down in the first subparagraph of that Article 4(1).

55 For the purpose of answering that question, it must be pointed out that, in accordance with settled case-law, in interpreting a provision of EU law, it is necessary to consider not only its wording, but also the context in which it occurs and the objectives pursued by the rules of which it is part (judgment of 13 July 2023, *G GmbH*, C-134/22, EU:C:2023:567, paragraph 25 and the case-law cited).

56 In the first place, as regards the wording of the first subparagraph of Article 4(1) of Directive 98/59, it must be recalled that, under that provision, 'projected collective redundancies notified to the competent public authority shall take effect not earlier than 30 days after the notification referred to in Article 3(1) without prejudice to any provisions governing individual rights with regard to notice of dismissal'.

57 Under the first subparagraph of Article 3(1) of that directive, 'employers shall notify the competent public authority in writing of any projected collective redundancies'.

58 Thus, according to the wording of those provisions, the termination of an employment contract as part of projected collective redundancies cannot take effect until expiry of the period laid down in the first subparagraph of Article 4(1) of that directive, which starts to run from the notification

thereof (see, to that effect, judgment of 27 January 2005, *Junk*, C-188/03, EU:C:2005:59, paragraph 50), which necessarily means that the projected collective redundancies must be notified by the employer to the competent public authority. It follows that, in the absence of that notification, such termination cannot take effect.

59 As regards, in the second place, the context in which the first subparagraph of Article 4(1) of that directive occurs and the objective pursued by that provision, it is apparent from Article 4(2) of Directive 98/59 that the fact that redundancies that have been notified to the competent public authority cannot take effect until expiry of the period laid down in the first subparagraph of Article 4(1) is justified by that authority's obligation to use that period in order to seek solutions to the problems raised by the collective redundancies thus contemplated. The obligation to notify thus allows the competent public authority to explore, on the basis of all the information forwarded to it by the employer, the possibilities of limiting the negative consequences of those redundancies by means of measures tailored to the data characterising the labour market and economic activity to which those collective redundancies relate (see, to that effect, judgment of 13 July 2023, *G GmbH*, C-134/22, EU:C:2023:567, paragraph 35 and the case-law cited).

60 The first subparagraph of that Article 4(1) therefore guarantees a minimum period which must be available to the competent authority for the purpose of seeking solutions for the workers concerned (judgment of 27 January 2005, *Junk*, C-188/03, EU:C:2005:59, paragraph 51).

61 It follows that, given the context in which the first subparagraph of that Article 4(1) occurs, the competent public authority may take the view that termination of a contract of employment which occurred as part of the projected collective redundancies cannot take effect until expiry of the 30-day period laid down in that provision, which starts to run from notification of the projected collective redundancies to that authority, which necessarily means that the projected collective redundancies must be notified by the employer to that authority.

62 As the Advocate General observed in point 79 of his Opinion, the objective pursued by that provision, which is to enable that authority, in accordance with Article 4(2) of Directive 98/59, to seek, during that period, solutions to the problems raised by the projected collective redundancies, would be compromised if the termination of an employment contract in projected collective redundancies could take effect in the absence of that notification or before the expiry of that period.

63 In the light of the foregoing, the answer to the first question is that the first subparagraph of Article 4(1) of Directive 98/59 must be interpreted as meaning that the termination of an employment contract, occurring in the context of projected collective redundancies subject to the obligation to notify the competent public authority laid down in the first subparagraph of Article 3(1) of that directive, cannot take effect until expiry of the 30-day period laid down in the first subparagraph of that Article 4(1).

The second question

64 By its second question, the referring court asks, in essence, whether the first subparagraph of Article 4(1) of Directive 98/59 must be interpreted as meaning that the expiry of the 30-day period referred to in that article implies not only that projected collective redundancies have been notified, but also that the content of such notification meets the requirements set out in the fourth subparagraph of Article 3(1) of that directive.

65 UR challenges the admissibility of the second question on the ground that the Second Chamber has not shown precisely how it is relevant, both with regard to the answer to be given to the question referred by the Sixth Chamber under Paragraph 45(3) of the ArbGG, in particular in the light of the facts underlying the dispute in the main proceedings pending before that Sixth Chamber, and with regard to the resolution of that dispute. Since, in the present case, there was no prior notification of the projected collective redundancies by the employer at issue in the main proceedings, the second question is irrelevant.

