

JUDGMENT OF THE COURT

(Third Chamber)

of 1 April 2004

in Case C-375/03: Commission of the European Communities v Grand Duchy of Luxembourg ⁽¹⁾

(‘Failure of a Member State to fulfil obligations — Failure to implement Directive 2000/30/EC’)

(2004/C 106/26)

(Language of the case: French)

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

In Case C-375/03: **Commission of the European Communities** (Agent: W. Wils), with an address for service in Luxembourg, v **Grand Duchy of Luxembourg** (Agent: S. Schreiner) – application for a declaration that, by failing to adopt the laws, regulations and administrative provisions necessary to comply with Directive 2000/30/EC of the European Parliament and of the Council of 6 June 2000 on the technical roadside inspection of the roadworthiness of commercial vehicles circulating in the Community (OJ 2000 L 203, p. 1), or, in any event, by failing to inform the Commission thereof, the Grand Duchy of Luxembourg has failed to fulfil its obligations under that Directive – the Court (Third Chamber), composed of: A. Rosas (Rapporteur), President of the Chamber, N. Colneric and K. Schiemann, Judges; J. Kokott, Advocate General; R. Grass, Registrar, gave a judgment on 1 April 2004, the operative part of which is as follows:

1. Declares that, by failing to adopt, within the prescribed period, the laws, regulations and administrative provisions necessary to comply with Directive 2000/30/EC of the European Parliament and of the Council of 6 June 2000 on the technical roadside inspection of the roadworthiness of commercial vehicles circulating in the Community, 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 251 of 18.10.2003

Application for authorisation to serve a garnishee order brought on 17 March 2004 by Tertir-Terminais de Portugal against the Commission of the European Communities

(Case C-1/04 SA)

(2004/C 106/27)

An application for authorisation to serve a garnishee order on the Commission of the European Communities was brought before the Court of Justice of the European Communities on

17 March 2004 by Tertir-Terminais de Portugal SA, represented by G. Vandersanden, C. Houssa, L. Lévi and F. Gonçalves Pereira, avocats.

The applicant claims that the Court should:

- authorise the applicant under Article 1 of the Protocol on the Privileges and Immunities of the European Communities to serve a garnishee order on the European Commission relating to the sums owed by the European Community to the Republic of Guinea-Bissau in respect of compensation payable under Council Regulation (EC) No 249/2002 of 21 January 2002 concerning the conclusion of the Protocol establishing the fishing opportunities and the compensation provided for in the Agreement between the European Economic Community and the Government of the Republic of Guinea-Bissau on fishing off the coast of Guinea-Bissau for the period 16 June 2001 to 15 June 2006, ⁽¹⁾ in security of a right to receive payment valued at EUR 8 000 000;
- order the defendant to pay the costs.

⁽¹⁾ OJ L 40, 12.12.2002, p. 1.

ORDER OF THE COURT OF JUSTICE

(Third Chamber)

of 18 March 2004

in Case C-45/03 (Request for a preliminary ruling by the Tribunale di Catania): Oxana Dem’Yanenko ⁽¹⁾

(‘Reference for a preliminary ruling — Free movement for persons — Situation falling outside the scope of Directive 64/221/EEC — Fundamental rights — European Convention on Human Rights — Expulsion of a third country national without family or matrimonial ties with a national of a Member State — Validation procedure for the order for the forcible removal of a third country national — Definition of “court of a Member State” — Court with jurisdiction, for the purpose of Article 68 EC, to make a reference to the Court for a preliminary ruling — Lack of jurisdiction of the Court’)

(2004/C 106/28)

(Language of the case: Italian)

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

In Case C-45/03: Reference to the Court under Article 234 EC by the Tribunale di Catania, in the context of proceedings for the validation of an order for forcible removal against **Oxana Dem’Yanenko**, for a preliminary ruling on, first, Articles 7, 8 and 9 of Council Directive 64/221/EEC of 25 February 1964

on the co-ordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health (OJ 1964, English special edition: Series I Chapter 1963-1964 p. 117) and second, fundamental rights, the observance of which is ensured by the Court, as enshrined, in particular, in the Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950, the Court of Justice (Third Chamber), composed of: A. Rosas (Rapporteur), President, N. Colneric and K. Schiemann, Judges; C. Stix-Hackl, Advocate General; R. Grass, Registrar, made an order on 18 March 2004, the operative part of which is as follows:

The Court of Justice of the European Communities clearly lacks jurisdiction to answer the questions referred by the Tribunale di Catania by the order of 19 January 2003.

(¹) OJ C 83 of 5. 4. 2003

ORDER OF THE COURT OF JUSTICE

(Third Chamber)

of 15 March 2004

in Case C-59/03 (Reference for a preliminary ruling by the Tribunale di Genova): Mario Cigliola and Others v Ferrovie dello Stato SpA (FS) (¹)

(Article 104(3) of the Rules of Procedure — Aid granted by the Member States — Definition — National legislation suspending a worker's right to continue working until retirement age)

(2004/C 106/29)

(Language of the case: Italian)

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

In Case C-59/03: Reference to the Court under Article 234 EC by the Tribunale di Genova (Italy), for a preliminary in proceedings between Mario Cigliola and Ferrovie dello Stato SpA (FS), on the interpretation of Article 87(1) EC, the Court (Third Chamber), composed of: A. Rosas, President, R. Schintgen and N. Colneric (Rapporteur), Judges; F.G. Jacobs, Advocate General; R. Grass, Registrar, made an order on 15 March 2004, the operative part of which is as follows:

A national law which allows an undertaking to terminate the contracts of employment of its oldest workers, setting aside the ordinary law that permits continuation of the employment relationship and which thereby creates a situation in which the undertaking can save on labour costs, with an immediate resulting burden on the State in the form of reduced contribution revenue and the payment of pensions to dismissed workers, does not constitute State aid within the meaning of Article 87(1) EC.

(¹) OJ C 83 of 5.4.2003

ORDER OF THE COURT OF JUSTICE

(Fifth Chamber)

of 9 March 2004

in Case C-159/03 P: Jan Pflugradt v European Central Bank (¹)

(‘Appeal — Staff of the ECB — Formal warning — Preparatory act — Act which does not adversely affect an official — Inadmissible’)

(2004/C 106/30)

(Language of the case: German)

In Case C-159/03 P: Jan Pflugradt, agent of the European Central Bank, residing in Frankfurt am Main (Germany), represented by N. Pflüger, with an address for service in Luxembourg, brought an appeal against the order of the Court of First Instance of the European Communities (Fifth Chamber), Case T-82/03 *Pflugradt v ECB* [2003] ECR I-0000, seeking to have that order set aside, the other party to the proceedings being: the European Central Bank (Agents: T. Gilliams, N. Urban and B. Wägenbaur), with an address for service in Luxembourg, the Court (Fifth Chamber), composed of: C. Gulmann, President, A. La Pergola (Rapporteur), R. Silva de Lapuerta, Judges; P. Léger, Advocate General; R. Grass, Registrar, made an order on 9 March 2004, the operative part of which is as follows:

- 1) *The appeal is dismissed.*
- 2) *Mr Pflugradt is order to pay the costs.*

(¹) OJ C 135 of 7.6.2003