

3. Article 28 EC precludes national rules, such as those laid down in Paragraphs 8(1) and 9(2) of the *Verordnung über die Vermeidung und Verwertung von Verpackungsabfällen* (Regulation on the Avoidance and Recovery of Packaging Waste), when they announce that a global packaging-waste collection system is to be replaced by a deposit and return system without the producers and distributors concerned having a reasonable transitional period to adapt thereto and being assured that, at the time when the packaging-waste management system changes, they can actually participate in an operational system.

(¹) OJ C 274 of 9.11.2002.

2001/37/EC of the European Parliament and of the Council of 5 June 2001 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco products.

(¹) OJ C 44 of 22.2.2003.

JUDGMENT OF THE COURT

(Grand Chamber)

of 14 December 2004

in Case C-434/02 (reference for a preliminary ruling from the Verwaltungsgericht Minden): Arnold André GmbH & Co. KG v Landrat des Kreises Herford (¹)

(Directive 2001/37/EC — Manufacture, presentation and sale of tobacco products — Article 8 — Prohibition of placing on the market of tobacco products for oral use — Validity)

(2005/C 45/06)

(Language of the case: German)

In Case C-434/02: reference for a preliminary ruling under Article 234 EC from the Verwaltungsgericht Minden (Germany), made by decision of 14 November 2002, received at the Court on 29 November 2002, in the proceedings between **Arnold André GmbH & Co. KG** and **Landrat des Kreises Herford** – the Court (Grand Chamber), composed of: V. Skouris, President, P. Jann, C.W.A. Timmermans and K. Lenaerts, Presidents of Chambers, C. Gulmann, J.-P. Puissochet, N. Colneric, S. von Bahr and J.N. Cunha Rodrigues (Rapporteur), Judges; L.A. Geelhoed, Advocate General; H. von Holstein, Deputy Registrar, and subsequently M.-F. Contet, Principal Administrator, for the Registrar, has given a judgment on 14 December 2004, in which it has ruled:

Consideration of the question referred has not disclosed any factor of such a kind as to affect the validity of Article 8 of Directive

JUDGMENT OF THE COURT

(First Chamber)

of 9 December 2004

in Case C-460/02: Commission of the European Communities v Italian Republic (¹)

(Air transport — Groundhandling — Directive 96/67/EC)

(2005/C 45/07)

(Language of the case: Italian)

In Case C-460/02: action under Article 226 EC for failure to fulfil obligations, brought on 19 December 2002, between **Commission of the European Communities** (Agents: A. Aresu and M. Huttunen) and **Italian Republic** (Agents: I.M. Braguglia and O. Fiumara) – the Court (First Chamber), composed of P. Jann, President of the Chamber, R. Silva de Lapuerta (Rapporteur), K. Lenaerts, S. von Bahr and K. Schiemann, Judges; P. Léger, Advocate General; M. Múgica Arzamendi, Principal Administrator, for the Registrar, has given a judgment on 9 December 2004, in which it:

1. Declares that in so far as Legislative Decree No 18 of 13 January 1999 applying Directive 96/67/EC on access to the groundhandling market at Community airports incorporates, at Article 14, a social measure which is incompatible with Article 18 of Council Directive 96/67/EC of 15 October 1996 and sets out, at Article 20, interim provisions which are not authorised under the directive, the Italian Republic has failed to fulfil its obligations under the directive;
2. Orders the Italian Republic to pay the costs.

(¹) OJ C 55 of 8.3.2003.