

- payments made by the operator of the scheme concerned to redeemers who supply loyalty rewards to customers must be regarded, in Case C-53/09, as being the consideration, paid by a third party, for a supply of goods to those customers or, as the case may be, a supply of services to them. It is, however, for the referring court to determine whether those payments also include the consideration for a supply of services corresponding to a separate service; and
- payments made by the sponsor to the operator of the scheme concerned who supplies loyalty rewards to customers must be regarded, in Case C-55/09, as being, in part, the consideration, paid by a third party, for a supply of goods to those customers and, in part, the consideration for a supply of services made by the operator of that scheme for the benefit of that sponsor.

⁽¹⁾ OJ 2009 C 90, 18.4.2009.
OJ 2010 C 148, 5.6.2010.

Judgment of the Court (Third Chamber) of 7 October 2010 — European Commission v Portuguese Republic

(Case C-154/09) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Directive 2002/22/EC — Electronic communications — Networks and services — Articles 3(2) and 8(2) — Designation of undertakings responsible for universal service obligations — Incorrect transposition)

(2010/C 328/07)

Language of the case: Portuguese

Parties

Applicant: European Commission (represented by: P. Guerra e Andrade and A. Nijenhuis, acting as Agents)

Defendant: Portuguese Republic (represented by: L. Inez Fernandes, Agent and L. Morais, lawyer)

Re:

Failure of a Member State to fulfil obligations — Infringement of Articles 3(2) and 8(2) of Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) (OJ 2002 L 108, p. 51) — Designation of undertakings responsible for universal service obligations

Operative part of the judgment

The Court:

1. Declares that, by failing to correctly transpose into national law the provisions of European Union law governing the designation of

universal service provider(s) and, in any event, by failing to ensure in practice that those provisions are applied, the Portuguese Republic has failed to fulfil its obligations under Articles 3(2) and 8(2) of Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive).

2. Orders the Portuguese Republic to pay the costs.

⁽¹⁾ OJ C 153, 4.7.2009.

Judgment of the Court (Third Chamber) of 7 October 2010 (reference for a preliminary ruling from the Court of Appeal (England and Wales) (Civil Division) (United Kingdom)) — Secretary of State for Work and Pensions v Taous Lassel

(Case C-162/09) ⁽¹⁾

(Reference for preliminary ruling — Freedom of movement for persons — Directive 2004/38/EC — Article 16 — Right of permanent residence — Temporal application — Periods completed before the date of transposition)

(2010/C 328/08)

Language of the case: English

Referring court

Court of Appeal (England and Wales) (Civil Division)

Parties to the main proceedings

Applicant: Secretary of State for Work and Pensions

Defendant: Taous Lassel

In the presence of: The Child Poverty Action Group

Re:

Interpretation of Article 16(1) of Directive 2004/58/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (OJ 2004 L 158, p. 77) — Citizen of the Union who resided lawfully in the United Kingdom for five years prior to 30 April 2006, the last date for transposition of the directive, and then left the territory for a period of 10 months — Taking into account of the period ending prior to 30 April 2006 for the purposes of entitlement to the grant of a permanent right of residence