

Action brought on 28 February 2003 by the Commission of the European Communities against the Council of the European Union

(Case C-94/03)

(2003/C 101/45)

An action against the Council of the European Union was brought before the Court of Justice of the European Communities on 28 February 2003 by the Commission of the European Communities, represented by Götz zur Hausen, Lena Ström and Elisabetta Righini, acting as agents, with an address for service in Luxembourg.

The Applicant claims that the Court should:

- annul Council Decision of 19 December 2002 approving, on behalf of the European Community, the Rotterdam Convention on the Prior Informed Consent Procedure for certain hazardous chemicals and pesticides in international trade⁽¹⁾; and
- order the Council to pay the costs.

Pleas in law and main arguments

The Commission's request for annulment of the Decision is founded on the violation of the Treaty resulting from the erroneous choice of legal basis. The question of the legal basis for the conclusion of the agreement cannot be regarded as purely formal in nature. Rather, the choice between Articles 133 and 175 EC has important implications for the division of competence between the Community and its Member States. As the Court has stated repeatedly, the Community's competence in the field of trade is exclusive in nature. This exclusivity is indispensable in order to ensure a coherent and effective defence of the Community's interest in the field of international trade. In contrast, as follows from the second subparagraph of Article 174(4) EC, the Community's external competencies in the field of the environment are concurrent with those of the Member States. The choice of the legal basis has also consequences with regard to the procedures for the adoption of the Community act.

By basing its Decision concerning the conclusion of the PIC Convention on Article 175(1) rather than Article 133 EC, the Council has therefore violated the exclusive competence of the Community for the conclusion of the PIC Convention.

Reference for a preliminary ruling by the Tribunal du Travail de Bruxelles by judgment of that Court of 13 February 2003 in the case of Mr Vincenzo Piliego against Centre Public d'Aide Sociale de Bruxelles, C.P.A.S.

(Case C-95/03)

(2003/C 101/46)

Reference has been made to the Court of Justice of the European Communities by judgment of the Tribunal du Travail de Bruxelles (Labour Court, Brussels) of 13 February 2003, received at the Court Registry on 4 March 2003, for a preliminary ruling in the case of Mr Vincenzo Piliego against Centre Public d'Aide Sociale de Bruxelles, C.P.A.S. on the following questions:

1. Is Council Regulation (EEC) No 1612/68 of 15 October 1968⁽¹⁾ to be interpreted as applying to a national of a Member State who resides in another Member State in order to seek employment there, who is housed in a hostel approved by the public authorities where he performs genuine and effective work in return for board and lodging as part of a programme of rehabilitation by work arranged by that institution, and who applies to the social assistance services of the host State for a social benefit under a non-contributory system guaranteeing minimum financial means of subsistence?
2. In the alternative, is Community law, and especially Articles 12 EC, 17 EC and 18 EC, to be interpreted as meaning that notwithstanding the restrictions imposed by the domestic legislation of the host State, a citizen of the Union lawfully residing in a Member State of which he is not a national is entitled, on the same conditions as nationals of the host State, to social benefits under a non-contributory system guaranteeing minimum financial means of subsistence? What if the host State decides to terminate the residence permit of such European citizen because he does not have adequate resources to avoid becoming a burden on its social assistance system?

⁽¹⁾ Regulation (EEC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community (OJ L 257 of 19.10.1968, p. 2).

⁽¹⁾ OJ L 63 of 6.3.2003, p. 27.