(2) *Community law must be interpreted as precluding a national provision which, whilst pursuing the legitimate objectives of equal treatment of tenderers and of transparency in procedures for the award of public contracts, establishes an irrebuttable presumption that the status of owner, partner, main shareholder or management executive of an undertaking active in the media sector is incompatible with that of owner, partner, main shareholder or management executive of an undertaking which contracts with the State or a legal person in the public sector in the broad sense to perform a works, supply or services contract.*

([1]) OJ C 140, 23.6.2007.

Judgment of the Court (Fourth Chamber) of 22 December 2008 (reference for a preliminary ruling from the Cour d'appel de Liège — Belgium) — État belge — SPF Finances v Truck Center SA

(Case C-282/07) ([1])

(Freedom of establishment — Article 52 of the EC Treaty (now, following amendment, Article 43 EC) and Article 58 of the EC Treaty (now Article 48 EC) — Free movement of capital — Articles 73b and 73d of the EC Treaty (now Articles 56 EC and 58 EC respectively) — Taxation of legal persons — Income from capital and movable property — Retention of tax at source — Withholding tax — Charging of withholding tax on interest paid to non-resident companies — No charging of withholding tax on interest paid to resident companies — Double taxation convention — Restriction — None)

(2009/C 44/19)

Language of the case: French

Referring court

Cour d'appel de Liège

Parties to the main proceedings

Appellant: État belge — SPF Finances

Respondent: Truck Center SA

Re:

Reference for a preliminary ruling — Cour d'appel de Liège — Interpretation of Articles 56 EC and 58 EC — Free movement of capital — Taxation of legal persons — Withholding tax deducted by the tax authorities of one Member State on income from capital allocated by a company established in that State to a company established in another Member State — No deduction of withholding tax where that income is allocated to a company established in the same Member State — Unjustified difference in treatment or difference in situation justifying different treatment? — Effect, in that respect, of a bilateral convention for the avoidance of double taxation

Operative part of the judgment

Articles 52 of the EC Treaty (now, following amendment, Article 43 EC), 58 of the EC Treaty (now Article 48 EC), 73b of the EC Treaty and 73d of the Treaty (now Articles 56 EC and 58 EC respectively) must be interpreted as not precluding tax legislation of a Member State, such as that at issue in the main proceedings, which provides for the retention of tax at source on interest paid by a company resident in that Member State to a recipient company resident in another Member State, while exempting from that retention interest paid to a recipient company resident in the first Member State, the income of which is taxed in that Member State by way of corporation tax.

([1]) OJ C 199 of 25.8.2007.

Judgment of the Court (Eighth Chamber) of 22 December 2008 — Commission of the European Communities v Italian Republic

(Case C-283/07) ([1])

(Failure of a Member State to fulfil obligations — Directive 75/442/EEC — Article 1 — Concept of waste — Scrap intended for use in iron and steel activities — High-quality refuse-derived fuel — Incorrect transposition)

(2009/C 44/20)

Language of the case: Italian

Parties

Applicant: Commission of the European Communities (represented by C. Zadra and J.-B. Laignelot, acting as Agents)

Defendant: Italian Republic (represented by I. Braguglia, acting as Agent, and G. Fiengo, Avvocato dello Stato)

Re:

Failure of a Member State to fulfil obligations — Infringement of Article 1(a) of Council Directive 75/442/EEC of 15 July 1975 on waste (OJ 1975 L 194, p. 39), as amended by Council Directive 91/156/EEC of 18 March 1991 (OJ 1991 L 78, p. 32) — Refuse-derived fuel (RDF) and scrap intended for use in iron and steel and metallurgical activities — Exclusion from the scope of the national transposition law

Operative part of the judgment

The Court:

1. *Declares that, by adopting and maintaining in force provisions such as*

   — *Article 1(25) to (27) and (29)(a) of Law No 308 of 15 December 2004 delegating power to the government to reform, coordinate and supplement legislation in environmental matters and direct implementation measures, and*

   — *Article 1(29)(b) of Law No 308 of 15 December 2004 and Articles 183(1)(s) and 229(2) of Legislative Decree No 152 of 3 April 2006 laying down rules in environmental matters,*

   under which certain scrap intended for use in iron and steel and metallurgical activities and high-quality refuse-derived fuel (RDF-Q) respectively are excluded a priori from the scope of the Italian legislation on waste transposing Council Directive 75/442/EEC of 15 July 1975 on waste, as amended by Council Directive 91/156/EEC of 18 March 1991, the Italian Republic has failed to fulfil its obligations under Article 1(a) of that directive;

2. *Orders the Italian Republic to pay the costs.*

([1]) OJ C 199 of 25.8.2007.

Judgment of the Court (First Chamber) of 18 December 2008 (reference for a preliminary ruling from the Højesteret — Denmark) — Ruben Andersen v Kommunernes Landsforening, acting on behalf of Slagelse Kommune (formerly Skælskør Kommune)

(Case C-306/07) ([1])

(Information to be provided to employees — Directive 91/533/EEC — Article 8(1) and (2) — Scope — Employees 'covered' by a collective agreement — Concept of 'temporary contract or employment relationship')

(2009/C 44/21)

Language of the case: Danish

Referring court

Højesteret

Parties to the main proceedings

Applicant: Ruben Andersen

Defendant: Kommunernes Landsforening, acting on behalf of Slagelse Kommune (formerly Skælskør Kommune)

Re:

Reference for a preliminary ruling — Højesteret — Interpretation of Article 8(1) and (2) of Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship (OJ 1991 L 288, p. 32) — Applicability of a collective agreement intended to transpose a directive to an employee who is not a member of one of the organisations which are party to that agreement — Rights of employees who believe themselves to be harmed by the failure to comply with the obligations under the directive

Operative part of the judgment

1. *Article 8(1) of Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship must be interpreted as meaning that it does not prohibit national rules which provide that the terms of a collective agreement which is intended to transpose the provisions of the directive into national law are to apply to an employee even though he is not a member of an organisation which is a party to that agreement.;*

2. *The second paragraph of Article 8(2) of Council Directive 91/533 must be interpreted as meaning that it does not prevent an employee who is not a member of a union which is a party to a collective agreement governing his employment relationship being regarded as 'covered by' that agreement within the meaning of the abovementioned provision.*

3. *The words 'a temporary contract or employment relationship' in the second paragraph of Article 8(2) of Directive 91/533 are to be interpreted as referring to contracts and employment relationships entered into for a short period. If no norm has been laid down for that purpose in a Member State's rules, it is for the national courts to determine the duration in each case in the light of the specific characteristics of certain sectors or certain occupations or activities. That duration must, however, be fixed so as to provide effective protection of the rights conferred on workers by the directive.*

([1]) OJ C 211, 8.9.2007.