

— under Article 43 EC, in so far as those provisions apply to the special power provided by Article 2(1)(c) of the Decree-Law;

2. Orders the Italian Republic to pay the costs.

(¹) OJ C 247, 20.10.2007.

Judgment of the Court (First Chamber) of 26 March 2009 (reference for a preliminary ruling from the Landgericht Hamburg (Germany)) — Turgay Semen v Deutsche Tamoil GmbH

(Case C-348/07) (¹)

(Directive 86/653/EEC — Article 17 — Self-employed commercial agents — Termination of a contract — Right to an indemnity — Determining the amount of the indemnity)

(2009/C 113/14)

Language of the case: German

Referring court

Landgericht Hamburg

Parties to the main proceedings

Applicant: Turgay Semen

Defendant: Deutsche Tamoil GmbH

Re:

Reference for a preliminary ruling — Landgericht Hamburg — Interpretation of Article 17(2)(a) of Council Directive 86/653/EEC of 18 December 1986 on the coordination of the laws of the Member States relating to self-employed commercial agents (OJ 1986 L 382, p. 17) — Entitlement of commercial agent to an indemnity after termination of the agency contract — Determination of the amount of that indemnity in a situation in which the benefits which the principal continues to derive from business with customers which the commercial agent brought exceed the latter's loss of commission

Operative part of the judgment

1. Article 17(2)(a) of Council Directive 86/653/EEC of 18 December 1986 on the coordination of the laws of the Member States relating to self-employed commercial agents is to be interpreted to the effect that it is not possible automatically to limit the indemnity to which a commercial agent is entitled by the amount of commission lost as a result of the termination of the agency contract, even though the benefits which the principal continues to derive have to be given a higher monetary value.
2. Article 17(2)(a) of Directive 86/653 is to be interpreted to the effect that, where the principal belongs to a group of companies, benefits accruing to other companies of that group are not, in principle, deemed to be benefits accruing to the principal and, consequently, do not necessarily have to be taken into account for the purposes of calculating the amount of indemnity to which a commercial agent is entitled.

(¹) OJ C 235, 6.10.2007.

Judgment of the Court (Fourth Chamber) of 12 March 2009 — Commission of the European Communities v Portuguese Republic

(Case C-458/07) (¹)

(Failure of Member State to fulfil obligations — Telecommunications — Directive 2002/22/EC — Universal service — Obligation to make available to end-users a comprehensive directory and telephone directory enquiry service)

(2009/C 113/15)

Language of the case: Portuguese

Parties

Applicant: Commission of the European Communities (represented by: G. Braun and P. Guerra e Andrade, Agents)

Defendant: Portuguese Republic (represented by: L. Inez Fernandes, Agent, and L. Morais, Advogado)

Re:

Failure by Member State to fulfil obligations — Infringement of Article 5(1) and (2) and Article 25(1) and (3) 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) — Failure to include certain subscribers in the universal directory

Operative part of the judgment

The Court:

1. Declares that, by not guaranteeing, in practice, the making available to all end-users of at least one comprehensive directory and at least one comprehensive telephone directory enquiry service in accordance with the provisions of Article 5(1) and (2) and Article 25(1) and (3) 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), the Portuguese Republic has failed to fulfil its obligations under that directive;
2. Orders the Portuguese Republic to pay the costs.

(¹) OJ C 297, 8.12.2007.