

Court of First Instance of the European Communities in Case T-178/94 between Asociación Telefónica de Mutualistas and the Commission of the European Communities was brought before the Court of Justice of the European Communities on 26 February 1998 by Asociación Telefónica de Mutualistas (ATM), represented by Juan Eugenio Blanco Rodríguez and Bernardo Vicente Hernández Bataller, of the Madrid Bar, with an address for service in Luxembourg at the Chambers of Loesch & Wolter, 11, rue Goethe.

The appellant claims that the Court should:

1. quash the judgment of the Court of First Instance <sup>(1)</sup>;
2. uphold in their entirety the claims put forward at first instance.

*Pleas in law and main arguments adduced in support:*

- lack of jurisdiction of the Court of First Instance on the ground of exceeding the bounds of its jurisdiction: the contested judgment makes a number of statements concerning Spanish law which, in the view of the appellants, are neither lawful or referred to in the pleadings, nor is it open to the Court of First Instance to give such reasons for judgment,
- irregularities in the procedure before the Court of First Instance which are to the detriment of the appellant's interests (inadequate statement of reasons),
- breach of Community law by the Court of First Instance in that it misinterpreted the fourth paragraph of Article 173 of the EC Treaty: ATM does have an interest in bringing proceedings inasmuch as the categorisation of the financial assistance provided by the Kingdom of Spain in favour of Compañía Telefónica de España SA (TESA) as State aid incompatible with the common market, and any order to repay it, undoubtedly benefits ATM, as an entity acting on behalf of its members, since the reduced social charges would have to be reimbursed in accordance with Spanish law, that is to say, first by TESA to the Spanish public authorities, in order for the latter to pay the Institución Telefónica de Previsión, and finally to benefit those of ATM's members on whose behalf ATM acted,
- breach of Community law by the Court of First Instance, inasmuch as the interpretation was erroneous and the judgment was inconsistent with the applicant's submissions concerning the possible infringement of Article 92 of the EC Treaty: in order to ascertain whether or not trade had been affected, there should first have been a finding as to whether or not aid had been granted contrary to Article 92 of the EC Treaty before deciding that the appellant did not have an interest in bringing proceedings, which the appellant considers to be an inconsistency in the contested judgment.

<sup>(1)</sup> OJ C 55, 20.2.1998, p. 25.

**Reference for a preliminary ruling by the Amtsgericht, Heinsberg, by decision of that court of 13 February 1998 in the proceedings for an administrative fine against Josef Corsten**

(Case C-58/98)

(98/C 137/22)

Reference has been made to the Court of Justice of the European Communities by decision of the Amtsgericht (Local Court), Heinsberg, of 13 February 1998, received at the Court Registry on 27 February 1998, for a preliminary ruling in the proceedings for an administrative fine against Josef Corsten on the following question:

Is it compatible with Community law on the freedom to provide services for a Netherlands undertaking, which in the Netherlands satisfies all the conditions for carrying on a commercial activity, to have to satisfy further, albeit purely formal, conditions (in this case entry in the register of manual trades) in order to carry on that activity in Germany?

**Reference for a preliminary ruling by the Tribunale Ordinario, Milan, by order of that court of 12 February 1998 in the case of Butterfly Music Srl against Carosello Edizioni Musicali e Discografiche Cemed Srl and FIMI, Federazione Industria Musicale Italiana**

(Case C-60/98)

(98/C 137/23)

Reference has been made to the Court of Justice of the European Communities by an order of the Tribunale Ordinario, Milan, of 12 February 1998, which was received at the Court Registry on 2 March 1998, for a preliminary ruling in the case of Butterfly Music Srl against Carosello Edizioni Musicali e Discografiche Cemed Srl and FIMI, Federazione Industria Musicale Italiana, on the following question.

Whether the interpretation of Article 10 of Council Directive 93/98/EEC of 29 October 1993 harmonising the term of protection of copyright and certain related rights <sup>(1)</sup>, in particular where it provides for the adoption of 'the necessary provisions to protect in particular acquired rights of third parties', is compatible with Article 17(4) of Law No 52 of 6 February 1996, as amended by Law No 650 of 23 December 1996.

<sup>(1)</sup> OJ L 290, 24.11.1993, p. 9.