V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Fifth Chamber) of 26 April 2012 — European Commission v Republic of Cyprus

(Case C-125/09) [1]

(Failure of a Member State to fulfil obligations — Electronic communications networks and services — Directives 2002/21/EC and 2002/20/EC — Rights of way — Failure to transpose within the prescribed period)

(2012/C 174/03)

Language of the case: Greek

Parties

Applicant: European Commission (represented by: G. Zavvos, A. Nijenhuis and H. Krämer, acting as Agents)

Defendant: Republic of Cyprus (represented by: K. Lykourgos and A. Pantazi-Lamprou, acting as Agents)

Re:

Failure of a Member State to fulfil obligations — Infringement of Article 11(1) of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) (OJ 2002 L 108, p. 33) — Infringement of Article 4(1) of Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) (OJ 2002 L 108, p. 21) — Grant and authorisation of rights to install facilities on, over or under public or private property in favour of an undertaking authorised to provide electronic communications networks

Operative part of the judgment

The Court:

1. *Finds that, by failing to ensure the grant of rights of way on, over or under public property on the basis of transparent procedures, applied without discrimination and without delay, in accordance with Article 11(1) of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) and Article 4(1) of Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive), the Republic of Cyprus failed to fulfil its obligations under those directives;*

2. *Orders the Republic of Cyprus to pay the costs.*

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[1] OJ C 141, 20.6.2009.

Judgment of the Court (Fifth Chamber) of 3 May 2012 (reference for a preliminary ruling from the Verwaltungsgericht Frankfurt am Main (Germany) — Georg Neidel v Stadt Frankfurt am Main

(Case C-337/10) [1]

(Social policy — Directive 2003/88/EC — Working conditions — Organisation of working time — Right to paid annual leave — Allowance in lieu in the event of sickness — Public servants (firemen))

(2012/C 174/04)

Language of the case: German

Referring court

Verwaltungsgericht Frankfurt am Main

Parties to the main proceedings

Applicant: Georg Neidel

Defendant: Stadt Frankfurt am Main

Re:

Reference for a preliminary ruling — Verwaltungsgericht Frankfurt am Main — Interpretation of Article 7 of Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time (OJ 2003 L 299, p. 9) — Entitlement to an allowance in lieu of paid annual leave not taken in full because of unfitness for service lasting for several years before retirement — Scope *ratione personae* of Directive 2003/88/EC — Public servants (firemen)

Operative part of the judgment

1. *Article 7 of Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time must be interpreted as applying to a public servant carrying out the activities of a fireman in normal circumstances.*

2. *Article 7(2) of Directive 2003/88 must be interpreted as meaning that a public servant is entitled, on retirement, to an allowance in lieu of paid annual leave not taken because he was prevented from working by sickness.*

3. *Article 7 of Directive 2003/88 must be interpreted as not precluding provisions of national law conferring on a public servant an entitlement to further paid leave in addition to the entitlement to a minimum paid annual leave of four weeks, which do not provide for the payment of an allowance in lieu if a public servant who is retiring has been unable to use that additional entitlement because he was prevented from working by sickness.*

4. *Article 7(2) of Directive 2003/88 must be interpreted as precluding a provision of national law which restricts, by a carry-over period of nine months on expiry of which the entitlement to paid annual leave lapses, the right of a public servant who is retiring to cumulate the allowances in lieu of paid annual leave not taken because he was unfit for service.*

(1) OJ C 301, 6.11.2010.

Judgment of the Court (Grand Chamber) of 2 May 2012 (reference for a preliminary ruling from the High Court of Justice (Chancery Division) — United Kingdom) — SAS Institute Inc. v World Programming Ltd

(Case C-406/10) (1)

(Intellectual property — Directive 91/250/EEC — Legal protection of computer programs — Articles 1(2) and 5(3) — Scope of protection — Creation directly or via another process — Computer program protected by copyright — Reproduction of the functions by a second program without access to the source code of the first program — Decompilation of the object code of the first computer program — Directive 2001/29/EC — Copyright and related rights in the information society — Article 2(a) — User manual for a computer program — Reproduction in another computer program — Infringement of copyright — Condition — Expression of the intellectual creation of the author of the user manual)

(2012/C 174/05)

Language of the case: English

Referring court

High Court of Justice (Chancery Division)

Parties to the main proceedings

Applicant: SAS Institute Inc.

Defendant: World Programming Ltd

Re:

Reference for a preliminary ruling — High Court of Justice (Chancery Division) — Interpretation of Articles 2(1) and 5(3) of Council Directive 91/250/EEC of 14 May 1991 on the legal protection of computer programs (OJ 1991 L 122, p. 42) — Extent of protection — Creation, directly or via a process such as decompilation of the object code, to create another computer program which replicates the functions of another computer program, protected by copyright, without access to the source code of the latter program.

Operative part of the judgment

1. *Article 1(2) of Council Directive 91/250/EEC of 14 May 1991 on the legal protection of computer programs must be interpreted as meaning that neither the functionality of a computer program nor the programming language and the format of data files used in a computer program in order to exploit certain of its functions constitute a form of expression of that program and, as such, are not protected by copyright in computer programs for the purposes of that directive.*

2. *Article 5(3) of Directive 91/250 must be interpreted as meaning that a person who has obtained a copy of a computer program under a licence is entitled, without the authorisation of the owner of the copyright, to observe, study or test the functioning of that program so as to determine the ideas and principles which underlie any element of the program, in the case where that person carries out acts covered by that licence and acts of loading and running necessary for the use of the computer program, and on condition that that person does not infringe the exclusive rights of the owner of the copyright in that program.*

3. *Article 2(a) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society must be interpreted as meaning that the reproduction, in a computer program or a user manual for that program, of certain elements described in the user manual for another computer program protected by copyright is capable of constituting an infringement of the copyright in the latter manual if — this being a matter for the national court to ascertain — that reproduction constitutes the expression of the intellectual creation of the author of the user manual for the computer program protected by copyright.*

(1) OJ C 346, 18.12.2010.