

**Judgment of the Court (Sixth Chamber) of 11 March 2008
— Commission of the European Communities v French Republic**

(Case C-89/07) ⁽¹⁾

(Failure of a Member State to fulfil its obligations — Employment in the public service — Posts of master (captain) and officer (chief mate) on board all ships flying the flag of a Member State — Condition of nationality)

(2008/C 107/11)

Language of the case: French

Parties

Applicant: Commission of the European Communities (represented by: G. Rozet, acting as Agent)

Defendant: French Republic (represented by: G. de Bergues and O. Christmann, acting as Agents)

Re:

Failure of a Member State to fulfil its obligations — Article 39(4) EC — Free movement of workers — Exercise of public power — Requirement of French nationality for the pursuit of employment as master (captain) and officer (chief mate) on all vessels flying the French flag — Incompatible with Community law

Operative part of the judgment

The Court:

1. Declares that, by maintaining in its legislation a requirement of French nationality for access to the posts of master (captain) and officer (chief mate) on all vessels flying the French flag, the French Republic has failed to fulfil its obligations under Article 39 EC.
2. Orders the French Republic to pay the costs.

⁽¹⁾ OJ C 95, 28.4.2007.

**Judgment of the Court (Fourth Chamber) of 6 March 2008
(reference for a preliminary ruling from the Højesteret (Denmark)) — Nordania Finans A/S, BG Factoring A/S v Skatteministeriet**

(Case C-98/07) ⁽¹⁾

(Sixth VAT Directive — Article 19(2) — Calculation of the deductible proportion — Exclusion of amounts of turnover attributable to the supplies of capital goods used by the taxable person for the purposes of his business — Notion of 'capital goods used by the taxable person for the purposes of his business' — Vehicles purchased by a leasing company to be leased and subsequently sold on termination of the respective leasing contracts)

(2008/C 107/12)

Language of the case: Danish

Referring court

Højesteret

Parties to the main proceedings

Applicants: Nordania Finans A/S, BG Factoring A/S

Defendant: Skatteministeriet

Re:

Reference for a preliminary ruling — Højesteret — Interpretation of Article 19 of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ 1977 L 145, p. 1) — Calculation of the deductible proportion — Inclusion or not of the amount of the turnover from the sale of vehicles of a vehicle leasing company at the end of the leasing contracts

Operative part of the judgment

Article 19(2) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment, is to be interpreted as meaning that the notion of 'capital goods used by the taxable person for the purposes of his

business' does not include vehicles which a leasing undertaking purchases with a view, as in the case in the main proceedings, to leasing them and subsequently selling them upon termination of the respective leasing contracts, as the sale of such vehicles at the end of those contracts is an integral part of the usual business activities of that undertaking.

(¹) OJ C 95, 28.4.2007.

**Judgment of the Court (Third Chamber) of 6 March 2008
— Commission of the European Communities v Kingdom
of Spain**

(Case C-196/07) (¹)

(Failure of a Member State to fulfil obligations — Competition policy — Concentrations — Failure to comply with obligations imposed by the Commission — E.ON/Endesa)

(2008/C 107/13)

Language of the case: Spanish

Parties

Applicant: Commission of the European Communities (represented by: V Di Bucci and E. Gippini Fournier, agents)

Defendant: Kingdom of Spain (represented by: N. Diaz Abad, agent)

Re:

Failure of a Member State to fulfil obligations — Failure to comply with Article 2 of the Commission Decision of 26 September 2006 (Case No COMP/M.4197 — E.ON/Endesa — C(2006) 4279 final) and Article 2 of the Commission Decision of 20 December 2006 (Case No COMP/M.4197 — E.ON/Endesa — C(2006) 7039 final)

Operative part of the judgment

The Court:

1. declares that by not withdrawing:

— the conditions 1 to 6, 8 and 17 imposed by the decision of the National Energy Committee which were declared incompatible with Community law by Article 1 of the Commission Decision of 26 September 2006 (Case No COMP/M.4197 — E.ON/Endesa — C(2006) 4279 final), and

— the conditions 1, 10, 11 and 15, as amended, imposed by decision of the Ministry of Industry, Tourism and Trade which were declared incompatible with Community law by Article 1 of the Commission Decision of 20 December 2006 (Case No COMP/M.4197 — E.ON/Endesa — C(2006) 7039 final),

the Kingdom of Spain has failed to fulfil its obligations under Article 2 of each of those decisions;

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

(¹) OJ C 155, 7.7.2007.

**Judgment of the Court (Eighth Chamber) of 6 March 2008
— Commission of the European Communities v Grand
Duchy of Luxembourg**

(Case C-340/07) (¹)

(Failure of a Member State to fulfil obligations — Directive 2002/73/EC — Equal treatment for men and women — Access to employment, vocational training and promotion — Working conditions — Failure to transpose within the prescribed period)

(2008/C 107/14)

Language of the case: French

Parties

Applicant: Commission of the European Communities (represented by: G. Rozet and M. van Beek, acting as agents)

Defendant: Grand Duchy of Luxembourg (represented by: C. Schiltz, agent)

Re:

Failure of a Member State to fulfil obligations — Failure to take, within the prescribed period, all the measures necessary to comply with Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (OJ 2002 L 269, p. 1)