

within Directive 78/686/EEC are at a disadvantage in Austria because they must use the professional title 'dentist' there, while they are in direct competition with 'specialists in dental, oral and maxillo-facial surgery'. Furthermore, nationals of other Member States staying in Austria must be able to rely on an unambiguous title. Otherwise uncertainty is created which could harm all patients from the Community. Since a 'specialist in dental, oral and maxillo-facial surgery' is regarded under the contested Law as a 'specialist' and a 'dentist' is regarded as a 'doctor', it is clear that a specialist falling within Article 19b of Directive 78/686/EEC does not practice under the same conditions as a 'dentist'.

(<sup>1</sup>) OJ L 233, 24.8.1978, p. 1.

(<sup>2</sup>) OJ L 233, 24.8.1978, p. 10.

**Action brought on 15 October 2003 by the Commission of the European Communities against the Kingdom of the Netherlands**

**(Case C-441/03)**

(2003/C 304/25)

An action against the Kingdom of the Netherlands was brought before the Court of Justice of the European Communities on 15 October 2003 by the Commission of the European Communities, represented by M. van Beek, as agent.

The applicant claims that the Court should:

- declare that by failing to bring into force the laws, regulations and administrative provisions in order to:
  - fulfil the obligations of the Kingdom of the Netherlands under Article 4(1) and (2) of the Council Directive of 2 April 1979 on the conservation of wild birds (79/409/EEC) (<sup>1</sup>), or in any event by failing to inform the Commission of those provisions, and
  - fulfil the obligations of the Kingdom of the Netherlands under Article 6(1), in conjunction with Article 2(1) and Article 1(a), (e) and (i), and Articles 6(2), (3) and (4), 7, 11, 14(1) and (2), and 15 of Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, (<sup>2</sup>) or in any event by failing to inform the Commission thereof,

the Kingdom of the Netherlands has failed to fulfil its obligations under Article 18(1) of Directive 79/409/EEC, or has failed to fulfil its obligations under Article 23(1) of Directive 92/43/EEC to comply with the directive;

- declare that Article 13(3) of the *Natuurbescherminswet* (law on the protection of nature) is contrary to Article 6(4) of Directive 92/43/EEC;
- order the Kingdom of the Netherlands to pay the costs.

*Pleas in law and main arguments*

Although the Commission can in principle accept the measures which the Netherlands has proposed in order to remedy the failure found by the Commission in its formal notice of default, the Commission must find that at the present time the Netherlands is still in default since the proposed measures have not yet been adopted or brought into force.

(<sup>1</sup>) OJ L 103 of 25 April 1979, p. 1.

(<sup>2</sup>) OJ L 206 of 22 July 1992, p. 7.

**Reference for a preliminary ruling by the Hoge Raad der Nederlanden by judgment of that Court of 17 October 2003 in the case of Götz Leffler against Berlin Chemie AG, a company incorporated under German law**

**(Case C-443)**

(2003/C 304/26)

Reference has been made to the Court of Justice of the European Communities by judgment of the Hoge Raad der Nederlanden (Supreme Court of the Netherlands) of 17 October 2003, received at the Court Registry on 20 October 2003, for a preliminary ruling in the case of Götz Leffler against Berlin Chemie AG, a company incorporated under German law on the following questions:

1. Must Article 8(1) of the Regulation (<sup>1</sup>) be construed as meaning that, in the event of refusal by an addressee to accept a document on the ground of failure to comply with the language requirement laid down in Article 8(1), it is possible for the sender to rectify that failure?