

**Reference for a preliminary ruling from the Tribunal Superior de Justicia, Madrid (Spain) lodged on 16 July 2008 — Ovidio Rodríguez Mayor, Pilar Pérez Boto, Pedro Gallego Morzillo, Alfonso Francisco Pérez, Juan Marcelino Gabaldón Morales, Marta María Maestro Campo and Bartolomé Valera Huete v the estate in abeyance of Rafael de las Heras Dávila, Sagrario de las Heras Dávila and Fondo de Garantía Salarial**

(Case C-323/08)

(2008/C 236/19)

*Language of the case: Spanish*

#### Referring court

Tribunal Superior de Justicia de Madrid

#### Parties to the main proceedings

*Appellants:* Ovidio Rodríguez Mayor, Pilar Pérez Boto, Pedro Gallego Morzillo, Alfonso Francisco Pérez, Juan Marcelino Gabaldón Morales, Marta María Maestro Campo and Bartolomé Valera Huete

*Other parties:* the estate in abeyance of Rafael de las Heras Dávila, Sagrario de las Heras Dávila and Fondo de Garantía Salarial

#### Questions referred

1. By restricting the definition of collective redundancies to dismissals on economic, technical, organisational or production grounds and by failing to extend the definition to dismissals for any reason not related to the individual workers concerned, does Article 51 of the Spanish Workers' Statute fail to fulfil the obligations imposed in Council Directive 98/59/EC <sup>(1)</sup> of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies?
2. Is the legal rule in Article 49(1)(g) of the Workers' Statute, which establishes for workers who lose their jobs as a result of the death, retirement or incapacity of the employer compensation limited to one month's remuneration, excluding them from the scope of Article 51 of the Statute and failing to comply with Articles 1, 2, 3, 4 and 6 of the Directive, also contrary to Council Directive 98/59/EC?
3. Does the Spanish legislation on collective redundancies, and specifically Articles 49(1)(g) and 51 of the Workers' Statute, infringe Article 30 of the Charter of fundamental rights of

the European Union and the Community Charter of the fundamental social rights of workers adopted at the European Council meeting held in Strasbourg on 9 December 1989?

<sup>(1)</sup> OJ 1998 L 225, p. 16.

#### Action brought on 17 July 2008 — Commission of the European Communities v Republic of Finland

(Case C-328/08)

(2008/C 236/20)

*Language of the case: Finnish*

#### Parties

*Applicant:* Commission of the European Communities (represented by: U. Wölker and I. Koskinen, acting as Agents)

*Defendant:* Republic of Finland

#### Form of order sought

- declare that, by failing to adopt the laws, regulations and administrative provisions necessary to comply with Directive 2004/35/CE <sup>(1)</sup> of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage and, in any event, by failing to communicate such measures to the Commission, the Republic of Finland has failed to fulfil its obligations under that directive;
- order Republic of Finland to pay the costs.

#### Pleas in law and main arguments

The period prescribed for implementation of the directive expired on 30 April 2007.

<sup>(1)</sup> OJ 2004 L 143, p. 56.