

2. Must Article 15 of the Headquarters Agreement in conjunction with Article 36 of the Statute of the European System of Central Banks (ESCB) and the ECB be interpreted restrictively with the result that the applicability of German social security law conferring the benefit in question is excluded only where pursuant to the 'Conditions of Employment' the ECB confers a comparable social benefit on its staff?

If Question 2 is answered in the negative:

- (a) Must the abovementioned provisions be interpreted as meaning that they preclude the application of a national provision which grants family benefits only on the basis of the territorial principle?
- (b) Is the reasoning of the Court of Justice in Case C-352/06 *Bosmann* [2008] ECR I-3827, paragraphs 31 to 33, relevant to the application of the abovementioned provisions? Does Article 15 of the Headquarters Agreement in conjunction with Article 36 of the Statute of the ESCB and ECB not deprive the Federal Republic of Germany of the power to grant family benefits to employees of the ECB resident in Germany?

**Action brought on 16 February 2011 — European Commission v Italian Republic**

**(Case C-68/11)**

(2011/C 145/10)

*Language of the case: Italian*

**Parties**

*Applicant:* European Commission (represented by: A. Alcover San Pedro and S. Mortoni, acting as Agents)

*Defendant:* Italian Republic

**Form of order sought**

The applicant claims that the Court should:

- declare that, by exceeding for a number of consecutive years the limit values for PM<sub>10</sub> particles in ambient air throughout Italian territory, the Italian Republic has failed to fulfil its obligations under Article 5(1) of Council Directive 1999/30/EC<sup>(1)</sup> of 22 April 1999 relating to limit values for sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air (now

Article 13(1) of Directive 2008/50/EC<sup>(2)</sup> of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe;

— order the Italian Republic to pay the costs.

**Pleas in law and main arguments**

Under Article 5(1) of Directive 1999/30, Member States are to take the measures necessary to ensure that concentrations of PM<sub>10</sub> in ambient air do not exceed the limit values laid down in Section I of Annex III to that directive as from the dates specified therein. The relevant date in the present context is 1 January 2005.

The assessment made by the Commission in the annual reports for the years 2005 to 2007 revealed that the limit values for PM<sub>10</sub> particles had been exceeded in a great number of urban zones and agglomerations. Moreover, the most recent data forwarded by Italy, which relate to the year 2009, indicate that the exceeding of daily and/or annual limit values has continued in 70 zones at least.

It follows that Italy has failed to fulfil its obligations under Article 5(1) of Directive 1999/30 in terms both of zones and of years.

<sup>(1)</sup> OJ 1999 L 163, p. 41.

<sup>(2)</sup> OJ 2008 L 152, p. 1.

**Reference for a preliminary ruling from the Rechtbank van eerste aanleg te Brugge (Belgium), lodged on 16 February 2011 — Connoisseur Belgium BVBA v Belgische Staat**

**(Case C-69/11)**

(2011/C 145/11)

*Language of the case: Dutch*

**Referring court**

Rechtbank van eerste aanleg te Brugge

**Parties to the main proceedings**

*Applicant:* Connoisseur Belgium BVBA

*Defendant:* Belgische Staat