

It is for the national court to determine:

- whether the drawing up of the national list of species of mammals which may be held and subsequent amendments to that list are based on objective and non-discriminatory criteria;
- whether a procedure enabling interested parties to have species of mammals included in that list is provided for, readily accessible and can be completed within a reasonable time, and whether, where there is a refusal to include a species, it being obligatory to state the reasons for that refusal, that refusal decision is open to challenge before the courts;
- whether applications to obtain the inclusion of a species of mammal in that list or to obtain individual derogations to hold specimens of species not included in that list may be refused by the competent administrative authorities only if the holding of specimens of the species concerned poses a genuine risk to the protection of the abovementioned interests and requirements; and
- whether conditions for the holding of specimens of mammals not referred to in that list, such as those set out in Article 3bis(2)(3)(b) and (6) of the Law of 14 August 1986 concerning the protection and welfare of animals, as amended by the Law of 4 May 1995, are objectively justified and do not go beyond what is necessary to achieve the objective pursued by the national legislation as a whole.

(¹) OJ C 155, 7.7.2007.

Judgment of the Court (Fourth Chamber) of 19 June 2008
— Commission of the European Communities v French Republic

(Case C-220/07) (¹)

(Failure of a Member State to fulfil its obligations — Directive 2002/22/EC — Electronic communications — Designation of the undertakings entrusted with the provision of universal service — Incorrect transposition)

(2008/C 209/16)

Language of the case: French

Parties

Applicant: Commission of the European Communities (represented by: J.-P. Keppenne and M. Shotter, Agents)

Defendant: French Republic (represented by: G. de Bergues and B. Messmer, Agents)

Re:

Failure of a Member State to fulfil its obligations — Incorrect transposition [of Articles 8, 12 and 13] of Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services ('Universal Service Directive') (OJ 2002 L 108, p. 51) — Obligation to use an efficient, objective, transparent and non-discriminatory mechanism to designate undertakings entrusted with the provision of universal service — National legislation immediately excluding economic operators which are not capable of ensuring the provision of that service throughout the national territory

Operative part of the judgment

The Court:

1. Declares that, by transposing into national law in the way it did the provisions concerning the designation of the undertakings capable of guaranteeing the provision of universal service, the French Republic failed to fulfil its obligations under Articles 8(2), 12 and 13 and Annex IV of Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services ('Universal Service Directive').
2. Orders the French Republic to bear the costs.

(¹) OJ C 211 of 8.9.2007.

Judgment of the Court (Eighth Chamber) of 24 June 2008
— Commission of the European Communities v Grand Duchy of Luxembourg

(Case C-272/07) (¹)

(Public procurement — Directive 2004/18/EC — Coordination of procedures for the award of public works contracts, public supply contracts and public service contracts — Failure to implement within the prescribed time-limit)

(2008/C 209/17)

Language of the case: French

Parties

Applicant: Commission of the European Communities (represented by: B. Stromsky and D. Kukovec, 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 time-limit, the measures necessary to comply with 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)

Operative part of the judgment

The Court:

1. Declares that, in failing to adopt, within the prescribed time-limit, all the laws, regulations and administrative provisions necessary to comply with 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, the Grand Duchy of Luxembourg has failed to fulfil its obligations under that directive;
2. Orders the Grand Duchy of Luxembourg to pay the costs.

(¹) OJ C 211, 8.9.2007.

Order of the Court (Fourth Chamber) of 23 April 2008 (reference for a preliminary ruling from the Chancery Division of the High Court of Justice of England and Wales (United Kingdom)) — The Test Claimants in the CFC and Dividend Group Litigation v Commissioners of Inland Revenue

(Case C-201/05) (¹)

(First subparagraph of Article 104(3) of the Rules of Procedure — Freedom of establishment — Free movement of capital — Direct taxation — Corporation tax — Share dividends paid to a resident company by a non-resident company — Rules on controlled foreign companies (“CFCs”) — Situation as regards a non-member country — Classification of claims brought against the tax authority — Liability of a Member State for breach of Community law)

(2008/C 209/18)

Language of the case: English

Referring court

Chancery Division of the High Court of Justice of England and Wales

Parties

Applicant: The Test Claimants in the CFC and Dividend Group Litigation

Defendant: Commissioners of Inland Revenue

Re:

Reference for a preliminary ruling — High Court of Justice (Chancery Division) — Interpretation of Articles 43, 49 and 56 EC — National tax legislation — Corporation tax — Exemption — Dividends paid by other companies to a company established in national territory — Situation differing according to the State where the other companies are established

Operative part of the order

1. Article 43 EC is to be interpreted as meaning that it does not preclude legislation of a Member State which exempts from corporation tax dividends which a resident company receives from another resident company, when that State imposes corporation tax on dividends which a resident company receives from a non-resident company in which the resident company has a shareholding enabling it to exercise a definite influence over the decisions of that non-resident company and to determine its activities, while at the same time granting a tax credit for the tax actually paid by the company making the distribution in the Member State in which it is resident, provided that the rate of tax applied to foreign-sourced dividends is no higher than the rate of tax applied to nationally-sourced dividends and that the tax credit is at least equal to the amount paid in the Member State of the company making the distribution, up to the limit of the amount of the tax charged in the Member State of the company receiving the distribution.

Article 56 EC is to be interpreted as meaning that it does not preclude legislation of a Member State which exempts from corporation tax dividends which a resident company receives from another resident company, when that State imposes corporation tax on dividends which a resident company receives from a non-resident company in which the resident company holds at least 10 % of the voting rights, while granting a tax credit for the tax actually paid by the company making the distribution in the Member State in which it is resident, provided that the rate of tax applied to foreign-sourced dividends is no higher than the rate of tax applied to nationally-sourced dividends and that the tax credit is at least equal to the amount paid in the Member State of the company making the distribution, up to the limit of the amount of the tax charged in the Member State of the company receiving the distribution.

Article 56 EC is, furthermore, to be interpreted as meaning that it precludes legislation of a Member State which exempts from corporation tax dividends which a resident company receives from another resident company, where that State levies corporation tax on dividends which a resident company receives from a non-resident company in which it holds less than 10 % of the voting rights, without granting the company receiving the dividends a tax credit for the tax actually paid by the company making the distribution in the State in which the latter is resident.