

1. Is the second sentence of the second subparagraph of Article 5(3)(b), in conjunction with Article 5(3)(d) and Annex III, section 4, of Council Directive 75/106/EEC of 19 December 1974 on the approximation of the laws of the Member States relating to the making-up by volume of certain prepackaged liquids (OJ 1975 L 42, p. 1), as most recently amended by the Act of Accession of 23 September 2003 (OJ 2003 L 236, p. 33), ('Directive 75/106/EEC') to be construed as meaning that products in packaging with a volume of 0.071 litre, which are lawfully manufactured and/or marketed in Ireland or the United Kingdom, may also be marketed in all of the other EC Member States?
2. If Question 1 should be answered in the negative: is the second sentence of the second subparagraph of Article 5(3)(b), in conjunction with Article 5(3)(d) and Annex III, section 4, of Directive 75/106/EEC compatible with the principle of free movement of goods in Articles 28 EC and 30 EC?

Reference for a preliminary ruling from the Oberster Gerichtshof by order of that court of 16 November 2005 in Mohamed Jouini, Okay Gönen, Hasan Bajric, Gerald Huber, Manfred Ortner, Sükran Karacatepe, Franz Mühlberger, Nakil Bakii, Hannes Kranzler, Jürgen Mörrth, Anton Schneeberger, Dietmar Susteric, Sascha Wörnhör, Aynur Savci, Elena Peter, Egon Schmäger, Mehmet Yaman, Dejan Preradovic, Andreas Mitter, Wolfgang Sorger, Franz Schachenhofer, Herbert Weiss, Harald Kaineder, Ognen, Stajkovski and Jovica Vidovic v PPS Princess Personal Service GmbH

(Case C-458/05)

(2006/C 60/43)

(Language of the case: German)

Reference has been made to the Court of Justice of the European Communities by order of the Oberster Gerichtshof of 16 November 2005, received at the Court Registry on 29 December 2005, for a preliminary ruling in the proceedings between Mohamed Jouini and Others and PPS Princess Personal Service GmbH on the following question:

Is there a transfer of a business or part of a business, within the meaning of Article 1 of Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the

event of transfers of undertakings, businesses or parts of undertakings or businesses⁽¹⁾, where, in the course of collaboration between two temporary employment undertakings, without there being a defined organisational structure of the first temporary employment undertaking, a branch manager and a customer adviser and a manager transfer from the first temporary employment undertaking to the second temporary employment undertaking and carry out comparable work there and, also in collaboration between both undertakings, approximately a third of the hired-out employees and the respective clients (with requirements varying from three to 50 hired-out employees) transfer with them, in part or entirely?

⁽¹⁾ OJ L 82, p. 16.

Action brought on 23 December 2005 by the Republic of Poland against the European Parliament and the Council of the European Union

(Case C-460/05)

(2006/C 60/44)

(Language of the case: Polish)

An action against the European Parliament and the Council of the European Union was brought before the Court of Justice of the European Communities on 23 December 2005 by the Republic of Poland, represented by Jarosław Pietras.

The applicant claims that the Court should:

1. Declare invalid Articles 33(2) and 43(3) of Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications; ⁽¹⁾
2. Conduct the case in Polish;
3. Order the Council of the European Union and the European Parliament to pay the costs of the action.

Pleas in law and main arguments

The Government of the Republic of Poland contends that an essential procedural requirement was breached by virtue of the inadequacy of the reasons given for the wording, as adopted, of Articles 33(2) and 43(3) of Directive 2005/36/EC.