

That obligation of transparency which is imposed on the contracting authority consists in ensuring, for the benefit of any potential tenderer, a degree of advertising sufficient to enable the services market to be opened to competition and the impartiality of procurement procedures to be reviewed.

In the Commission's opinion, it is wholly clear that the principle of transparency referred to above was not observed by the Italian authorities at the time of renewal of the aforementioned 329 licences for the collection and acceptance of bets on horse races to 1 January 2006 in favour of the incumbent holders outside a competitive tendering procedure.

<sup>(1)</sup> OJ L 209 of 24.7.1992, p. 1

<sup>(2)</sup> [2000] ECR I-10745

<sup>(3)</sup> [1999] ECR I-8291, paragraph 31

**Action brought on 29 June 2004 against the Kingdom of Belgium by the Commission of the European Communities**

**(Case C-275/04)**

(2004/C 217/28)

An action was brought before the Court of Justice of the European Communities on 29 June 2004 by the Commission of the European Communities, represented by C. Giolito and G. Wilms, acting as Agents, with an address for service in Luxembourg, against the Kingdom of Belgium.

The Commission claims that the Court should:

1. Declare that:

— by failing to enter in the accounts referred to in Article 6(3)(a) of Regulation No 1150/2000 <sup>(1)</sup> the entitlements established within the prescribed periods;

and

— by failing to check whether since 1 January 1995 other delays in making own resources available occurred following a late entry in the accounts referred to in Article 6(3)(a) of Regulation No 1150/2000, by destroying the records covering that period and by failing to communicate them to the Commission in order to enable it to calculate the overdue interest owing pursuant to Article 11 of Regulation No 1552/89 <sup>(2)</sup> due to a delay in making own resources available;

the Kingdom of Belgium has failed to fulfil its obligations under Articles 6(3), 9, 10 and 11 of Council Regulation (EC, Euratom) No 1150/2000 of 22 May 2000 implementing Decision 94/728/EC, Euratom on the system of the Communities' own resources <sup>(3)</sup>, which, as from 31 May 2000, repealed and replaced Council Regulation (EEC, Euratom) No 1552/89 of 29 May 1989 implementing Decision 88/376/EEC, Euratom on the system of the Communities'

own resources, whose aim is identical to Article 10 of the EC Treaty.

2. Order the Kingdom of Belgium to pay the costs.

*Pleas in law and principal arguments:*

The Kingdom of Belgium's disregard of the Community provisions governing accounting entries has given rise to delays in making own resources available. Member States are required to enter the amounts of established, guaranteed and uncontested entitlements in the accounts referred to in Article 6(3)(a) of Regulation No 1150/2000 ('A Accounts'), whereas the accounts referred to in Article 6(3)(b) ('B Accounts') are reserved exclusively for established entitlements which have not yet been collected and for which no security has been provided. The amounts covered by a guarantee issued under the external transit system procedure (T1, TIR carnets, ATA carnets, etc.) may be entered in the separate accounts only if they have been duly contested, which implies inter alia that time-limits have been complied with and the action has been commenced in writing.

The Commission cannot accept the justifications put forward by Belgium in support of the anomalies and delayed entries.

<sup>(1)</sup> Council Regulation (EC, Euratom) No 1150/2000 of 22.05.2000 implementing Decision 94/728/EC, Euratom on the system of the Communities' own resources (OJ 2000 L 130, p. 1).

<sup>(2)</sup> Council Regulation (EEC, Euratom) No 1552/89 of 29.05.1989 implementing Decision 88/376/EEC, Euratom on the system of the Communities' own resources (OJ 1989 L 155, p. 1).

<sup>(3)</sup> OJ 2000 L 293, p. 9.

**Action brought on 30 June 2004 by the Commission of the European Communities against the Kingdom of the Netherlands**

**(Case C-282/04)**

(2004/C 217/29)

An action against the Kingdom of the Netherlands was brought before the Court of Justice of the European Communities on 30 June 2004 by the Commission of the European Communities, represented by Hans Støvlbæk and Albert Nijenhuis, acting as Agents.

The applicant claims that the Court should:

— declare that by retaining certain provisions from the statutes of the firm Koninklijke KPN NV, namely that the shares of the firm contain a special named share which is owned by the Netherlands State and to which special rights are attached with regard to the approval of certain decisions taken by the authorised organs of the firm, the Kingdom of the Netherlands has failed to fulfil its obligations under Articles 56 and 43 EC;