66 In that regard, it should be noted that, in the context of the cooperation between the Court and the national courts provided for in Article 267 TFEU, it is solely for the national court before which a dispute has been brought, and which must assume responsibility for the subsequent judicial decision, to determine, in the light of the particular circumstances of the case, both the need for a preliminary ruling in order to enable it to deliver judgment and the relevance of the questions which it submits to the Court. Consequently, where the questions submitted concern the interpretation of EU law, the Court is, in principle, bound to give a ruling (judgment of 7 November 2024, *Adusbef (Pont Morandi)*, C-683/22, EU:C:2024:936, paragraph 36 and the case-law cited).

67 It follows that questions relating to EU law enjoy a presumption of relevance (judgment of 7 November 2024, *Adusbef (Pont Morandi)*, C-683/22, EU:C:2024:936, paragraph 37 and the case-law cited). As it is apparent from the case-law referred to in paragraph 43 above, the justification for a reference for a preliminary ruling is not that it enables advisory opinions on general or hypothetical questions to be delivered but rather that it is necessary for the effective resolution of a dispute.

68 In the present case, it is apparent from the order for reference that, prior to the termination of the employment contract at issue in the projected collective redundancies, the employer at issue in the main proceedings did not notify those projected collective redundancies to the competent public authority, in accordance with the first subparagraph of Article 3(1) of Directive 98/59. The dispute in the main proceedings therefore concerns the 'penalty' to be imposed on that employer for failure to comply with the obligation to notify laid down in that provision, and not whether the content of such a notification meets the requirements set out in the fourth subparagraph of Article 3(1) of that directive.

69 It follows that the second question is hypothetical in that it bears no relation to the subject matter of the dispute in the main proceedings.

70 Moreover, the fact that that question might prove to be useful in connection with the internal consultation procedure, pursuant to Paragraph 45(3) of the ArbGG, cannot remove the hypothetical character of that question (see, by analogy, judgment of 10 November 2016, *Private Equity Insurance Group*, C-156/15, EU:C:2016:851, paragraph 58).

71 Consequently, the second question is inadmissible.

The third question

72 By its third question, the referring court asks, in essence, whether the first subparagraph of Article 3(1) and the first subparagraph of Article 4(1) of Directive 98/59 must be interpreted as meaning that an employer who has terminated an employment contract without notifying the

competent public authority of the projected collective redundancies of which that termination forms part, in breach of that first provision, may rectify the absence of notification in such a way that the termination takes effect 30 days after rectification.

73 It should be borne in mind that that directive requires every employer who is contemplating collective redundancies to meet two procedural requirements.

74 First, under Article 2(1) of that directive, an employer who is contemplating collective redundancies is to begin consultations with the workers' representatives with a view to reaching an agreement. Under Article 2(2) of that directive, those consultations are, at least, to cover ways and means of avoiding collective redundancies or reducing the number of workers affected, and of mitigating the consequences by recourse to accompanying social measures aimed, inter alia, at aid for redeploying or retraining workers made redundant. In particular, under the first subparagraph of Article 2(3) of that directive, employers are to supply workers' representatives with all relevant information and in any event notify them in writing of the information referred to in that provision.

75 Second, the notification of any projected collective redundancies to the competent public authority must, under the fourth subparagraph of Article 3(1) of that directive, contain, in particular, the reasons for the redundancies, the number of workers to be made redundant, the number of workers normally employed and the period over which the redundancies are to be effected.

76 As the Advocate General observed in point 93 of his Opinion, those procedural obligations were prescribed by the EU legislature to strengthen the protection of workers in the event of collective redundancies, in particular in order to preserve legal certainty for them.

77 Accordingly, the employer concerned cannot terminate contracts of employment in the event of collective redundancies without having complied with those procedural obligations (judgment of 27 January 2005, *Junk*, C-188/03, EU:C:2005:59, paragraph 41)

78 Therefore, as is apparent from the case-law cited in paragraph 58 above, in accordance with the first subparagraph of Article 4(1) of Directive 98/59, terminations of employment contracts in projected collective redundancies cannot take effect until expiry of the 30-day period laid down in that provision.

79 It also follows from the case-law that, by setting out an express proviso in regard to provisions governing individual rights with regard to notice of dismissal, that first subparagraph of Article 4(1) of the directive is necessarily contemplating a situation in which contracts of employment have already been terminated, thereby setting such a period in motion. The proviso in regard to the expiry of a period of notice differing from that provided for by the directive would make no sense if no period of notice had started to run (judgment of 27 January 2005, *Junk*, C-188/03, EU:C:2005:59, paragraph 52).

