

2. Is such a legal regime compatible with the provisions of Council Directives 93/36/EEC <sup>(1)</sup> and 93/37/EEC of 14 June 1993, <sup>(2)</sup> European Parliament and Council Directive 97/52/EC of 13 October 1997 <sup>(3)</sup> and Commission Directive 2001/78/EC <sup>(4)</sup> amending the three previous directives — legislation recently recast in European Parliament and Council Directive 2004/18/EC of 31 March 2004? <sup>(5)</sup>
3. Are the statements contained in the judgment of the Court of Justice of the European [Communities] <sup>(6)</sup> of 8 May 2003 in Case C-349/97 *Spain v Commission* applicable in any event to TRAGSA and its subsidiaries, in the light of the rest of the case-law of the European Court regarding public procurement and in view of the fact that the Administration entrusts to TRAGSA a large number of works which are not subject to the rules governing free competition, and that this situation might cause considerable distortion of the relevant market?

<sup>(1)</sup> Council Directive 93/36/EEC of 14 June 1993 coordinating procedures for the award of public supply contracts (OJ L 199, p. 1).

<sup>(2)</sup> Council Directive 93/37/EEC of 14 June 1993 concerning the coordination of procedures for the award of public works contracts (OJ L 199, p. 54).

<sup>(3)</sup> European Parliament and Council Directive 97/52/EC of 13 October 1997 amending Directives 92/50/EEC, 93/36/EEC and 93/37/EEC concerning the coordination of procedures for the award of public service contracts, public supply contracts and public works contracts respectively (OJ L 328, p. 1).

<sup>(4)</sup> Commission Directive 2001/78/EC of 13 September 2001 amending Annex IV to Council Directive 93/36/EEC, Annexes IV, V and VI to Council Directive 93/37/EEC, Annexes III and IV to Council Directive 92/50/EEC, as amended by Directive 97/52/EC, and Annexes XII to XV, XVII and XVIII to Council Directive 93/38/EEC, as amended by Directive 98/4/EC (Directive on the use of standard forms in the publication of public contract notices) (OJ L 285, p. 1).

<sup>(5)</sup> Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJ L 134, p. 114).

<sup>(6)</sup> [2003] ECR I-3851.

**Reference for a preliminary ruling from the Audiencia Provincial de Barcelona (Spain) by order of that court of 7 June 2005 in *Sociedad General de Autores y Editores de España (SGAE) v Rafael Hoteles SL***

**(Case C-306/05)**

(2005/C 257/05)

(Language of the case: Spanish)

Reference has been made to the Court of Justice of the European Communities by order of the Audiencia Provincial de

Barcelona (Provincial High Court, Barcelona) (Spain) of 7 June 2005, received at the Court Registry on 3 August 2005, for a preliminary ruling in the proceedings between Sociedad General de Autores y Editores de España (SGAE) and Rafael Hoteles SL on the following questions:

1. Does the installation in hotel rooms of television sets to which a satellite or terrestrial television signal is sent by cable constitute an act of communication to the public which is covered by the harmonisation of national laws protecting copyright provided for in Article 3 of Directive 2001/29/EC <sup>(1)</sup> of the European Parliament and of the Council of 22 May 2001?
2. Is the fact of deeming a hotel room to be a strictly domestic location, so that communication by means of television sets to which is fed a signal previously received by the hotel is not regarded as communication to the public, contrary to the protection of copyright pursued by Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001?
3. For the purposes of protecting copyright in relation to acts of communication to the public provided for in Directive 2001/29/EEC of the European Parliament and of the Council of 22 May 2001, can a communication that is effected through a television set inside a hotel bedroom be regarded as public because successive viewers have access to the work?

<sup>(1)</sup> 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 (OJ L 167, of 22.6.2001 p. 10).

**Reference for a preliminary ruling from the Juzgado de lo Social No 1 of San Sebastián (Spain) by order of that court of 6 July 2005 in *Yolanda Del Cerro Alonso v Osakidetza (Servicio Vasco de Salud)* (Basque Health Service)**

**(Case C-307/05)**

(2005/C 257/06)

(Language of the case: Spanish)

Reference has been made to the Court of Justice of the European Communities by order of the Juzgado de lo Social No 1 of San Sebastián (Spain) of 6 July 2005, received at the Court Registry on 4 August 2005, for a preliminary ruling in the proceedings between Yolanda Del Cerro Alonso and Osakidetza (Servicio Vasco de Salud) (Basque Health Service) on the following questions: