

Question referred

Having regard, not least, to the classification under Belgian law of the provisions at issue in this case (Articles 18, 20 and 21 of the Belgian Law of 13 April 1995 relating to commercial agency contracts) as special mandatory rules of law within the terms of Article 7(2) of the Rome Convention, must Articles 3 and 7(2) of the Rome Convention, ⁽¹⁾ read, as appropriate, in conjunction with Council Directive 86/653/EEC ⁽²⁾ of 18 December 1986 on the coordination of the laws of the Member States relating to self-employed commercial agents, be interpreted as meaning that special mandatory rules of law of the forum that offer wider protection than the minimum laid down by Directive 86/653/EEC may be applied to the contract, even if it appears that the law applicable to the contract is the law of another Member State of the European Union in which the minimum protection provided by Directive 86/653/EEC has also been implemented?

⁽¹⁾ Convention on the law applicable to contractual obligations opened for signature in Rome on 19 June 1980 (OJ 1980 L 266, p. 1).
⁽²⁾ OJ 1986 L 382, p. 17.

Reference for a preliminary ruling from the Cour Constitutionnelle, Belgium lodged on 26 April 2012 — I.B.V & Cie SA (Industrie du bois de Vielsalm & Cie SA) v Walloon Region

(Case C-195/12)

(2012/C 200/12)

Language of the case: French

Referring court

Cour Constitutionnelle (formerly Cour d'arbitrage)

Parties to the main proceedings

Original claimant: I.B.V & Cie SA (Industrie du bois de Vielsalm & Cie SA)

Original defendant: Walloon Region

Questions referred

1. Must Article 7 of Directive 2004/8/EC of the European Parliament and of the Council of 11 February 2004 on the promotion of cogeneration based on a useful heat demand in the internal energy market and amending Directive 92/42/EEC, ⁽¹⁾ in conjunction if appropriate with Articles 2 and 4 of Directive 2001/77/EC of the European Parliament and of the Council of 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal electricity market ⁽²⁾ and with Article 22 of Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC, ⁽³⁾ be interpreted, in the light of the general principle of equal treatment, of Article 6 of the Treaty on European Union and of Articles 20 and 21 of the Charter of Fundamental Rights of the European Union,

(a) as applying only to high-efficiency cogeneration plants, within the meaning of Annex III to the directive;

(b) as requiring, permitting or prohibiting the availability of a support measure of the kind contained in Article 38(3) of the Walloon Region Decree of 12 April 2001 on the organisation of the regional electricity market to all cogeneration plants principally exploiting biomass and meeting the conditions laid down by that article, with the exception of cogeneration plants principally exploiting wood or wood waste?

2. Would the answer be different if the cogeneration plant principally exploits only wood or, on the contrary, only wood waste?

⁽¹⁾ OJ L 52, p. 50.

⁽²⁾ OJ L 283, p. 33.

⁽³⁾ OJ L 140, p. 16.

Reference for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 3 May 2012 — Walter Endress v Allianz Lebensversicherungs-AG

(Case C-209/12)

(2012/C 200/13)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: Walter Endress

Defendant: Allianz Lebensversicherungs-AG

Question referred

Must the first indent of Article 15(1) of Council Directive 90/619/EEC of 8 November 1990 ⁽¹⁾ on the coordination of laws, regulations and administrative provisions relating to direct life assurance, laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive 79/267/EEC (Second Life Assurance Directive), having regard to Article 31(1) of Council Directive 92/96/EEC of 10 November 1992 ⁽²⁾ on the coordination of laws, regulations and administrative provisions relating to direct life assurance and amending Directives 79/267/EEC and 90/619/EEC (Third Life Assurance Directive), be interpreted as precluding a provision — such as the fourth sentence of Paragraph 5a(2) of the *Versicherungsvertragsgesetz* (Law on insurance contracts) in the version of the

Drittes Gesetz zur Durchführung versicherungsrechtlicher Richtlinien des Rates der Europäischen Gemeinschaften (Third Law implementing directives of the Council of the European Communities on insurance law) of 21 July 1994 — under which a right of cancellation lapses one year at the latest after payment of the first premium even if the policy-holder has not been informed about the right of cancellation?

(¹) Council Directive 90/619/EEC of 8 November 1990 on the coordination of laws, regulations and administrative provisions relating to direct life assurance, laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive 79/267/EEC, OJ 1990 L 330, p. 50.

(²) Council Directive 92/96/EEC of 10 November 1992 on the coordination of laws, regulations and administrative provisions relating to direct life assurance and amending Directives 79/267/EEC and 90/619/EEC (third life assurance Directive), OJ 1992 L 360, p. 1.

Appeal brought on 18 May 2012 by Abdulbasit Abdulrahim against the order of the General Court (Second Chamber) delivered on 28 February 2012 in Case T-127/09: Abdulbasit Abdulrahim v Council of the European Union, European Commission

(Case C-239/12 P)

(2012/C 200/14)

Language of the case: English

Parties

Appellant: Abdulbasit Abdulrahim (represented by: H.A.S. Miller, Solicitor, E. Grieves, Barrister)

Other parties to the proceedings: Council of the European Union, European Commission

Form of order sought

The applicant seeks the following order if successful on both pleas:

- the Order of the General Court dated 28.2.12 is quashed
- it is declared that the action for annulment is not devoid of purpose
- the matter be remitted back to the General Court for it to determine the annulment application
- the Commission do pay the costs of this appeal and the costs in the General Court below, including those of making representations upon the Court's invitation.

Pleas in law and main arguments

The Appellant bases his appeal on the following two pleas in law:

- that the General Court erred when it failed to:
 - hear from the Advocate-General, and/or;
 - invite representations from the appellant as to whether the application for annulment was devoid of purpose, and/or;
 - open the oral procedure on the question of whether the application for annulment was devoid of purpose.
- the General Court erred in finding that the action for annulment was not capable of conferring material advantage upon the appellant.

Action brought on 16 May 2012 — European Commission v Republic of Poland

(Case C-245/12)

(2012/C 200/15)

Language of the case: Polish

Parties

Applicant: European Commission (represented by: P. Hetsch, B. Simon and K. Herrmann, Agents)

Defendant: Republic of Poland

Form of order sought

- declare that, by not bringing into force the laws, regulations and administrative provisions necessary to comply with Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for Community action in the field of marine environmental policy (Marine Strategy Framework Directive), (¹) or in any event by not notifying the Commission of those provisions, the Republic of Poland has failed to fulfil its obligations under Article 26(1) of that directive;
- impose on the Republic of Poland, in accordance with Article 260(3) TFEU, a periodic penalty payment for failure to meet its obligation to notify transposition of Directive 2008/56/EC at a daily rate of 93 492 EUR calculated from the day on which judgment in the present case is delivered;
- order the Republic of Poland to pay the costs.

Pleas in law and main arguments

The period within which Directive 2008/56/EC had to be transposed expired on 15 July 2010.

(¹) OJ 2008 L 164, p. 19.