80 In those circumstances, it must be held that Articles 3 and 4 of the directive do not preclude termination of the contracts of employment during the course of the procedure which they institute, on condition that such termination occurs after the projected collective redundancies have been notified to the competent public authority (judgment of 27 January 2005, *Junk*, C-188/03, EU:C:2005:59, paragraph 53).

81 Such an interpretation of those provisions, which ensures that the competent public authority has an effective period of 30 days in which to seek solutions to the problems raised by the projected collective redundancies for the workers concerned, in accordance with Article 4(2) of that directive, not only follows from the wording of those provisions, which imposes the obligation to notify as regards projected collective redundancies, that is to say, collective redundancies which have not yet been implemented by termination of the employment contracts concerned, but also ensures that those workers are able to verify whether the projected collective redundancies has been notified in accordance with Directive 98/59.

82 Consequently, it cannot be accepted that, in projected collective redundancies, the employer may terminate an employment contract before notification of those projected collective redundancies under the first subparagraph of Article 3(1) of that directive, with the entry into effect of the termination being suspended until that notification is rectified.

83 As noted by the Advocate General in point 96 of his Opinion, the sequence of the procedures and, correspondingly, of the obligations laid down in those procedures, as conceived by the EU legislature, would be called into question if the employer was able to issue the notification of the projected collective redundancies after terminating the employment contracts concerned by means of a temporary suspension of that kind. That temporary suspension would thus compromise the effectiveness of the procedural obligations laid down by that directive and undermine its very objective, which is to ensure that the projected collective redundancies are preceded by consultation of the workers' representatives and their notification to the competent public authority.

84 In the light of all of the foregoing considerations, the answer to the third question is that the first subparagraph of Article 3(1) and the first subparagraph of Article 4(1) of Directive 98/59 must be interpreted as meaning that an employer who has terminated an employment contract without notifying the competent public authority of the projected collective redundancies of which the termination forms part, in breach of that first provision, cannot rectify the absence of notification in such a way that the termination takes effect 30 days after rectification.

The fourth question

85 By its fourth question, the referring court asks, in essence, whether Article 6 of Directive 98/59 must be interpreted as meaning that national law may leave it to the competent public authority to determine, by means of an act which workers cannot challenge and which is binding on the national courts, when exactly the period laid down in the first subparagraph of Article 4(1) of that directive expires, or as meaning that national law must confer on workers a right to a judicial remedy with a view to having the validity of that determination reviewed by that authority.

86 First, for the same reasons as those set out in paragraph 65 above, relating to the admissibility of the second question, UR contends that the fourth question is inadmissible.

87 Second, the European Commission is of the opinion that, in so far as the dispute in the main proceedings concerns only the consequences of the absence of notification of the projected collective redundancies provided for in the first subparagraph of Article 3(1) of that directive, and not the compliance of the content of that notification with the requirements laid down in the third subparagraph of that paragraph, the fourth question is hypothetical.

88 In that regard, it should be noted that, in the present case, while the employer at issue in the main proceedings did not notify the projected collective redundancies, there is nothing in the documents before the Court to indicate that the competent public authority has fixed, in a manner that is definitive and binding on the workers concerned, the date of expiry of the 30-day period laid down in the first subparagraph of Article 4(1) of that directive.

89 It follows that the fourth question is hypothetical, within the meaning of the case-law cited in paragraph 43 above.

90 Consequently, the fourth question is inadmissible.

Costs

91 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Fifth Chamber) hereby rules:

1. **The first subparagraph of Article 4(1) of Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies, as amended by Directive (EU) 2015/1794 of the European Parliament and of the Council of 6 October 2015,**

   must be interpreted as meaning that the termination of an employment contract, occurring in the context of projected collective redundancies subject to the obligation to notify the competent public authority laid down in the first subparagraph of Article 3(1) of that directive, cannot take effect until expiry of the 30-day period laid down in the first subparagraph of that Article 4(1).

2. **The first subparagraph of Article 3(1) and the first subparagraph of Article 4(1) of Directive 98/59, as amended by Directive 2015/1794,**

   must be interpreted as meaning that an employer who has terminated an employment contract without notifying the competent public authority of the projected collective redundancies of which the termination forms part, in breach of that first provision, cannot rectify the absence of notification in such a way that the termination takes effect 30 days after rectification.

[Signatures]