

**Action brought on 27 January 2006 by the Commission of the European Communities against the Portuguese Republic**

(Case C-43/06)

(2006/C 86/20)

(Language of the case: Portuguese)

An action against the Portuguese Republic was brought before the Court of Justice of the European Communities on 27 January 2006 by the Commission of the European Communities, represented by Hans Støvlbæk and Pedro Andrade, acting as Agents, with an address for service in Luxembourg.

The applicant claims that the Court should:

- declare that the Portuguese Republic, by requiring persons who hold professional qualifications in architecture awarded by other Member States to pass an admission test to the Portuguese Institute of Architects when they are not members of the relevant professional body of any other Member State, has failed to fulfil its obligations under Articles 2 and 10 of Directive 85/384/EEC; <sup>(1)</sup>
- order the Portuguese Republic to pay the costs.

*Pleas in law and main arguments*

The Commission is bringing Treaty infringement proceedings against the Portuguese Republic for failing fully to implement Directive 85/384.

Although the Directive was implemented by Decreto-Lei No 14/90 of 8 January, the publication of Decreto-Lei No 176/98 was a retrograde step.

On the basis of Decreto-Lei No 176/98, the Portuguese Institute of Architects is requiring architects trained in other Member States, who are not registered with the respective professional bodies of those States, to pass an admission test.

Architects from other Member States who are not registered with their respective professional bodies must therefore take examinations in architecture in the host State, since they cannot practise their profession in Portugal unless they are registered with the Institute of Portuguese Architects.

For the Commission, that situation is unlawful, since it is contrary to the provision made by Directive 85/384. The directive does not draw a distinction, as the Portuguese State does, between an academic qualification and a professional title. Recognition of diplomas under the sectoral directives is automatic. If the training fulfils the requirements of Articles 3 and

4 of Directive 85/834, the Member State must recognise the qualification, allowing the architect from the home Member State to practise his or her profession using the title of architect.

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<sup>(1)</sup> Council Directive 85/384/EEC of 10 June 1985 on the mutual recognition of diplomas, certificates and other evidence of formal qualifications in architecture, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services (OJ 1985 L 223, p. 15).

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**Reference for a preliminary ruling from the Finanzgericht des Landes Brandenburg by order of that court of 12 October 2005 in Gerlach & Co. mbH v Hauptzollamt Frankfurt (Oder)**

(Case C-44/06)

(2006/C 86/21)

(Language of the case: German)

Reference has been made to the Court of Justice of the European Communities by order of the Finanzgericht des Landes Brandenburg (Finance Court of the Land of Brandenburg) (Germany) of 12 October 2005, received at the Court Registry on 30 January 2006, for a preliminary ruling in the proceedings between Gerlach & Co. mbH and Hauptzollamt Frankfurt (Oder) on the following question:

Is a national customs administration entitled to enter duties in its accounts before granting the period provided for in Article 11a(2) of Regulation (EEC) No 1062/87, <sup>(1)</sup> as amended by Regulation (EEC) No 1429/90, <sup>(2)</sup> with regard to the place where the offence or irregularity has been committed and to make that period legally binding for the first time during appeal proceedings?

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<sup>(1)</sup> OJ L 107, p. 1.

<sup>(2)</sup> OJ L 137, p. 21.