

The Hellenic Republic responded to the Commission's reasoned opinion on 30 May 2007 and explained to the Commission that, taking into account every possible delay in completing the procedure, issue of the digital tachograph cards to drivers would be possible by the end of 2007.

The Commission asks the Court to order the Hellenic Republic to pay the costs.

Action brought on 13 March 2008 — Commission of the European Communities v Kingdom of Spain

(Case C-112/08)

(2008/C 128/42)

Language of the case: Spanish

Parties

Applicant: Commission of the European Communities (represented by: M.A. Rabanal Suárez and P. Dejmek, Agents)

Defendant: Kingdom of Spain

Form of order sought

— declare that, by failing to adopt all the all the laws, regulations and administrative provisions necessary to comply with Directive 2006/48/EC ⁽¹⁾ of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions and in particular: Article 68(2), Article 72, Article 73(3), Article 74, Articles 99, 100 and 101, Articles 110 to 114, Articles 118 and 119, Articles 124 to 127, Articles 129 to 132, Article 133, Article 136, Articles 144 and 145, Article 149, Article 152, Article 154(1), Article 155, Annex V, Annex VI (except part I), Annex VII to XII (except Annex X parts I, II and III), and in any event, by failing to communicate those provisions to the Commission, the Kingdom of Spain has failed to fulfil its obligations under the directive;

— order Kingdom of Spain to pay the costs.

Pleas in law and main arguments

The period prescribed for transposing Directive 2006/48/EC into national law expired on 31 December 2006.

⁽¹⁾ OJ 2006 L 177, p. 1.

Reference for a preliminary ruling from the Hof van Cassatie (Belgium) lodged on 17 March 2008 — C. Meerts v Proost NV

(Case C-116/08)

(2008/C 128/43)

Language of the case: Dutch

Referring court

Hof van Cassatie van België

Parties to the main proceedings

Appellant: C. Meerts

Respondent: Proost NV

Question referred

Are clauses 2.4, 2.5, 2.6 and 2.7 of the framework agreement on parental leave concluded on 14 December 1995 by the general cross-industry organisations UNICE, CEEP and the ETUC which is annexed to Council Directive 96/34/EC ⁽¹⁾ of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC to be interpreted as meaning that, where an employer unilaterally terminates an employment contract without urgent cause or without compliance with the statutory period of notice at a time when the worker is availing himself of arrangements for reduced working hours, the payment in lieu of notice that is due to the worker must be determined by reference to the base salary calculated as if the worker had not reduced his working hours as a form of parental leave in accordance with clause [2].3(a) of the framework agreement?

⁽¹⁾ OJ 1996 L 145, p. 4.

Reference for a preliminary ruling from the Tribunal Supremo (Spain) lodged on 18 March 2008 — Transportes Urbanos y Servicios Generales, SAL v Administración del Estado

(Case C-118/08)

(2008/C 128/44)

Language of the case: Spanish

Referring court

Tribunal Supremo

Parties to the main proceedings

Applicant: Transportes Urbanos y Servicios Generales, SAL

Defendant: Administración del Estado

Question referred

Is it contrary to the principles of equivalence and effectiveness to apply differing case-law of the Tribunal Supremo of the Kingdom of Spain in the judgments of 29 January 2004 and 24 May 2005 to actions for financial liability against the State qua legislature in respect of administrative acts adopted pursuant to a law which has been declared unconstitutional and to such actions in respect of administrative acts adopted pursuant to a measure which has been held to be contrary to Community law?

Reference for a preliminary ruling from the Lietuvos vyriausiasis administracinis teismas (Lithuania) lodged on 18 March 2008 — Mechel Nemunas UAB v Valstybinė mokesčių inspekcija prie Lietuvos Respublikos finansų ministerijos

(Case C-119/08)

(2008/C 128/45)

Language of the case: Lithuanian

Referring court

Lietuvos vyriausiasis administracinis teismas (Supreme Administrative Court of Lithuania)

Parties to the main proceedings

Claimant: Mechel Nemunas UAB

Defendant: Valstybinė mokesčių inspekcija prie Lietuvos Respublikos finansų ministerijos (State Tax Inspectorate attached to the Ministry of Finance of the Republic of Lithuania)

Question referred

Are First Council Directive 67/227/EEC ⁽¹⁾ and/or Article 33 of Sixth Council Directive 77/388/EEC ⁽²⁾ to be interpreted as having prohibited a Member State from maintaining, and levying, deductions from income in accordance with the Law of the Republic of Lithuania on the financing of the road

maintenance and development programme in the form of the tax which has been described earlier in this order?

⁽¹⁾ First Council Directive of 11 April 1967 on the harmonisation of legislation of Member States concerning turnover taxes (O), English Special Edition 1967, p. 14).

⁽²⁾ Sixth Council Directive of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ 1977 L 45, p. 1).

Action brought on 31 March 2008 — Commission of the European Communities v Hellenic Republic

(Case C-130/08)

(2008/C 128/46)

Language of the case: Greek

Parties

Applicant: Commission of the European Communities (represented by: M. Kontou-Durande)

Defendant: Hellenic Republic

Form of order sought

— declare that, by failing to adopt the laws, regulations and administrative measures necessary to ensure, in every case, examination of the merits of applications for asylum of third-country nationals who, in accordance with Article 16(1)(d) of Regulation (EC) No 343/2003, are transferred to Greece so as to be taken back for examination of their applications, the Hellenic Republic has failed to fulfil its obligations under Article 3(1) of Regulation No 343/2003;

— order the Hellenic Republic to pay the costs.

Pleas in law and main arguments

1. The United Nations High Commissioner for Refugees drew the Commission's attention to the question whether Greek legislation relating to the procedure for recognising foreign nationals as refugees is compatible with Regulation No 343/2003 in cases where the foreign national arbitrarily has left the country and a decision discontinuing the procedure for consideration of asylum has been made in his regard.

2. This problem results from Article 2(8) of Presidential Decree No 61/99 (FEK (Official Gazette) A 63) of 6 April 1999, which concerns discontinuance of the procedure for consideration of asylum. That provision treats arbitrary