

**Operative part of the judgment**

The Court:

1. Dismisses the appeal.
2. Orders Technische Glaswerke Ilmenau GmbH, in addition to bearing its own costs, to pay the total costs of the Commission of the European Communities related to the interlocutory proceedings and to these proceedings.
3. Orders Technische Glaswerke Ilmenau GmbH to pay the costs incurred by Schott AG in the interlocutory proceedings.
4. Orders Schott AG to bear its own costs related to these proceedings.

(<sup>1</sup>) OJ C 273, 6.11.2004.

**Judgment of the Court (Grand Chamber) of 9 January 2007  
(reference for a preliminary ruling from the Länssrätten i  
Stockholms län — Migrationsdomstolen) — Yunying Jia v  
Migrationsverket**

(Case C-1/05) (<sup>1</sup>)

*(Freedom of establishment — Article 43 EC — Directive 73/148/EEC — National of one Member State established in another Member State — Right to residence of a spouse's parent, the spouse and the parent being nationals of a non-Member country — Requirement that the parent be lawfully resident in a Member State when joining his family in the Member State of establishment — Evidence required to show that the parent is a dependant)*

(2007/C 42/04)

Language of the case: Swedish

**Referring court**

Länssrätten i Stockholms län — Migrationsdomstolen

**Parties to the main proceedings**

Applicant: Yunying Jia

Defendant: Migrationsverket

**Re:**

Reference for a preliminary ruling — Utlänningsnämnden (Alien Appeals Board) (Sweden) — Interpretation of Article 43 EC, Article 10 of Regulation (EEC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community (OJ L 257, p. 2) and Articles 1(d) and 6(b) of Council Directive 73/148/EEC of 21 May 1973 on the abolition of restrictions on movement and residence within the Community for nationals of Member States with regard to establishment and the provision of services (OJ L 172, p. 14) — Right

to residence of a parent of a spouse, both holding the nationality of a non-Member State, of a national of a Member State resident in another Member State who is dependent on that citizen — Requirement for that parent to reside lawfully in a Member State when joining his family — Evidence required to show that the parent is a dependent

**Operative part of the judgment**

1. Having regard to the judgment in Case C-109/01 Akrich [2003] ECR I-9607, Community law does not require Member States to make the grant of a residence permit to nationals of a non-Member State, who are members of the family of a Community national who has exercised his or her right of free movement, subject to the condition that those family members have previously been residing lawfully in another Member State;
2. Article 1(1)(d) of Council Directive 73/148/EEC of 21 May 1973 on the abolition of restrictions on movement and residence within the Community for nationals of Member States with regard to establishment and the provision of services is to be interpreted to the effect that 'dependent on them' means that members of the family of a Community national established in another Member State within the meaning of Article 43 EC need the material support of that Community national or his or her spouse in order to meet their essential needs in the State of origin of those family members or the State from which they have come at the time when they apply to join that Community national. Article 6(b) of that directive must be interpreted as meaning that proof of the need for material support may be adduced by any appropriate means, while a mere undertaking from the Community national or his or her spouse to support the family members concerned need not be regarded as establishing the existence of the family members' situation of real dependence.

(<sup>1</sup>) OJ C 57, 5.3.2005.

**Judgment of the Court (Third Chamber) of 11 January  
2007 (reference for a preliminary ruling from the Överklaga-  
nämnden för högskolan, Sweden) — Kaj Lyyski v  
Umeå universitet**

(Case C-40/05) (<sup>1</sup>)

*(Freedom of movement for workers — Article 39 CE — Obstacles — Vocational training — Teachers — Refusal to admit to a training course a candidate employed in a school in another Member State)*

(2007/C 42/05)

Language of the case: Swedish

**Referring court**

Överklagandenämnden för högskolan

**Parties to the main proceedings**

*Applicant:* Kaj Lyyski

*Defendant:* Umeå universitet

**Re:**

Reference for a preliminary ruling — Överklagandenämnden för högskolan (Board of Appeals for Higher Education) — Interpretation of Community law and in particular of Article 12 EC — Professional training scheme organised to remedy a lack of qualified teachers in a Member State intended to allow teachers employed in schools to obtain the qualifications necessary for a contract unlimited as to time — Refusal to admit a candidate who is a national of that Member State but employed in a school in another Member State

**Operative part of the judgment**

Community law does not preclude national legislation which organises, on a provisional basis, training courses intended in the short term to meet the need for qualified teachers in a State from requiring that candidates for that training be employed in a school in that State, provided, however, that the manner in which that legislation is applied does not lead to the exclusion, as a matter of principle, of all applications made by teachers who are not employed in such a school without prior individual assessment of the merits of those applications in the light, *inter alia*, of the aptitude of the person concerned, and the possibility of monitoring the practical part of the training received or possibly of exempting that person from it.

<sup>(1)</sup> OJ C 93, 16.4.2005.

**Judgment of the Court (Sixth Chamber) of 11 January 2007 — Commission of the European Communities v Ireland**

(Case C-175/05) <sup>(1)</sup>

*(Failure of a Member State to fulfil obligations — Directive 92/100/EEC — Copyright — Rental and lending right — Exclusive public lending right — Derogation — Condition of remuneration — Exemption — Scope)*

(2007/C 42/06)

Language of the case: English

**Parties**

*Applicant:* Commission of the European Communities (represented by: M. Shotter and W. Wils, Agents)

*Defendant:* Ireland (represented by: D. O'Hagan, Agent, E. Regan SC, J. Gormley, Advisory Counsel)

*Intervener in support of the defendant:* Kingdom of Spain (represented by: I. del Cuvillo Contreras, Agent)

**Re:**

Failure of a Member State to fulfil obligations — Breach of Articles 1 and 5 of Council Directive 92/100/EEC of 19 November 1992 on rental right and lending right and on certain rights related to copyright in the field of intellectual property (OJ 1992 L 346, p. 6) — Derogation from the exclusive public lending right — Scope

**Operative part of the judgment**

*The Court:*

- 1) Declares that, by exempting all categories of public lending establishments, within the meaning of Council Directive 92/100/EEC of 19 November 1992 on rental right and lending right and on certain rights related to copyright in the field of intellectual property, from the obligation to remunerate authors for the lending carried out by them, Ireland has failed to fulfil its obligations under Articles 1 and 5 of that directive;
- 2) Orders Ireland to pay the costs;
- 3) Orders the Kingdom of Spain to pay its own costs.

<sup>(1)</sup> OJ C 155, 25.6.2005.

**Judgment of the Court (Second Chamber) of 11 January 2007 — Commission of the European Communities v Ireland**

(Case C-183/05) <sup>(1)</sup>

*(Failure of a Member State to fulfil obligations — Directive 92/43/EEC — Articles 12(1) and (2), 13(1)(b) and 16 — Conservation of natural habitats and of wild fauna and flora — Protection of species)*

(2007/C 42/07)

Language of the case: English

**Parties**

*Applicant:* Commission of the European Communities (represented by: M. van Beek, Agent, assisted by M. Wemaëre, avocat)

*Defendant:* Ireland (represented by: D. O'Hagan, Agent)

**Re:**

Failure of a Member State to fulfil obligations — Defective transposition of Articles 12(1) and (2), 13(1)(b) and 16 of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ 1992 L 206, p. 7)