de Justicia de la Comunidad Valenciana (High Court of Justice of the Valencia Autonomous Community), Spain for a preliminary ruling in the proceedings pending before that court between Sindicato de Médicos de Asistencia Pública (Simap) and Conselleria de Sanidad y Consumo de la Generalidad Valenciana — on the interpretation of Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (OJ 1989 L 183, p. 1) and Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time (OJ 1993 L 307, p. 18) — the Court, composed of: G.C. Rodríguez Iglesias, President, J.C. Moitinho de Almeida (Rapporteur), D.A.O. Edward, L. Sevón and R. Schintgen (Presidents of Chambers), P.J.G. Kapteyn, C. Gulmann, J.-P. Puissochet, P. Jann, H. Ragnemalm and M. Wathelet, Judges; A. Saggio, Advocate General; D. Louterman-Hubeau, Principal Administrator, for the Registrar, has given a judgment on 3 October 2000, in which it has ruled:

1. *An activity such as that of doctors in primary health care teams falls within the scope of Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work and Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time.*

2. *The national court may, in the absence of express measures transposing Directive 93/104, apply its domestic law to the extent to which, having regard to the characteristics of the activity of doctors in primary health care teams, that law meets the conditions laid down in Article 17 of that directive.*

3. *Time spent on call by doctors in primary health care teams must be regarded in its entirety as working time, and where appropriate as overtime, within the meaning of Directive 93/104 if they are required to be at the health centre. If they must merely be contactable at all times when on call, only time linked to the actual provision of primary health care services must be regarded as working time.*

4. *Doctors in primary health care teams who are regularly on call at night may not be regarded as night workers by virtue of Article 2 (4) (b) of Directive 93/104 alone. Whether national legislation on night work by workers whose employment is governed by private law may be applied to doctors in primary health care teams, whose employment is governed by public law, is a question to be resolved by the national court in accordance with its domestic law.*

5. *Work performed by doctors in primary health care teams whilst on call constitutes shift work and such doctors are shift workers within the meaning of Article 2(5) and (6) of Directive 93/104.*

6. *In the absence of national provisions transposing Article 16(2) of Directive 93/104 or, as the case may be, expressly adopting one of the derogations provided for in Article 17(2), (3) and (4) thereof, those provisions may be interpreted as having direct effect, and therefore they confer on individuals a right whereby the reference period for the implementation of the maximum duration of their weekly working time must not exceed 12 months.*

7. *The consent given by trade-union representatives in the context of a collective or other agreement is not equivalent to that given by the worker himself, as provided for in the first indent of Article 18(1)(b)(i) of Directive 93/104.*

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(1) OJ C 299 of 26.9.1998.

JUDGMENT OF THE COURT

(Fifth Chamber)

of 3 October 2000

in Case C-380/98 (reference for a preliminary ruling from the High Court of Justice of England and Wales, Queen's Bench Division (Divisional Court)): The Queen v H.M. Treasury (1)

(Public contracts — Procedure for the award of public contracts for services, supplies and works — Contracting authority — Body governed by public law)

(2000/C 335/32)

(Language of the case: English)

In Case C-380/98: reference to the Court under Article 177 of the EC Treaty (now Article 234 EC) from the High Court of Justice of England and Wales, Queen's Bench Division (Divisional Court), United Kingdom, for a preliminary ruling in the proceedings pending before that court between The Queen and H.M. Treasury, ex parte: University of Cambridge — on the interpretation of Article 1 of Council Directive 92/50/EEC of 18 June 1992 relating to the coordination of procedures for the award of public service contracts (OJ 1992 L 209, p. 1), Article 1 of Council Directive 93/36/EEC of 14 June 1993 coordinating procedures for the award of public supply

contracts (OJ 1993 L 199, p. 1) and Article 1 of Council Directive 93/37/EEC of 14 June 1993 concerning the coordination of procedures for the award of public works contracts (OJ 1993 L 199, p. 54) — the Court (Fifth Chamber), composed of: D.A.O. Edward, President of the Chamber, P.J.G. Kapteyn (Rapporteur), A. La Pergola, P. Jann and H. Ragnemalm, Judges; S. Alber, Advocate General; H.A. Rühl, Principal Administrator, for the Registrar, has given a judgment on 3 October 2000, in which it has ruled:

