

2. The application by the competent institution of a Member State of Article 95a(4), (5) and (6) of Regulation No 1408/71 to a request for review of a retirement pension, thus limiting the retroactivity of the review to the detriment of the person concerned, constitutes a serious breach of Community law if those provisions are not applicable to the application in question and if it follows from a judgment delivered by the Court of Justice before the decision by the competent institution that the institution wrongly applied and anti-overlapping rule of that Member State, and where it cannot be inferred from that judgment that the retroactive effect of such a review could be limited.

(¹) OJ C 163 of 10.6.2000.

JUDGMENT OF THE COURT

(Fourth Chamber)

of 21 June 2001

in Case C-119/00: Commission of the European Communities v Grand Duchy of Luxembourg (¹)

(Failure by a Member State to fulfil its obligations — Failure to implement Directive 97/36/EC amending Directive 89/552/EEC — Coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities)

(2001/C 227/07)

(Language of the case: French)

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

In Case C-119/00: Commission of the European Communities (Agent: K. Banks) v Grand Duchy of Luxembourg (Agent: P. Steinmetz) — application for a declaration that, by failing to adopt the laws, regulations and administrative provisions necessary to comply with Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (OJ 1997 L 202, p. 60), and/or by failing to inform the Commission thereof, the Grand Duchy of Luxembourg has failed to fulfil its obligations under that directive — the Court (Fourth Chamber), composed of: A. La Pergola, President of the Chamber, D.A.O. Eward (Rapporteur) and S. von Bahr, Judges; L.A. Geelhoed, Advocate General; R. Grass, Registrar, has given a judgment on 21 June 2001, in which it:

1. Declares that by not implementing within the prescribed period the laws, regulations and administrative measures necessary to comply with Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, the Grand Duchy of Luxembourg has failed to fulfil its obligations under that directive;
2. Orders the Grand Duchy of Luxembourg to pay the costs.

(¹) OJ C 163 of 10.6.2000.

JUDGMENT OF THE COURT

(Sixth Chamber)

of 3 July 2001

in Case C-378/98: Commission of the European Communities v Kingdom of Belgium (¹)

(Failure by a Member State to fulfil its obligations — State aid — Article 93(2), second subparagraph, of the EC Treaty (now Article 88(2), second subparagraph, EC) — Obligation to recover aid granted under the Maribel bis and Maribel ter schemes — Impossible to put into effect)

(2001/C 227/08)

(Language of the case: French)

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

In Case C-378/98: Commission of the European Communities (Agent: G. Rozet) v Kingdom of Belgium (Agent: A. Snoecx, assisted by G. van Gerven and K. Coppenholle) — application for a declaration that, by failing to adopt within the periods prescribed for under the Maribel bis/ter scheme which was declared unlawful and incompatible with the common market by Commission Decision 97/239/EC of 4 December 1996 concerning aid granted by Belgium under the Maribel bis/ter scheme (OJ 1997 L 95, p. 25), notified to it on 20 December 1996, the Kingdom of Belgium has failed to fulfil its obligations under the fourth paragraph of Article 189 of the EC Treaty (now the fourth paragraph of Article 249 EC) and Articles 2 and 3 of the said decision — the Court (Sixth Chamber), composed of: C. Gulmann, President of the Chamber, J.-P. Puissechot, R. Schintgen, F. Macken and N. Colneric (Rapporteur), Judges; A. Tizzano, Advocate General; D. Louterman-Hubeau, Head of Division, for the Registrar, has given a judgment on 3 July 2001, in which it: