

assurance, laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive 79/267 and by Council Directive 92/96/EEC of 10 November 1992 on the coordination of laws, regulations and administrative provisions relating to direct life assurance and amending Directives 79/267 and 90/619 (third life assurance Directive) do not preclude national legislation under which, if an insurance company is the subject of insolvency proceedings, is put into liquidation or is otherwise in a state of insolvency, the assets representing the technical provisions may be allocated to payment of salary claims before payment of insurance claims, where that legislation accords to insurance claims a priority whose scope encompasses in any event, in addition to the assets representing the technical provisions, other assets of the undertaking and may, by virtue of a ministerial decision, have been extended to all the available assets of the undertaking.

(¹) OJ C 70 of 22.3.2003.

JUDGMENT OF THE COURT

(Fifth Chamber)

of 9 September 2004

in Case C-81/03: Commission of the European Communities v Republic of Austria (¹)

(Failure of a Member State to fulfil its obligations — Articles 43 EC and 49 EC — Paramedical professions — Exercise on an independent basis)

(2004/C 273/14)

(Language of the case: German)

In Case C-81/03: Commission of the European Communities (Agents: C. Schmidt and M. Patakia) against Republic of Austria (Agent: E. Riedl) — application for a declaration of failure to act under Article 226 EC, brought on 21 February 2003 — the Court (Fifth Chamber), composed of: C. Gulmann, President of the Chamber, S. von Bahr and R. Silva da Lapuerta (Rapporteur), Judges; M. Poiares Maduro, Advocate General; R. Grass, Registrar, has given a judgment on 9 September 2004, the operative part of which is as follows:

1. By prohibiting, under Paragraph 7a of the Federal Law on the Regulation of Higher Medico-Technical Services, the independent exercise of certain medico-technical professions (laboratory technicians, radiology technicians and orthoptists), the Republic of Austria has failed to fulfil its obligations under Articles 43 EC and 49 EC;

2. The Republic of Austria is ordered to pay the costs.

(¹) OJ C 101 of 26.4.2003.

JUDGMENT OF THE COURT

(Second Chamber)

of 14 September 2004

in Case C-168/03: Commission of the European Communities v Kingdom of Spain (¹)

(Failure by a Member State to fulfil its obligations — Directives 89/665/EEC and 95/63/EC — Incomplete transposition — Additional adjustment period)

(2004/C 273/15)

(Language of the case: Spanish)

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

In Case C-168/03: Commission of the European Communities (Agent: I. Martínez del Peral) v Kingdom of Spain (Agent: L. Fragua Gadea) — action under Article 226 EC for failure to fulfil obligations, brought on 11 April 2003 — the Court (Second Chamber), composed of: C. W.A. Timmermans, President of the Chamber, J.N. Cunha Rodrigues, J.-P. Puissechot, R. Schintgen and N. Colneric (Rapporteur) Judges; C. Stix-Hackl, Advocate General; R. Grass, Registrar, gave a judgment on 14 September 2004, the operative part of which is as follows:

1) By providing, in Article 1 of the sole transitional provision of Royal Decree No 1215/1997 of 18 July 1997 laying down the minimum safety and health requirements for the use of work equipment by workers, for an additional adjustment period for work equipment already provided to workers at the undertaking and/or establishment prior to 27 August 1997, the Kingdom of Spain has failed to fulfil its obligations under Article 4(1)(b) of Council Directive 89/665/EEC of 30 November 1989 concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) (89/665/EEC), as amended by Council Directive 95/63/EC of 5 December 1995.

2) The Kingdom of Spain is ordered to pay the costs.

(¹) OJ C 135 of 7.6.2003.