1. *The expression 'financed… by [one or more contracting authorities]' in Article 1(b), second subparagraph, third indent, of Council Directive 92/50/EEC of 18 June 1992 relating to the coordination of procedures for the award of public service contracts, Council Directive 93/36/EEC of 14 June 1993 coordinating procedures for the award of public supply contracts and Council Directive 93/37/EEC of 14 June 1993 concerning the coordination of procedures for the award of public works contracts, properly construed, includes awards or grants paid by one or more contracting authorities for the support of research work and student grants paid by local education authorities to universities in respect of tuition for named students. Payments made by one or more contracting authorities either in the context of a contract for services comprising research work or as consideration for other services such as consultancy or the organisation of conferences do not, by contrast, constitute public financing within the meaning of those directives.*

2. *On a proper construction, the term 'for the most part' in Article 1(b), second subparagraph, third indent, of Directives 92/50, 93/36 and 93/37 means 'more than half'.*

3. *In order to determine correctly the percentage of public financing of a particular body account must be taken of all of its income, including that which results from a commercial activity.*

4. *The decision as to whether a body such as the University of Cambridge is a 'contracting authority' must be made annually and the budgetary year in which the procurement procedure commences must be regarded as the most appropriate period for calculating the way in which that body is financed, so that the calculation must be made on the basis of the figures available at the beginning of the budgetary year, even if they are provisional. A body which constitutes a 'contracting authority' for the purposes of Directives 92/50, 93/36 and 93/37 when a procurement procedure commences remains, as far as that procurement is concerned, subject to the requirements of those directives until such time as the relevant procedure has been completed.*

(1) OJ C 397 of 19.12.1998.

JUDGMENT OF THE COURT

of 3 October 2000

in Case C-411/98 (reference for a preliminary ruling from the Tribunal d'Arrondissement, Luxembourg): Angelo Ferlini v Centre Hospitalier de Luxembourg (1)

(Workers — Regulation (EEC) No 1612/68 — Equal treatment — Persons not affiliated to the national social security scheme — Officials of the European Communities — Application of scales of fees for medical and hospital expenses connected with childbirth)

(2000/C 335/33)

(Language of the case: French)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case C-411/98: reference to the Court under Article 177 of the EC Treaty (now Article 234 EC) from the Tribunal d'Arrondissement (District Court), Luxembourg, for a preliminary ruling in the proceedings pending before that court between Angelo Ferlini and Centre Hospitalier de Luxembourg — on the interpretation, first, of the first paragraph of Article 6 and Article 48 of the EC Treaty (now, after amendment, the first paragraph of Article 12 EC and Article 39 EC), of Regulation (EEC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community (OJ, English Special Edition 1968 (II), p. 475), as amended by Council Regulation (EEC) No 312/76 of 9 February 1976 amending the provisions relating to the trade union rights of workers contained in Regulation (EEC) No 1612/68 (OJ 1976 L 39, p. 2), and of Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, as amended and updated by Council Regulation (EEC) No 2001/83 of 2 June 1983 (OJ 1983 L 230, p. 6), and, second, of Article 85(1) of the EC Treaty (now Article 81(1) EC) — the Court, composed of: G.C. Rodríguez Iglesias, President, J.C. Moitinho de Almeida, D.A.O. Edward, L. Sevón and R. Schintgen (Presidents of Chambers), P.J.G. Kapteyn, C. Gulmann, P. Jann, H. Ragnemalm (Rapporteur), M. Wathelet and V. Skouris, Judges; G. Cosmas, Advocate General; R. Grass, Registrar, has given a judgment on 3 October 2000, in which it has ruled: