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(Information)

COURT OF JUSTICE

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JUDGMENT OF THE COURT

(Fifth Chamber)

of 13 February 2003

in Case C-228/00: Commission of the European Communities v Federal Republic of Germany ⁽¹⁾

(Failure by a Member State to fulfil its obligations — Article 7(2) and (4) of Regulation (EEC) No 259/93 — Classification of the purpose of a shipment of waste (recovery or disposal) — Incinerated waste — Point R1 of Annex II B to Directive 75/442/EEC — Concept of use principally as a fuel or other means to generate energy)

(2003/C 83/01)

(Language of the case: German)

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

In Case C-228/00, Commission of the European Communities (Agent: G. zur Hausen) v Federal Republic of Germany (Agent: T. Jürgensen, assisted by D. Sellner): Application for a declaration that by raising unjustified objections against certain shipments of waste to other Member States to be used principally as a fuel the Federal Republic of Germany has failed to fulfil its obligations under Article 7(2) and (4) of Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community (OJ 1993 L 30, p. 1), the Court (Fifth Chamber), composed of: M. Wathelet, President of the Chamber, C.W.A. Timmermans (Rapporteur), D.A.O. Edward, P. Jann and S. von Bahr, Judges; F.G. Jacobs, Advocate General; H.A. Rühl, Principal Administrator, for the Registrar, has given a judgment on 13 February 2003, in which it:

1. Declares that by raising unjustified objections to certain shipments of waste to other Member States to be used

principally as a fuel, the Federal Republic of Germany has failed to fulfil its obligations under Article 7(2) and (4) of Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community;

2. Orders the Federal Republic of Germany to pay the costs.

⁽¹⁾ OJ C 259 of 9.9.2000.

JUDGMENT OF THE COURT

(Sixth Chamber)

of 6 February 2003

in Case C-245/00 (Reference for a preliminary ruling from the Hoge Raad der Nederlanden): Stichting ter Exploitatie van Naburige Rechten (SENA) v Nederlandse Omroep Stichting (NOS) ⁽¹⁾

(Directive 92/100/EEC — Rental right and lending right and certain rights related to copyright in the field of intellectual property — Article 8(2) — Broadcasting and communication to the public — Equitable remuneration)

(2003/C 83/02)

(Language of the case: Dutch)

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

In Case C-245/00: Reference to the Court under Article 234 EC by the Hoge Raad der Nederlanden (Netherlands) for a

preliminary ruling in the proceedings pending before that court between Stichting ter Exploitatie van Naburige Rechten (SENA) and Nederlandse Omroep Stichting (NOS), on the interpretation of Article 8(2) of Council Directive 92/100/EEC of 19 November 1992 on rental right and lending right and on certain rights related to copyright in the field of intellectual property (OJ 1992 L 346, p. 61), the Court (Sixth Chamber), composed of: J.-P. Puissechot (Rapporteur), President of the Chamber, C. Gulmann, V. Skouris, F. Macken and J.N. Cunha Rodrigues, Judges; A. Tizzano, Advocate General; M.-F. Contet, Administrator, for the Registrar, has given a judgment on 6 February 2003, in which it has ruled:

1. The concept of equitable remuneration in Article 8(2) of Council Directive 92/100/EEC of 19 November 1992 on rental right and lending right and on certain rights related to copyright in the field of intellectual property must be interpreted uniformly in all the Member States and applied by each Member State; it is for each Member State to determine, in its own territory, the most appropriate criteria for assuring, within the limits imposed by Community law and Directive 92/100 in particular, adherence to that Community concept.
2. Article 8(2) of Directive 92/100 does not preclude a model for calculating what constitutes equitable remuneration for performing artists and phonogram producers that operates by reference to variable and fixed factors, such as the number of hours of phonograms broadcast, the viewing and listening densities achieved by the radio and television broadcasters represented by the broadcast organisation, the tariffs fixed by agreement in the field of performance rights and broadcast rights in respect of musical works protected by copyright, the tariffs set by the public broadcast organisations in the Member States bordering on the Member State concerned, and the amounts paid by commercial stations, provided that that model is such as to enable a proper balance to be achieved between the interests of performing artists and producers in obtaining remuneration for the broadcast of a particular phonogram, and the interests of third parties in being able to broadcast the phonogram on terms that are reasonable, and that it does not contravene any principle of Community law.

(¹) OJ C 247 of 26.8.2000.

JUDGMENT OF THE COURT

(Fifth Chamber)

of 13 February 2003

in Case C-458/00: Commission of the European Communities v Grand Duchy of Luxembourg (¹)

(Failure by a Member State to fulfil its obligations — Article 7(2) and (4) of Regulation (EEC) No 259/93 — Classification of the purpose of a shipment of waste (recovery or disposal) — Incinerated waste — Point R1 of Annex II B to Directive 75/442/EEC — Concept of use principally as a fuel or other means to generate energy)

(2003/C 83/03)

(Language of the case: French)

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

In Case C-458/00, Commission of the European Communities (Agents: H. Støvlbaek and J. Adda) v Grand Duchy of Luxembourg (Agent: J. Faltz), supported by Republic of Austria (Agent: C. Pesendorfer): Application for a declaration that by raising unjustified objections to certain shipments of waste to another Member State to be used principally as a fuel, in breach of Article 7(2) and (4) of Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community (OJ 1993 L 30, p. 1), and of Article 1(f) in conjunction with point R1 of Annex II B to Council Directive 75/442/EEC of 15 July 1975 on waste (OJ 1975 L 194, p. 39), as amended by Commission Decision 96/350/EC of 24 May 1996 (OJ 1996 L 135, p. 32), the Grand Duchy of Luxembourg has failed to fulfil its obligations under Articles 2, 6 and 7 of that Regulation and under Article 1(f) in conjunction with point R1 of Annex II B to that Directive, the Court (Fifth Chamber), composed of: M. Wathelet, President of the Chamber, C.W.A. Timmermans (Rapporteur), D.A.O. Edward, P. Jann and S. von Bahr, Judges; F.G. Jacobs, Advocate General; H.A. Rühl, Principal Administrator, for the Registrar, has given a judgment on 13 February 2003, in which it:

1. Dismisses the application;
2. Orders the Commission of the European Communities to pay the costs;
3. Orders the Republic of Austria to bear its own costs.

(¹) OJ C 45 of 10.2.2001.