

**Judgment of the Court (Second Chamber) of 16 February 2006 (reference for a preliminary ruling from the Corte d'appello di Cagliari) — Gaetano Verdoliva v J.M. Van der Hoeven BV, Banco di Sardegna, San Paolo IMI SpA**

(Case C-3/05) <sup>(1)</sup>

*(Brussels Convention — Judgment authorising the enforcement of a judgment given in another Contracting State — Failure of, or defective, service — Notice — Time for appealing)*

(2006/C 131/40)

Language of the case: Italian

### Referring court

Corte d'appello di Cagliari

### Parties to the main proceedings

*Applicant:* Gaetano Verdoliva

*Defendants:* J.M. Van der Hoeven BV, Banco di Sardegna, San Paolo IMI SpA

*Intervener:* Pubblico Ministero

### Re:

Reference for a preliminary ruling — Corte d'appello di Cagliari — Interpretation of Article 36 of the Brussels Convention — Enforcement of judgments — Defective service of a decision authorising enforcement — Meaning of 'notice of procedural documents'

### Operative part of the judgment

Article 36 of the Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters, as amended by the Convention of 9 October 1978 on the accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, the Convention of 25 October 1982 on the accession of the Republic of Greece and the Convention of 26 May 1989 on the accession of the Kingdom of Spain and the Portuguese Republic, is to be interpreted as requiring due service of the decision authorising enforcement in accordance with the procedural rules of the Contracting State in which enforcement is sought, and therefore, in cases of failure of, or defective, service of the decision authorising enforcement, the mere fact that the party against whom enforcement is sought has notice of that decision is not sufficient to cause time to run for the purposes of the time-limit fixed in that article.

<sup>(1)</sup> OJ C 69, 19.03.2005.

**Judgment of the Court (Fourth Chamber) of 23 February 2006 — Commission of the European Communities v Federal Republic of Germany**

(Case C-43/05) <sup>(1)</sup>

*(Failure of a Member State to fulfil its obligations — Directive 2000/78/EC — Equal treatment in employment and occupation — Failure to transpose within the prescribed period)*

(2006/C 131/41)

Language of the case: German

### Parties

*Applicant:* Commission of the European Communities (represented by: V. Kreuzschitz, D. Martin and H. Kreppel, Agents, acting as Agents)

*Defendant:* Federal Republic of Germany (represented by: U. Forsthoff, acting as Agent)

### Re:

Failure of a Member State to fulfil its obligations — Failure to transpose, within the prescribed period, Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ 2000 L 303, p. 16)

### Operative part of the judgment

The Court:

1. Declares that, by failing to adopt all the laws, regulations and administrative provisions necessary to comply with Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, as far as concerns discrimination based on religion or belief, disability and sexual orientation, the Federal Republic of Germany has failed to fulfil its obligations under that directive;
2. Orders the Federal Republic of Germany to pay the costs.

<sup>(1)</sup> OJ C 82 of 02.04.2005.