

Istituto nazionale della previdenza sociale (INPS) — the Court (First Chamber), composed of K. Lenaerts, President of the Fourth Chamber, acting for the President of the First Chamber, N. Colneric (Rapporteur), K. Schiemann, E. Juhász and M. Ilesič, Judges; F.G. Jacobs, Advocate General; L. Hewlett, Principal Administrator, for the Registrar, gave a judgment on 21 July 2005, in which it ruled:

Article 46(2)(a) of Council Regulation (EEC) No 1408/71 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, in its version amended and updated by Council Regulation (EEC) No 2001/83 of 2 June 1983, as amended by Council Regulation (EC) No 3096/95 of 22 December 1995, must be interpreted as meaning that, in order to determine the theoretical amount of the pension on which the calculation of the pro rata pension is based, the competent institution is not required to take into consideration a supplement intended to bring the pension to the minimum level under national legislation where, on account of the fact that the income limits fixed by the national legislation on that supplement are exceeded, an insured person who has worked exclusively in the Member State concerned cannot lay claim to such a supplement.

(¹) OJ C 85 of 03.04.2004.

JUDGMENT OF THE COURT

(Third Chamber)

of 21 July 2005

in Case C-71/04: Reference for a preliminary ruling from the Tribunal Supremo in Administración del Estado v Xunta de Galicia (¹)

(State aid — Article 93(3) of the EC Treaty (now Article 88(3) EC) — Scheme of aid to shipbuilding and ship conversion falling outside the scope of Directive 90/684/EEC — Failure to give prior notification — Article 92(1) of the EC Treaty (now Article 87(1) EC) — Concept of State aid — Effect on trade between Member States)

(2005/C 217/30)

(Language of the case: Spanish)

In Case C-71/04: REFERENCE for a preliminary ruling under Article 234 EC from the Tribunal Supremo (Spain), made by decision of 22 December 2003, received at the Court on 16 February 2004, in the proceedings between Administración del

Estado and Xunta de Galicia — the Court (Third Chamber), composed of A. Rosas, President of the Chamber, J. P. Puissochet, S. von Bahr, U. Löhmus and A. Ó Caoimh (Rapporteur), Judges; F.G. Jacobs, Advocate General; R. Grass, Registrar, gave a judgment on 21 July 2005, in which it ruled:

The Commission of the European Communities must be given prior notification, pursuant to Article 93(3) of the EC Treaty (now Article 88(3) EC), of a scheme of aid to shipbuilding and ship conversion such as that set up by Decree No 217/1994 of 23 June 1994, which does not fall within the scope of Council Directive 90/684/EEC of 21 December 1990 on aid to shipbuilding, if it is established that the scheme is capable of itself of giving rise to the grant of State aid within the meaning of Article 92(1) of the EC Treaty (now, after amendment, Article 87(1) EC). It is for the national court, in cases of infringement of Article 93(3) of the EC Treaty, to draw the necessary consequences, in accordance with its national law, with regard to both the validity of the acts giving effect to the aid and the recovery of financial support granted in disregard of that provision.

(¹) OJ C 94 of 17.04.2004.

JUDGMENT OF THE COURT

(First Chamber)

of 14 July 2005

in Case C-107/04: Reference for a preliminary ruling from the Tribunal Supremo in Comité Andaluz de Agricultura Ecológica v Administración General del Estado, Comité Aragonés de Agricultura Ecológica (¹)

(Community rules on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs — National legislation authorising the use of the term 'bio' in respect of products which have not been organically produced)

(2005/C 217/31)

(Language of the case: Spanish)

In Case C-107/04: reference for a preliminary ruling under Article 234 EC from the Tribunal Supremo (Spain), made by decision of 1 December 2003, received at the Court on 1 March 2004, in the proceedings between Comité Andaluz de Agricultura Ecológica and Administración General del Estado, Comité Aragonés de Agricultura Ecológica — the Court (First

Chamber), composed of P. Jann (Rapporteur), President of the Chamber, K. Lenaerts, J.N. Cunha Rodrigues, M. Ilešič and E. Levits, Judges; J. Kokott, Advocate General; M. Ferreira, Principal Administrator, for the Registrar, gave a judgment on 14 July 2005, in which it ruled:

1. Article 2 of Council Regulation (EEC) No 2092/91 of 24 June 1991 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs, as amended to include livestock production by Council Regulation (EC) No 1804/1999 of 19 July 1999 was to be interpreted as not precluding products which were not organically produced from bearing, in Spain, the indication 'biológico' or its derivative 'bio' in the labelling, advertising material and commercial documents;
2. That same Article 2, as amended by Council Regulation (EC) No 392/2004 of 24 February 2004, must be interpreted as precluding from now on such products from bearing, in Spain, the indication 'biológico' or its derivative 'bio' in the labelling, advertising material and commercial documents.

(¹) OJ C 94 of 17.04.2004.

JUDGMENT OF THE COURT

(First Chamber)

of 14 July 2005

in Case C-114/04: Commission of the European Communities v Federal Republic of Germany (¹)

(Failure of a Member State to fulfil obligations — Article 28 EC — Measures having equivalent effect — Withdrawal of a marketing authorisation for a phytopharmaceutical reference product — Lack of transition period for parallel importers with a view to liquidation of their stocks)

(2005/C 217/32)

(Language of the case: German)

In Case C-114/04: **Commission of the European Communities** (Agents: B. Schima) v **Federal Republic of Germany** (Agent: W.-D. Plessing and M. Lumma) — ACTION under Article 226 EC for failure to fulfil obligations, brought on 3

March 2004 — the Court (First Chamber), composed of P. Jann, President of the Chamber, N. Colneric, J.N. Cunha Rodrigues, M. Ilešič and E. Levits (Rapporteur), Judges; P. Léger, Advocate General; R. Grass, Registrar, gave a judgment on 14 July 2005, in which it:

1. Declares that, by failing to grant parallel importers a reasonable period in which to liquidate their stocks following withdrawal of a marketing authorisation for a phytopharmaceutical reference product, the Federal Republic of Germany failed to fulfil its obligations under Article 28 EC;
2. Orders the Federal Republic of Germany to pay the costs.

(¹) OJ C 106, 30.4.2004.

JUDGMENT OF THE COURT

(First Chamber)

of 16 June 2005

in Case C-138/04: Commission of the European Communities v Kingdom of Denmark (¹)

(Failure of a Member State to fulfil obligations — Directive 83/183/EEC — Transfer of residence from one Member State to another — Fee charged on registration of motor vehicles — Tax exemption)

(2005/C 217/33)

(Language of the case: Danish)

In Case C-138/04: action for failure to fulfil obligations under Article 226 EC, brought on 15 March 2004, **Commission of the European Communities** (Agents: R. Lyal and T. Fich) v **Kingdom of Denmark** (Agents: J. Molde and A. Rahbøl Jacobsen) the Court (First Chamber), composed of P. Jann, President of the Chamber, K. Lenaerts (Rapporteur), J.N. Cunha Rodrigues, E. Juhász and M. Ilešič, Judges; M. Poyares Maduro, Advocate General; H. von Holstein, Deputy Registrar, for the Registrar, gave a judgment on 16 June 2005, in which it:

1. Dismisses the action.