According to the Finnish Autoverolaki, the value of cars under three months old which are in use is not reduced and they are taxed as new vehicles. The value of a vehicle begins to go down from the moment the vehicle is purchased or brought into use. The taxation of used cars under three months old at the same level as new cars is contrary to Article 90 of the EC Treaty. The provisions of the Autoverolaki also infringe Article 90 of the EC Treaty because they apply a scale to cars between 3 and 6 months of age according to which the value of a car decreases by 0,8 % per month in circumstances where it has not been established that there are any similar vehicles on the Finnish market, because using that scale for a linear reduction in value of 0,8 % there is no guarantee that the amount of tax chargeable does not exceed in any circumstances the amount of residual tax included in the value of similar vehicles already registered in Finland.

([1]) Sixth Council Directive of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ 1977 L 145, p. 1).

([2]) OJ 2006 L 347, p. 1.

Reference for a preliminary ruling from the Cour du travail de Liège (Belgium) lodged on 11 January 2008 — Mono Car Styling SA, in liquidation v Dervis Odemis, Marc Bayard, Pietro Dimola, Danielle Marra, Youssef Belkaid, Marie-Christine Henri, Philippe Tistaert, Richard Toussaint, Alexandre Van Rutten, François Cristantielli, Khalid Zari, Isabelle Longaretti, Luigi Deiana, Vincent Hellinx, Christophe Novelli, Domenico Castronovo, Rachid Hitti, Alberto D'Errico, Marco Quaranta, Primo Pecci, Giuseppe Montaperto

(Case C-12/08)

(2008/C 79/30)

Language of the case: French

Referring court

Cour du travail de Liège

Parties to the main proceedings

Applicant: Mono Car Styling SA, in liquidation

Defendants: Dervis Odemis, Marc Bayard, Pietro Dimola, Danielle Marra, Youssef Belkaid, Marie-Christine Henri, Philippe Tistaert, Richard Toussaint, Alexandre Van Rutten, François Cristantielli, Khalid Zari, Isabelle Longaretti, Luigi Deiana, Vincent Hellinx, Christophe Novelli, Domenico Castronovo, Rachid Hitti, Alberto D'Errico, Marco Quaranta, Primo Pecci, Giuseppe Montaperto

Questions referred

1. Should 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 ([1]), which provides that:

   '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',

   be interpreted as precluding a provision of national law, such as Article 67 of the Law of 13 February 1998 on measures in favour of employment, in so far as it provides that a worker can no longer challenge compliance with the procedure for informing and consulting,

   — except on the ground that the employer has not complied with the conditions referred to in Article 66(1)(ii) of that law,

   — and to the extent that the staff representatives within the Works Council or, where no such council exists, the members of the union delegation or, where no such delegation exists, those workers who should be informed and consulted, have notified the employer of objections, in respect of compliance with one or more of the conditions referred to in Article 66(1)(ii) within 30 days of the display referred to in the second subparagraph of Article 66(2),

   — and where the worker made redundant has informed the employer, in a letter sent by recorded delivery [within 30 days from the date of redundancy] or from the date on which the redundancies acquired their status as collective redundancies, that he was challenging compliance with the procedure for informing and consulting and he was seeking to be reinstated in his post?

2. Assuming that 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 may be interpreted as allowing Member States to adopt provisions of national law such as Article 67 of the Law of 13 February 1998 on measures in favour of employment, in so far as it provides that a worker made redundant can no longer challenge compliance with the procedure for informing and consulting except on the ground that the employer has not fulfilled the conditions referred to in Article 66(1)(ii) of that law, and to the extent that staff representatives within the Works Council or, where no such council exists, the members of the union delegation or, where no such delegation exists, the workers who should be informed and consulted, have notified the employer of objections in respect of compliance with one or more of the conditions referred to in Article 66(1)(ii) within a period of 30 days from the display referred to in the second subparagraph of Article 66(2) and where the worker made redundant has

informed the employer, in a letter sent by recorded delivery within 30 days from the date of redundancy or from the date on which the redundancies acquired their status as collective redundancies, that he was challenging compliance with the procedure for informing and consulting and he was seeking to be reinstated in his post,

is such a system compatible with the fundamental rights of the individual which form an integral part of the general principles of law — respect for which is ensured by the Community judicature — and more particularly with Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms?

3. Can a national court seised of a dispute between two individuals — in the present case a worker and his former employer — disapply a provision of national law which is contrary to the provisions of a Community directive, such as Article 67 of the Law of 13 February 1998 on measures in favour of employment, in order to give effect to other provisions of national law which transpose, apparently correctly, a Community directive, such as the provisions contained in Collective Labour Agreement No 24 of 2 October 1975, made compulsory by Royal Decree of 21 January 1976, but whose effective application is frustrated by the provision of national law which is contrary to a Community directive, in the present case Article 67 of the Law of 13 February 1998;

4. (1) Must Article 2 of Council Directive 98/59/EC of 20 July 1998, particularly paragraphs (1), (2) and (3) thereof, be interpreted as precluding a provision of national law, such as Article 66(1) of the Law of 13 February 1998 on measures in favour of employment, in so far as it provides that an employer who intends to satisfy his obligations in the context of collective redundancies is only bound to provide evidence that he has fulfilled the following conditions:

   1. he must present to the Works Council or, where no such council exists, to the union delegation or, where no such delegation exists, to the workers, a written report in which he indicates his intention to proceed with collective redundancies;

   2. he must be able to provide evidence, in respect of the intention to proceed with collective redundancies, that he has assembled the Works Council or, where no such council exists, that he has met with the union delegation or, where no such delegation exists, with the workers;

   3. he must have allowed the staff representatives within the Works Council or, where no such council exists, the members of the union delegation or, where no such delegation exits, the workers, to raise questions regarding the collective redundancies contemplated and to make arguments or submit counter-proposals on that issue;

   4. he must have examined those questions, arguments and counter-proposals referred to in (iii) and have replied to them.

   (2) Must that same provision be interpreted as precluding a provision of national law, such as Article 67(2) of the Law of 13 February 1998 on measures in favour of employment, in so far as it provides that a worker made redundant can challenge compliance with the procedure for informing and consulting only on the ground that the employer has not complied with the conditions referred to in Article 66(1)(ii) at issue in point 1 above?

([1]) OJ 1998 L 225, p. 16.

Appeal brought on 17 January 2008 by MPDV Mikrolab GmbH, Mikroprozessordatenverarbeitung und Mikroprozessorlabor against the judgment of the Court of First Instance (First Chamber) delivered on 8 November 2007 in Case T-459/05 *MPDV Mikrolab GmbH, Mikroprozessordatenverarbeitung und Mikroprozessorlabor* v *Office for Harmonisation in the Internal Market (Trade Marks and Designs)*

(Case C-17/08 P)

(2008/C 79/31)

Language of the case: German

Parties

Appellant: MPDV Mikrolab GmbH, Mikroprozessordatenverarbeitung und Mikroprozessorlabor (represented by: W. Göpfert, Rechtsanwalt)

Other party to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Form of order sought

— set aside the judgment under appeal insofar as the Court of First Instance dismissed the heads of claim submitted before it,

— annul the decision of the Second Board of Appeal of 19 October 2005 in the appeal proceedings R 1059/2004-2, and

— order the respondent to pay the costs of the appeal.

Pleas in law and main arguments

The appeal is based on errors in law in the interpretation in the judgment under appeal of Article 7(1)(b) and (c) of the Community Trade Mark Regulation.