

Operative part of the judgment

The Court:

1. Declares that, by maintaining in force measures such as those laid down in the Supplementary Provision No 27 to Law 55/1999 of 29 December 1999 on fiscal, administrative and social measures, in the version of that provision in Article 94 of Law 62/2003 of 30 December 2003, which limits the voting rights of shares held by public bodies in Spanish undertakings operating in the energy sector, the Kingdom of Spain has failed to fulfil its obligations under Article 56 EC.

2. Orders the Kingdom of Spain to pay the costs.

(¹) OJ C 212 of 2.9.2006.

Judgment of the Court (Fourth Chamber) of 14 February 2008 — Commission of the European Communities v Hellenic Republic

(Case C-419/06) (¹)

(Failure of a Member State to fulfil obligations — State aid — Obligation to recover)

(2008/C 79/07)

Language of the case: Greek

Parties

Applicant: Commission of the European Communities (represented by: E. Righini, M. Konstantinidis, D. Triantafyllou and I. Chatzigiannis, acting as Agents)

Defendant: Hellenic Republic (represented by: A. Samoni-Rantou, P. Mylonopoulos, acting as Agents, V. Christianos and P. Anestis, dikigoroi)

Re:

Failure of a Member State to fulfil obligations — Failure to take measures to comply with Commission Decision C(2005) 2706 of 14 September 2005 on the recovery of aid granted to Olympic Airlines

Operative part of the judgment

The Court:

1. Declares that, by not taking, within the prescribed period, all measures necessary to put an end to aid declared unlawful and

incompatible with the common market by the Commission Decision of 14 December 2005 concerning State aid granted by Greece to Olympic Airways and Olympic Airlines, and to recover that aid from the recipients, the Hellenic Republic has failed to fulfil its obligations under Articles 2 to 4 of that decision.

2. Orders the Hellenic Republic to pay the costs.

(¹) OJ C 310, 16.12.2006.

Judgment of the Court (Fourth Chamber) of 14 February 2008 (reference for a preliminary ruling from the Tribunal du travail de Bruxelles (Belgium)) — Sophiane Gysen v Groupe S-Caisse d'Assurances sociales pour indépendants

(Case C-449/06) (¹)

(Officials — Remuneration — Staff Regulations — Family allowances — Calculation of the amount of national family allowances — Determination of the ranking of the children — Child giving rise to entitlement to family allowances under the Staff Regulations)

(2008/C 79/08)

Language of the case: French

Referring court

Tribunal du travail de Bruxelles (Belgium)

Parties to the main proceedings

Applicant: Sophiane Gysen

Defendant: Groupe S-Caisse d'Assurances sociales pour indépendants

Re:

Reference for a preliminary ruling — Tribunal du travail de Bruxelles — Interpretation [of Article 67] of Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities (OJ 1968 L 56, p. 1) — Family allowances — Permissibility of a national family allowance system which excludes, from the calculation of the order of the beneficiary children, children in respect of whom there is entitlement to family allowances under the Staff Regulations — Legal classification of the Staff Regulations of Officials under national law

Operative part of the judgment

Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission, as amended by Council Regulation (EEC, Euratom, ECSC) No 2074/83 of 21 July 1983, has general application, is binding in its entirety and is directly applicable in all Member States. In view of the direct applicability of that regulation in the legal systems of the Member States, a child giving rise to entitlement to family allowances under the Staff Regulations of Officials of the European Communities must be treated in the same way as a child giving rise to entitlement to family allowances under national law or an international social security convention in force in the Member State concerned.

(¹) OJ C 326, 30.12.2006.

Judgment of the Court (Third Chamber) of 14 February 2008 (reference for a preliminary ruling from the Conseil d'État (Belgium)) — Varec SA v Belgian State

(Case C-450/06) (¹)

(Public procurement — Review — Directive 89/665/EEC — Effective review — Meaning — Balance between the adversarial principle and the right to observance of business secrets — Protection, by the body responsible for the review, of the confidentiality of information provided by economic operators)

(2008/C 79/09)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: Varec SA

Defendant: Belgian State

Intervener: Diehl Remscheid GmbH & Co

Re:

Reference for a preliminary ruling — Conseil d'État (Belgium) — Interpretation of Article 1(1) of Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (OJ 1989 L 395, p. 33), read with Article 15(2) of Council Directive 93/36/EEC of 14 June 1993 coordinating procedures for the award of public supply

contracts (OJ 1993 L 199, p. 1) and Articles 6 and 41(3) of 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 2004 L 134, p. 114) — Supply of military material — Balance between the principles that both parties be heard and that defence rights be complied with and the right to respect for business secrets and the protection of sensitive or confidential information.

Operative part of the judgment

Article 1(1) of Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts, as amended by Council Directive 92/50/EEC of 18 June 1992 relating to the coordination of procedures for the award of public service contracts, read in conjunction with Article 15(2) of Council Directive 93/36/EEC of 14 June 1993 coordinating procedures for the award of public supply contracts, as amended by European Parliament and Council Directive 97/52/EC of 13 October 1997, must be interpreted as meaning that the body responsible for the reviews provided for in Article 1(1) must ensure that confidentiality and business secrecy are safeguarded in respect of information contained in files communicated to that body by the parties to an action, particularly by the contracting authority, although it may apprise itself of such information and take it into consideration. It is for that body to decide to what extent and by what process it is appropriate to safeguard the confidentiality and secrecy of that information, having regard to the requirements of effective legal protection and the rights of defence of the parties to the dispute and, in the case of judicial review or a review by another body which is a court or tribunal within the meaning of Article 234 EC, so as to ensure that the proceedings as a whole accord with the right to a fair trial.

(¹) OJ C 326, 30.12.2006.

Judgment of the Court (Fifth Chamber) of 31 January 2007 — Commission of the European Communities v Kingdom of Spain

(Case C-32/07) (¹)

(Failure of a Member State to fulfil obligations — Directive 2001/84/EC — Copyright — Resale right for the benefit of the author of an original work of art)

(2008/C 79/10)

Language of the case: Spanish

Parties

Applicant: Commission of the European Communities (represented by: R. Vidal Puig and W. Wils, acting as Agent(s))