

Action brought on 17 November 2003 by the Commission of the European Communities against the Federal Republic of Germany

(Case C-477/03)

(2004/C 21/31)

An action against the Federal Republic of Germany was brought before the Court of Justice of the European Communities on 17 November 2003 by the Commission of the European Communities, represented by Claudia Schmidt and Wouter Wils, with an address for service in Luxembourg.

The applicant claims that the Court should:

1. Declare that by failing to adopt the laws, regulations and administrative provisions necessary to comply with Directive 2001/12/EC of the European Parliament and of the Council of 26 February 2001 amending Council Directive 91/440/EEC on the development of the Community's railways⁽¹⁾, or by failing to inform the Commission thereof, the Federal Republic of Germany has failed to fulfil its obligations under that directive.
2. Declare that by failing to adopt the laws, regulations and administrative provisions necessary to comply with Directive 2001/13/EC of the European Parliament and of the Council of 26 February 2001 amending Council Directive 95/18/EC on the licensing of railway undertakings⁽²⁾, or by failing to inform the Commission thereof, the Federal Republic of Germany has failed to fulfil its obligations under that directive.
3. Declare that by failing to adopt the laws, regulations and administrative provisions necessary to comply with Directive 2001/14/EC of the European Parliament and of the Council of 26 February 2001 on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification⁽³⁾, or by failing to inform the Commission thereof, the Federal Republic of Germany has failed to fulfil its obligations under that directive.
4. Order the Federal Republic of Germany to pay the costs.

Pleas in law and main arguments

The time-limit for transposition of the directive expired on 15 March 2003.

⁽¹⁾ OJ 2001 L 75, p. 1.

⁽²⁾ OJ 2001 L 75, p. 26.

⁽³⁾ OJ 2001 L 75, p. 29.

Reference for a preliminary ruling by the House of Lords by order of that court dated 10 November 2003, in the case of Celtec Ltd against Astley and others

(Case C-478/03)

(2004/C 21/32)

Reference has been made to the Court of Justice of the European Communities by an order of the House of Lords dated 10 November 2003, which was received at the Court Registry on 17 November 2003, for a preliminary ruling in the case of Celtec Ltd and Astley and others on the following questions:

1. Are the words 'the transferor's rights and obligations arising from a contract of employment or from an employment relationship existing on the date of a transfer' in Article 3(1) of Council Directive 77/187/EEC of 14 February 1977 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses⁽¹⁾ to be interpreted as meaning that there is a particular point in time at which the transfer of the undertaking or part thereof is deemed to have been completed and the transfer of rights and obligations pursuant to Article 3(1) is effected?
2. If the answer to question 1 is 'yes', how is that particular point in time to be identified?
3. If the answer to question 1 is 'no', how are the words 'on the date of a transfer' in Article 3(1) to be interpreted?

⁽¹⁾ OJ L 61, 5.3.1977, p. 26.

Action brought on 19 November 2003 by Commission of the European Communities against Kingdom of Spain

(Case C-485/03)

(2004/C 21/33)

An action against the Kingdom of Spain was brought before the Court of Justice of the European Communities on 19 November 2003 by Commission of the European Communities, represented by José Luis Buendía Sierra of its Legal Service, acting as Agent, with an address for service in Luxembourg.