

## 1. Declares that:

- by failing to adopt all the measures necessary to implement Articles 4(1), second subparagraph, 4(2), 11(k), seventh indent, and 14 of Council Directive 85/384/EEC of 10 June 1985 on the mutual recognition of diplomas, certificates and other evidence of formal qualifications in architecture, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services, as amended by Council Directive 86/17/EEC of 27 January 1986 amending, on account of the accession of Portugal, Directive 85/384,
- by failing to adopt all the measures necessary to implement the automatic recognition of diplomas, certificates and other evidence of formal qualifications in accordance with Articles 2, 3, 7, 8 and 9 of Directive 85/384,
- by adopting Article 4(2)(a) of Legislative Decree No 129 of the President of the Republic of 27 January 1992 which, in breach of Articles 52 and 59 of the EC Treaty (now, after amendment, Articles 43 EC and 49 EC), lays down a general requirement that the application for recognition of a qualification be accompanied by the original diploma or a certified copy thereof,
- by adopting Article 4(2)(c) of Decree No 129/92 and Article 4(1)(c) of Decree No 776 of the Minister for Universities and Scientific and Technological Research of 10 June 1994 which, in breach of Article 52 of the Treaty, lay down a general requirement that the application for recognition of a qualification be accompanied by a certificate of nationality,
- by adopting Article 4(3) of Decree No 129/92 and Article 10 of Decree No 776/94 which, in breach of Article 52 of the Treaty, require as a matter of course an official translation of all documents attached to an application for recognition of a qualification,
- by adopting Article 11(1)(c) and (d) of Decree No 129/92 which, in breach of Article 12 of Directive 85/384, provides for the recognition of qualifications acquired after 5 August 1987,
- by retaining Article 9(1) of Decree No 129/92 which, in breach of Article 59 of the Treaty, imposes a general prohibition on architects established in other Member States who wish to provide services in Italy from creating on Italian territory a principal or secondary place of business,

- by requiring, under Article 9(3) of Decree No 129/92 and Articles 7 and 8 of Decree No 776/94, architects established in other Member States who wish to provide services in Italy to register with the local provincial council of the professional body for architects and by delaying, by that formality, in breach of Article 22 of Directive 85/384, the provision by architects of their first services in Italy,

the Italian Republic has failed to fulfil its obligations under Articles 12, 22, 27 and 31 of Directive 85/384 and, in respect of the prohibition under Article 9(1) of Decree No 129/92, under Article 59 of the Treaty;

2. Dismisses the application as to the remainder;
3. Orders the Italian Republic to pay the costs.

(<sup>1</sup>) OJ C 299 of 16.10.1999.

## JUDGMENT OF THE COURT

19 March 2002

**in Joined Cases C-393/99 and C-394/99 (Reference for a preliminary ruling from the Tribunal du travail de Tournai): Institut national d'assurances sociales pour travailleurs indépendants (Inasti) v Claude Hervein, Hervillier SA (C-393/99), Guy Lorthiois, Comtexbel SA (C-394/99)**(<sup>1</sup>)

**(Freedom of movement for workers and freedom of establishment — Social security — Determination of the legislation applicable — Persons who are simultaneously employed and self-employed in the territory of different Member States — Cover by the social security legislation of each of those States — Validity of Article 14c(1)(b), now Article 14c(b), of and Annex VII to Regulation (EEC) No 1408/71)**

(2002/C 118/07)

(Language of the case: French)

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

In Joined Cases C-393/99 and C-394/99: Reference to the Court under Article 234 EC by the Tribunal du travail, Tournai (Belgium), for a preliminary ruling in the proceedings pending before that court between Institut national d'assurances sociales pour travailleurs indépendants (Inasti) and Claude Hervein, Hervillier SA (C-393/99), Guy Lorthiois, Comtexbel SA (C-394/99), on the validity of Article 14c(1)b, now Article 14c(b), of and Annex VII to Regulation (EEC)

No 1408/71 of the Council 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 as amended by Council Regulation (EEC) No 3811/86 of 11 December 1986 (OJ 1986 L 355, p. 5), the Court, composed of: G.C. Rodríguez Iglesias, President, P. Jann, F. Macken and N. Colneric (Presidents of Chambers), C. Gulmann, D.A.O. Edward, J.-P. Puissochet (Rapporteur), M. Wathelet and V. Skouris, Judges; F.G. Jacobs, Advocate General; H. von Holstein, Deputy Registrar, has given a judgment on 19 March 2002, in which it has ruled:

*Examination of the questions referred has not disclosed any factor of such a kind as to affect the validity:*

— of Article 14c(1)(b) of and Annex VII to Regulation No 1408/71 of the Council 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.

— of Article 14(b) of and Annex VII to that regulation, as amended by Council Regulation (EEC) No 3811/86 of 11 December 1986.

*However, it is, where appropriate, for the national court hearing disputes in the context of the application of that provision, first, to ascertain that the legislation of the States concerned applied in that context is applied in accordance with Articles 48 and 52 of the Treaty (now, after amendment, Articles 39 EC and 43 EC), and in particular that the national legislation whose conditions for application are at issue does afford social security cover for the person concerned, and, second, to determine whether that provision should, exceptionally, be disapplied at the request of the worker concerned where it would cause him to lose a social security advantage which he originally enjoyed under a social security convention in force between two or more Member States.*

(<sup>1</sup>) OJ C 366 of 18.12.1999.

## JUDGMENT OF THE COURT

(Fifth Chamber)

21 March 2002

**in Case C-451/99 (Reference for a preliminary ruling from the Handelsgericht Wien): Cura Anlagen GmbH v Auto Service Leasing GmbH (ASL) (<sup>1</sup>)**

**(Vehicle leasing — Prohibition on using in a Member State for longer than a certain time a vehicle registered in another Member State — Obligations to register the vehicle and to pay a consumption tax in the Member State of use — Obligation to insure with an insurer authorised in the Member State of use — Obligation to undergo roadworthiness testing — Restrictions on the freedom to provide services — Justifications)**

(2002/C 118/08)

(Language of the case: German)

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

In Case C-451/99: Reference to the Court under Article 234 EC by the Handelsgericht Wien (Austria) for a preliminary ruling in the proceedings pending before that court between Cura Anlagen GmbH and Auto Service Leasing GmbH (ASL), on the interpretation of Articles 49 EC to 55 EC and Article 28 EC, the Court (Fifth Chamber), composed of: S. von Bahr, President of the Fourth Chamber, acting for the President of the Fifth Chamber, D.A.O. Edward, A. La Pergola, M. Wathelet (Rapporteur) and C.W.A. Timmermans, Judges; F.G. Jacobs, Advocate General; H. von Holstein, Deputy Registrar, has given a judgment on 21 March 2002, in which it has ruled:

*The provisions of the EC Treaty on the freedom to provide services (Articles 49 EC to 55 EC) preclude legislation of a Member State, such as that at issue in the main proceedings, requiring an undertaking established in that Member State which takes a lease of a vehicle registered in another Member State to register it in the first Member State in order to be able to use it there beyond a period that is so short, in this case three days, that it makes it impossible or excessively difficult to comply with the requirements imposed. The same provisions of the Treaty preclude legislation of a Member State, such as that at issue in the main proceedings, requiring an undertaking established in that Member State which takes a lease of*