

The Commission requests the Court

a) to find that Ireland has failed its obligations under the EC Treaty by failing to adopt the laws, regulations and administrative provisions necessary to comply with Council Directive 2000/79/EC of 27th November 2000 concerning the European Agreement on the Organisation of Working Time of Mobile Workers in Civil Aviation concluded by the Association of European Airlines (AEA), the European Transport Workers' Federation (ETF), the European Cockpit Association (ECA), the European Regions Airline Association (ERA) and the International Air Carrier Association (IACA) ⁽¹⁾ or by failing to ensure that management and labour have introduced the necessary measures by agreement, and/or by failing to inform the Commission thereof;

and

b) to condemn Ireland to bear the costs of the procedure.

Pleas in law and main arguments:

The period within which the directive had to be transposed expired on 1 December 2003.

⁽¹⁾ OJ L 302, 01.12.2000, p. 57

Reference for a preliminary ruling from the Korkein Hallinto-oikeus by decision of that court of 4 February 2005 in the case of Maija Terttu Inkeri Nikula

(Case C-50/05)

(2005/C 93/20)

(Language of the case: Finnish)

Reference has been made to the Court of Justice of the European Communities by decision of the Korkein Hallinto-oikeus (Supreme Administrative Court) (Finland) of 4 February 2005, received at the Court Registry on 8 February 2005, for a preliminary ruling in the proceedings concerning Maija Terttu Inkeri Nikula on the following question:

Is Article 33(1) of Regulation (EEC) No. 1408/71 ⁽¹⁾ of the Council of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community to be interpreted as meaning that in a situation where a pensioner is entitled under Article 27 of the regulation to claim sickness and maternity benefits only from the institution of the place of residence and at the expense of that institution, the assessment of sickness insurance contributions in such a way that in the pensioner's State of residence both the pensions received from that State and the pensions he receives from another State are taken into account as the basis for determining the amount of those contributions – provided that the sickness insurance contributions do not exceed the amount of pensions awarded by the State of residence – is incompatible with that provision?

⁽¹⁾ OJ English Special Edition, Series I Chapter 1971 (II), p. 416.

Action brought on 9 February 2005 by the Commission of the European Communities against the Republic of Finland

(Case C-54/05)

(2005/C 93/21)

(Language of the case: Finnish)

An action against the Republic of Finland was brought before the Court of Justice of the European Communities on 9 February 2005 by the Commission of the European Communities, represented by M. van Beek and M. Huttunen, acting as Agents, with an address for service in Luxembourg.

The Commission claims that the Court should:

1. declare that, by requiring a transfer licence for vehicles lawfully used and registered in another Member State, the Republic of Finland has failed to fulfil its obligations under Articles 28 EC and 30 EC;
2. order the Republic of Finland to pay the costs.

Pleas in law and main arguments

It follows from the provisions of Regulation 1598/1995 on the registration of vehicles, in force in Finland, that a person permanently resident in Finland is obliged to apply for a temporary transfer licence for a vehicle previously lawfully registered and insured in another Member State when the vehicle is imported or transferred through Finland to another Member State or a non-member country. A person permanently resident in Finland may not thus use a vehicle previously registered and insured in another Member State in Finland without a transfer licence. Obtaining a transfer licence requires for its part that a person living in Finland importing a vehicle registered in another Member State stops at the frontier crossing point, where he can apply for the transfer licence and pay the fees for the licence. He cannot use the vehicle in Finland until the transfer licence is granted. A transfer licence is usually granted for seven days, after which the importer of the vehicle must register the vehicle in the Finnish vehicle traffic register if he wishes to use the vehicle in Finland other than temporarily under the transfer licence.

Under Article 28 EC, quantitative restrictions on imports and all measures having equivalent effect are prohibited between Member States.

Since a person living in Finland, when importing a vehicle registered in another Member State or transferring it through Finland to another Member State or a non-member country, has to stop at the Finnish frontier in order to apply for a transfer licence for the vehicle, the vehicle becomes the object of systematic frontier checks which clearly satisfy the characteristics of the quantitative restrictions on imports or measures having equivalent effect referred to in Article 28 EC.

Finland has not adduced any grounds to show that the only method of ensuring the effectiveness of monitoring is the application of a transfer licence system which in practice means, for a person permanently resident in Finland, a systematic obligation to comply with special frontier formalities, that is, an obligation to stop at the nearest frontier crossing point and apply for a transfer licence without any statutory guarantee that it will be possible for a vehicle lawfully registered, insured and tested in another Member State to be used in Finland. Such systematic frontier formalities are a fundamental restriction on the free movement of goods.

Should the Court of Justice consider that the transfer licence system could in general be based on Article 30 EC (*quod non*), the Commission submits that the seven-day period of validity of the transfer licence in accordance with the main provision of the regulation is in any event unreasonably short.

Having regard to the above points of view, the Commission submits that the transfer licence system in force in Finland under Regulation 1598/1995 is contrary to Articles 28 EC and 30 EC. Should the Court of Justice consider that the transfer licence system could in general be based on Article 30 EC, the Commission submits that the seven-day period of validity of the transfer licence in accordance with the main provision of the regulation is in any event contrary to Articles 28 EC and 30 EC.

Action brought on 9 February 2005 by the Commission of the European Communities against the Hellenic Republic

(Case C-56/05)

(2005/C 93/22)

(Language of the case: Greek)

An action against the Hellenic Republic was brought before the Court of Justice of the European Communities on 9 February 2005 by the Commission of the European Communities, represented by Dimitris Triandafyllou, Legal Adviser, with an address for service in Luxembourg.

The applicant claims that the Court should:

1. declare that, by failing to adopt the laws, regulations and administrative provisions necessary to comply with Council Directive 2003/48/EC⁽¹⁾ of 3 June 2003 on taxation of savings income in the form of interest payments or, in any event, by failing to inform the Commission of such measures, the Hellenic Republic has failed to fulfil its obligations under Article 17 of that directive.
2. order the Hellenic Republic to pay the costs.

Pleas in law and main arguments

The period prescribed for transposing the directive into national law expired on 1 January 2004.

⁽¹⁾ OJ L 157 of 26.06.2003, p. 38.
