Reference for a preliminary ruling by the Consiglio di Stato (Sixth Chamber) by order of that Court of 11 November 2003 in the case of Spa Fratelli Martini & C. Martini and Cargill srl against Ministero per le Politiche Agricole e Forestali, Ministero della Salute, and Ministero delle Attività Produttive

(Case C-11/04)

(2004/C 59/29)

Reference has been made to the Court of Justice of the European Communities by order of the Consiglio di Stato (Sixth Chamber) (Council of State, Judicial Division, Sixth Chamber) of 11 November 2003, received at the Court Registry on 15 January 2004, for a preliminary ruling in the case of Spa Fratelli Martini & C. Martini and Cargill srl against Ministero per le Politiche Agricole e Forestali, Ministero della Salute, and Ministero delle Attività Produttive on the following questions:

1. Must Article 152(4)(b) EC be interpreted as being the correct legal basis for the adoption of measures on labelling, contained in Directive 2002/2/EC, where they refer to the labelling of vegetable feedingstuffs?

2. In so far as it imposes an obligation to indicate the precise feed materials contained in compound feedingstuffs, which applies even to vegetable-based feedingstuffs, is Directive 2002/2/EC [1] justified on the basis of the precautionary principle in the absence of a risk assessment, based on scientific studies, which requires that precautionary measure on the basis of a possible correlation between the quantity of feed materials used and the risk of the diseases to be prevented? And is that directive nevertheless justified in the light of the principle of proportionality, in so far as the obligations on the part of the feedingstuffs industry to disclose information to the public authorities, which are required to maintain business secrecy, and are competent to monitor health protection, are not sufficiently directed to the attainment of the public health objectives supposed to be the purpose of the measure, instead imposing general rules requiring the indication of the percentage quantities of feed materials used on the labels of vegetable-based feedingstuffs?

3. In so far as it fails to respect the principle of proportionality, does Directive 2002/2/EC conflict with the fundamental right of property of the citizens of the Member States?

[1] OJ L 63 of 6.03.2002, p. 23.

Reference for a preliminary ruling by the Consiglio di Stato (Sixth Chamber) by order of that Court of 11 November 2003 in the case of Ferrari Mangimi srl and Associazione nazionale produttori alimenti zootecnici ASSALZOO against Ministero per le Politiche Agricole e Forestali, Ministero della Salute, and Ministero delle Attività Produttive

(Case C-12/04)

(2004/C 59/30)

Reference has been made to the Court of Justice of the European Communities by order of the Consiglio di Stato (Sixth Chamber) (Council of State, Judicial Division, Sixth Chamber) of 11 November 2003, received at the Court Registry on 15 January 2004, for a preliminary ruling in the case of Ferrari Mangimi srl and Associazione nazionale produttori alimenti zootecnici ASSALZOO against Ministero per le Politiche Agricole e Forestali, Ministero della Salute, and Ministero delle Attività Produttive on the following questions:

1. Must Article 152(4)(b) EC be interpreted as being the correct legal basis for the adoption of measures on labelling, contained in Directive 2002/2/EC [1], where they refer to the labelling of vegetable feedingstuffs?

2. In so far as it imposes an obligation to indicate the precise feed materials contained in compound feedingstuffs, which applies even to vegetable-based feedingstuffs, is Directive 2002/2/EC justified on the basis of the precautionary principle in the absence of a risk assessment, based on scientific studies, which requires that precautionary measure on the basis of a possible correlation between the quantity of feed materials used and the risk of the diseases to be prevented? And is that directive nevertheless justified in the light of the principle of proportionality, in so far as the obligations on the part of the feedingstuffs industry to disclose information to the public authorities, which are required to maintain business secrecy, and are competent to monitor health protection, are not sufficiently directed to the attainment of the public health objectives supposed to be the purpose of the measure, instead imposing general rules requiring the indication of the percentage quantities of feed materials used on the labels of vegetable-based feedingstuffs?

3. Must Directive 2002/2/EC be interpreted as meaning that its application, and therefore its effectiveness, is subject to the adoption of a positive list of feed materials containing their specific names, as set out in the tenth recital to the preamble and the Commission Report (COM2003 178) [2] dated 24 April 2003 or must the implementation of the directive in the Member States must take place before the adoption of the positive list of feed materials laid down by the directive, with reference to a list of the feed materials contained in the compound feedingstuffs by the names and generic definitions of their commodity classes?

4. Is Directive 2002/2/EC to be regarded as unlawful on the grounds of infringement of the principle of equal treatment and non-discrimination to the detriment of feedingstuff producers when compared with the producers of foodstuffs for human consumption in so far as the former are subject to rules requiring indications of the quantities of feed materials in compound feedingstuffs?

[1] OJ L 63 of 6.03.2002, p. 23.
[2] Not published.

Reference for a preliminary ruling by the Conseil d'État by order of that Court of 3 December 2003 in the case of Abdelkader Dellas, Confédération générale du travail, Fédération nationale des syndicats des services de santé et des services sociaux CFDT and Fédération nationale de l'action sociale Force Ouvrière against Secrétariat général du gouvernement; Intervener: Union des fédérations et syndicats nationaux d'employeurs sans but lucratif du secteur sanitaire, social et médico-social

(Case C-14/04)

(2004/C 59/31)

Reference has been made to the Court of Justice of the European Communities by order of the Conseil d'État (Council of State) of 3 December 2003, received at the Court Registry on 15 January 2004, for a preliminary ruling in the case of Abdelkader Dellas, Confédération générale du travail, Fédération nationale des syndicats des services de santé et des services sociaux CFDT and Fédération nationale de l'action sociale Force Ouvrière against Secrétariat général du gouvernement; Intervener: Union des fédérations et syndicats nationaux d'employeurs sans but lucratif du secteur sanitaire, social et médico-social (Union of national federations and unions of non-profit-making employers in the health, social and medico-social sectors) on the following questions:

1. In the light of the purpose of the Working Time Directive [1], namely to lay down minimum safety and health requirements for the organisation of working time, as set out in Article 1(1) thereof, must the definition of working time set out in the directive be considered to apply exclusively to the Community thresholds established by the directive or must it be considered to have general scope, applying also to the thresholds which, while adopted under the various national legal orders with a view to transposing the directive, may in fact be set — as they have been in France in the interest of employee protection — at a level affording greater protection than the thresholds established by the directive?

2. To what extent could a strictly proportional system of equivalence, which involves calculating the total number of hours in attendance before applying a weighting mechanism to them which reflects even the very least work-intensive periods during periods of inactivity, be considered compatible with the objectives of the Working Time Directive?

[1] Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organization of working time (OJ L 307 of 13.12.1993, p. 18).

Action brought on 20 January 2004 by the Commission of the European Communities against the Federal Republic of Germany

(Case C-16/04)

(2004/C 59/32)

An action against the Federal Republic of Germany was brought before the Court of Justice of the European Communities on 20 January 2004 by the Commission of the European Communities, represented by Denis Martin and Horstpeter Kreppel, acting as Agents, with an address for service in Luxembourg.

The applicant claims that the Court should:

1. Declare that

   a) by virtue of the fact that, contrary to the requirements of Community law,

      — § 30(4) VBG 1/GUV.01 permits sliding doors and revolving doors as emergency doors,