

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (First Chamber) of 19 February 2009 (reference for a preliminary ruling from the Oberverwaltungsgericht Berlin-Brandenburg (Germany)) — Mehmet Soysal, Ibrahim Savatli v Bundesrepublik Deutschland

(Case C-228/06) ⁽¹⁾

(EEC-Turkey Association Agreement — Freedom to provide services — Visa requirement for admission to the territory of a Member State)

(2009/C 90/02)

*Language of the case: German***Referring court**

Oberverwaltungsgericht Berlin-Brandenburg

Parties to the main proceedings*Applicants:* Mehmet Soysal, Ibrahim Savatli*Defendant:* Bundesrepublik Deutschland*Joined Party:* Bundesagentur für Arbeit**Re:**

Reference for a preliminary ruling — Oberverwaltungsgericht Berlin-Brandenburg — Interpretation of Article 41(1) of the Additional Protocol of 23 November 1970 annexed to the Agreement establishing an Association between the European Economic Community and Turkey (JO 1972 L 293, p. 4) — Validity of Article 1 of Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (OJ 2001 L 81, p. 1) — New restrictions on the freedom to provide services — Obligation imposed on a Turkish national employed as the driver of a lorry by a Turkish transport undertaking to be in possession of a visa in order to be able to enter the territory of a Member State, even though no such obligation existed on the date on which the Additional Protocol entered into force

Operative part of the judgment

Article 41(1) of the Additional Protocol, which was signed on 23 November 1970 at Brussels and concluded, approved and confirmed on behalf of the Community by Council Regulation (EEC) No 2760/72 of 19 December 1972, is to be interpreted as meaning that it precludes the introduction, as from the entry into force of that protocol, of a requirement that Turkish nationals such as the appellants in the main proceedings must have a visa to enter the territory of a Member State in order to provide services there on behalf of an undertaking established in Turkey, since, on that date, such a visa was not required.

⁽¹⁾ OJ C 190, 12.8.2006.

Judgment of the Court (First Chamber) of 19 February 2009 — Koldo Gorostiaga Atxalandabaso v European Parliament

(Case C-308/07 P) ⁽¹⁾

(Appeal — Rules concerning the expenses and allowances to Members of the European Parliament — Recovery of improperly paid sums by means of offsetting — Enforcement of a judgment of the Court of First Instance — Right to an impartial tribunal — Res judicata — Principle of sound administration)

(2009/C 90/03)

*Language of the case: French***Parties**

Appellant: Koldo Gorostiaga Atxalandabaso (represented by: D. Rouget, avocat)

Other party to the proceedings: European Parliament (represented by: C. Karamarcos, H. Krück and D. Moore, then by the latter two and A. Padowska, acting as Agents)

Re:

Appeal brought against the order of the Court of First Instance (Second Chamber) delivered on 24 April 2007 in Case T-132/06 *Gorostiaga Atxalandabaso v European Parliament*, by which the Court of First Instance dismissed as in part inadmissible and in part manifestly unfounded the appellant's action for annulment of the decision of the Secretary General of the European Parliament of 22 March 2006, adopted to implement the judgment of the Court of First Instance of 22 December 2005 in Case T-146/04 *Gorostiaga Atxalandabaso v European Parliament* — Interpretation of Article 111 of the Rules of Procedure of the Court of First Instance and of the principle of impartiality — Interpretation of Article 27 of the Rules governing the payment of expenses and allowances to Members of the European Parliament

Operative part of the judgment

The Court:

1. Dismisses the appeal;
2. Orders Mr Gorostiaga Atxalandabaso to pay the costs.

(¹) OJ C 211, 8.9.2007.

Judgment of the Court (Third Chamber) of 19 February 2009 (reference for a preliminary ruling from the Landgericht Mannheim (Germany)) — Criminal proceedings against Karl Schwarz

(Case C-321/07) (¹)

(Directive 91/439/EEC — Holding of driving licences from different Member States — Validity of a driving licence issued before the accession of a State — Withdrawal of a second driving licence issued by the Member State of residence — Recognition of a driving licence issued before the issue of a second licence later withdrawn on the ground that the holder was unfit — Expiry of the period accompanying a measure withdrawing a driving licence during which no application may be made for the issue of a new driving licence)

(2009/C 90/04)

Language of the case: German

Referring court

Landgericht Mannheim

Party in the main proceedings

Karl Schwarz

Re:

Reference for a preliminary ruling — Landgericht Mannheim — Interpretation of Articles 7(5) and 8(2) and 8(4) of Council

Directive 91/439/EEC of 29 July 1991 on driving licences (OJ 1991 L 237, p.1) — Holder of several driving licences — Validity of a licence issued before accession by the Member State of which the defendant is a national — Following the period of the temporary ban on obtaining a new licence, non-recognition, on its territory, by the Member State of residence of a driving licence obtained, before accession, in another Member State before the expiry of a temporary ban on obtaining a new licence

Operative part of the judgment

1. Article 7(5) of Council Directive 91/439/EEC of 29 July 1991 on driving licences, as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council of 29 September 2003, must be interpreted as not precluding a national of a Member State from holding simultaneously two valid driving licences, one of which is a Community licence and the other a driving licence issued by another Member State where both licences were obtained before the accession of the latter State to the European Union.
2. Article 1 and Article 8(2) and (4) of Directive 91/439, as amended by Regulation No 1882/2003, do not preclude a Member State from refusing to recognise the right to drive stemming from a driving licence issued by another Member State before that State's accession to the European Union if that licence was issued prior to a driving licence issued by the first Member State, in which the second driving licence has been withdrawn on the ground of its holder's unfitness to drive. The fact that such refusal occurs after the period accompanying that withdrawal during which no application could be made for the issue of a new driving licence is irrelevant in that regard.

(¹) OJ C 283, 24.11.2007.

Judgment of the Court (Third Chamber) of 19 February 2009 (reference for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands)) — Staatssecretaris van Financiën v Kamino International Logistics BV

(Case C-376/07) (¹)

(Common Customs Tariff — Combined Nomenclature — Tariff classification — Monitors of the liquid crystal display (LCD) type with SUB-D, DVI-D, USB, S-video and composite-video sockets — Heading 8471 — Heading 8528 — Regulation (EC) No 754/2004)

(2009/C 90/05)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden