

Questions referred

1. Having regard to the wording, objective and nature of Article 6(1) of Decision 3/80 ⁽¹⁾ and to the objective and nature of the Association Agreement ⁽²⁾, does that provision contain a clear and accurately defined obligation whose fulfilment and effect does not require any supplementary measures, it therefore being appropriate for that provision to have direct effect?

2. If the answer to the first question is affirmative:

2.1 In the application of Article 6(1) of Decision 3/80, must account be taken in any way of the amendments to Regulation No 1408/71 ⁽³⁾, such as those which have been made since 19 September 1980 with respect to special benefits which are not based on the payment of premiums or contributions?

2.2 In this connection, is Article 59 of the Additional Protocol ⁽⁴⁾ to the Association Agreement of significance?

3. Must Article 9 of the Association Agreement be interpreted as precluding the application of a Member State's legislation, such as Article 4a of the Netherlands TW, which results in an indirect distinction being made on grounds of nationality,

— firstly, because the number of nationals of countries other than the Netherlands, including a large group of Turkish nationals, who are not, or no longer, entitled to a supplementary benefit because they are no longer resident in the Netherlands, is higher than such persons having Dutch nationality, and

— secondly, because the supplementary benefits of Turkish nationals resident in Turkey have been withdrawn since 1 July 2003, whereas the phasing out of the supplementary benefits of nationals of a Member State of the EU and of third countries, provided that they are resident in the territory of the EU, did not begin until 1 January 2007?

⁽¹⁾ Decision 3/80 of the Association Council of 19 September 1980 on the application of the social security schemes of the Member States of the European Communities to Turkish workers and members of their families (OJ 1983 C 110, p. 60).

⁽²⁾ Agreement establishing an Association between the European Economic Community and Turkey, which was signed in Ankara on 12 September 1963 by the Republic of Turkey on the one hand and the Member States of the EEC and the Community on the other hand and concluded, approved and confirmed on behalf of the Community by Council Decision 64/732/EEC of 23 December 1963 (OJ 1973 C 133, p. 1).

⁽³⁾ Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community (OJ, English special edition 1971 (II), p. 416).

⁽⁴⁾ Additional Protocol signed at Brussels on 23 November 1970 and concluded, approved and confirmed on behalf of the Community by Council Regulation (EEC) No 2760/72 of 19 December 1972 (OJ 1973 C 133, p. 17).

Reference for a preliminary ruling from the Corte Suprema di Cassazione (Italy) lodged on 5 November 2007 — Agenzia per le Erogazioni in Agricoltura (AGEA) v Consorzio Agrario di Ravenna Soc. Coop. Arl

(Case C-486/07)

(2008/C 22/47)

Language of the case: Italian

Referring court

Corte Suprema di Cassazione

Parties to the main proceedings

Applicant: Agenzia per le Erogazioni in Agricoltura (AGEA)

Defendant: Consorzio Agrario di Ravenna Soc. Coop. Arl

Question referred

'On the basis of the EEC regulations in force at the time of the facts of the case (1994 to 1995) on the sale of cereals held by intervention agencies, do the price reductions laid down in respect of the presence of a higher moisture content than that of the standard quality apply also to the sale of maize?'

Reference for a preliminary ruling from the Amtsgericht Lahr (Germany) lodged on 6 November 2007 — Pia Messner v Firma Stefan Krüger

(Case C-489/07)

(2008/C 22/48)

Language of the case: German

Referring court

Amtsgericht Lahr

Parties to the main proceedings

Applicant: Pia Messner

Defendants: Stefan Krüger, SFK Laptophandel

Question referred

Is Article 6(2) in conjunction with the second sentence of Article 6(1) of Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts ⁽¹⁾ to be interpreted as precluding a provision of national law which provides that, in the case of a revocation by a consumer within the revocation period, a seller may claim compensation for the value of the use of the consumer goods delivered?

⁽¹⁾ OJ 1977 L 144, p. 19.

Reference for a preliminary ruling from the Landesgericht für Strafsachen Wien, Austria, lodged on 31 October 2007 — Criminal proceedings against Vladimir Turansky

(Case C-491/07)

(2008/C 22/49)

Language of the case: German

Referring court

Landesgericht für Strafsachen Wien

Party to the main proceedings

Vladimir Turansky

Question referred

'Is the bar on a second prosecution for the same acts (*ne bis in idem* principle) contained in Article 54 of the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders signed in Schengen (Luxembourg) on 19 June 1990 ⁽¹⁾ to be interpreted as precluding the prosecution of a suspect in the Republic of Austria for the same acts in respect of which criminal proceedings in the Slovak Republic were discontinued after its accession to the European Union by means of a binding order of a police authority suspending the proceedings without further sanction taken after examination of the merits of the case?'

⁽¹⁾ OJ L 239, 22.9.2000, p. 19.

Action brought on 7 November 2007 — Commission of the European Communities v Republic of Poland

(Case C-492/07)

(2008/C 22/50)

Language of the case: Polish

Parties

Applicant: Commission of the European Communities (represented by A. Nijenhuis and K. Moyzesowicz, acting as Agents)

Defendant: Republic of Poland

Form of order sought

- declare that, by failing to ensure the proper incorporation into national law of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) ⁽¹⁾ and in particular Article 2(k) with reference to the definition of a subscriber, the Republic of Poland has failed to fulfil its obligations under that directive;
- order the Republic of Poland to pay the costs.

Pleas in law and main arguments

The period for transposition of the directive expired on 30 April 2004.

⁽¹⁾ OJ L 108 of 24.4.2002, p. 33.

Reference for a preliminary ruling from the Oberster Patent- und Markensenat (Austria) lodged on 14 November 2007 — Silberquelle GmbH v Maselli-Strickmode GmbH

(Case C-495/07)

(2008/C 22/51)

Language of the case: German

Referring court

Oberster Patent- und Markensenat

Parties to the main proceedings

Applicant: Silberquelle GmbH

Defendant: Maselli-Strickmode GmbH