

## V

(Announcements)

## COURT PROCEEDINGS

## COURT OF JUSTICE

**Judgment of the Court (Second Chamber) of 11 January 2007 — Commission of the European Communities v Hellenic Republic**

(Case C-251/04) <sup>(1)</sup>

*(Failure of a Member State to fulfil obligations — Articles 1 and 2(1) of Regulation (EEC) No 3577/92 — Transport — Freedom to provide services — Maritime cabotage — Towage services on open sea)*

(2007/C 42/02)

*Language of the case: Greek*

**Parties**

*Applicant:* Commission of the European Communities (represented by: G. Zavvos and K. Simonsson, Agents)

*Defendant:* Hellenic Republic (represented by: A. Samoni and S. Chala, Agents)

**Re:**

Failure of a Member State to fulfil obligations — Breach of Article 1 of Council Regulation (EEC) No 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage) (OJ 1992 L 364, p. 7) — National legislation granting only vessels flying the Greek flag the right to provide towage services on open sea.

**Operative part of the judgment**

*The Court:*

1. Dismisses the application;
2. Orders the Commission of the European Communities to pay the costs.

<sup>(1)</sup> OJ C 201, 7.8.2004.

**Judgment of the Court (Second Chamber) of 11 January 2007 — Technische Glaswerke Ilmenau GmbH v Commission of the European Communities, Schott AG (formerly Schott Glas)**

(Case C-404/04 P) <sup>(1)</sup>

*(Appeal — State aid — Article 87(1) EC — Contractual promise of payment — Disappearance of an essential condition of the contract — New pleas and arguments — Substitution of reasons — Application for the hearing of witnesses — Test of a private creditor — Grounds of the judgment of the Court of First Instance — Determination of the amount of aid — Article 87(3)(c) EC — Right to be heard — Breach, in respect of the Member State concerned, of the rights of the defence)*

(2007/C 42/03)

*Language of the case: German*

**Parties**

*Appellant:* Technische Glaswerke Ilmenau GmbH (represented by: C. Arhold and N. Wimmer, Rechtsanwälte)

*Other party to the proceedings:* Commission of the European Communities (represented by: V. Di Bucci and V. Kreuschitz, Agents), Schott AG (formerly Schott Glas) (represented by: U. Soltész, Rechtsanwalt)

**Re:**

Appeal brought against the judgment of the Court of First Instance (Fifth Chamber, Extended Composition) of 8 July 2004 in Case T-198/01 *Technische Glaswerke Ilmenau v Commission* dismissing the action for annulment of Commission Decision 2002/185/EC of 12 June 2001 on State aid implemented by Germany for Technische Glaswerke Ilmenau GmbH (Germany) (OJ 2002 L 62, p 30)

## Operative part of the judgment

The Court:

1. Dismisses the appeal.
2. Orders Technische Glaswerke Ilmenau GmbH, in addition to bearing its own costs, to pay the total costs of the Commission of the European Communities related to the interlocutory proceedings and to these proceedings.
3. Orders Technische Glaswerke Ilmenau GmbH to pay the costs incurred by Schott AG in the interlocutory proceedings.
4. Orders Schott AG to bear its own costs related to these proceedings.

(<sup>1</sup>) OJ C 273, 6.11.2004.

## Judgment of the Court (Grand Chamber) of 9 January 2007 (reference for a preliminary ruling from the Länssrätten i Stockholms län — Migrationsdomstolen) — Yunying Jia v Migrationsverket

(Case C-1/05) (<sup>1</sup>)

**(Freedom of establishment — Article 43 EC — Directive 73/148/EEC — National of one Member State established in another Member State — Right to residence of a spouse's parent, the spouse and the parent being nationals of a non-Member country — Requirement that the parent be lawfully resident in a Member State when joining his family in the Member State of establishment — Evidence required to show that the parent is a dependant)**

(2007/C 42/04)

Language of the case: Swedish

## Referring court

Länssrätten i Stockholms län — Migrationsdomstolen

## Parties to the main proceedings

Applicant: Yunying Jia

Defendant: Migrationsverket

## Re:

Reference for a preliminary ruling — Utlänningsnämnden (Alien Appeals Board) (Sweden) — Interpretation of Article 43 EC, Article 10 of Regulation (EEC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community (OJ L 257, p. 2) and Articles 1(d) and 6(b) of Council Directive 73/148/EEC of 21 May 1973 on the abolition of restrictions on movement and residence within the Community for nationals of Member States with regard to establishment and the provision of services (OJ L 172, p. 14) — Right

to residence of a parent of a spouse, both holding the nationality of a non-Member State, of a national of a Member State resident in another Member State who is dependent on that citizen — Requirement for that parent to reside lawfully in a Member State when joining his family — Evidence required to show that the parent is a dependent

## Operative part of the judgment

1. Having regard to the judgment in Case C-109/01 Akrich [2003] ECR I-9607, Community law does not require Member States to make the grant of a residence permit to nationals of a non-Member State, who are members of the family of a Community national who has exercised his or her right of free movement, subject to the condition that those family members have previously been residing lawfully in another Member State;
2. Article 1(1)(d) of Council Directive 73/148/EEC of 21 May 1973 on the abolition of restrictions on movement and residence within the Community for nationals of Member States with regard to establishment and the provision of services is to be interpreted to the effect that 'dependent on them' means that members of the family of a Community national established in another Member State within the meaning of Article 43 EC need the material support of that Community national or his or her spouse in order to meet their essential needs in the State of origin of those family members or the State from which they have come at the time when they apply to join that Community national. Article 6(b) of that directive must be interpreted as meaning that proof of the need for material support may be adduced by any appropriate means, while a mere undertaking from the Community national or his or her spouse to support the family members concerned need not be regarded as establishing the existence of the family members' situation of real dependence.

(<sup>1</sup>) OJ C 57, 5.3.2005.

## Judgment of the Court (Third Chamber) of 11 January 2007 (reference for a preliminary ruling from the Överklagandenämnden för högskolan, Sweden) — Kaj Lyyski v Umeå universitet

(Case C-40/05) (<sup>1</sup>)

**(Freedom of movement for workers — Article 39 CE — Obstacles — Vocational training — Teachers — Refusal to admit to a training course a candidate employed in a school in another Member State)**

(2007/C 42/05)

Language of the case: Swedish

## Referring court

Överklagandenämnden för högskolan