

K. Lenaerts
 A. Borg Barthet
 K. Schiemann
 G. Arestis
 J. Makarczyk
 E. Juhász
 P. Küris

At its meeting on 16 May 2006, the Court drew up the lists, referred to in the first subparagraph of Article 11c(2) of the Rules of Procedure, for the purposes of determining the composition of the Chambers of five Judges as follows:

J.-P. Puissechet
 A. Ó Caoimh
 S. von Bahr
 U. Löhmus
 A. Tizzano
 J. Malenovský
 A. Borg Barthet

At its meeting on 14 October 2003, the Court drew up the lists, referred to in the second subparagraph of Article 11c(2) of the Rules of Procedure, for the purposes of determining the composition of the Sixth Chamber as follows:

J.-P. Puissechet
 S. von Bahr
 A. Tizzano
 A. Borg Barthet
 U. Löhmus
 A. Ó Caoimh

**Judgment of the Court (First Chamber) of 27 April 2006
 — Commission of the European Communities v Federal
 Republic of Germany**

(Case C-441/02) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Articles 8a and 48 of the EC Treaty (now, after amendment, Articles 18 EC and 39 EC) — Directives 64/221/EEC, 73/148/EEC and 90/364/EEC — Regulation (EEC) No 1612/68 — Freedom of movement for nationals of Member States — Public policy — Right to respect for family life — National legislation relating to the prohibition on residence and expulsion — Administrative practice — Criminal conviction — Expulsion)

(2006/C 143/05)

Language of the case: German

Parties

Applicant: Commission of the European Communities (represented by: C. O'Reilly and W. Bogensberger, Agents)

Defendant: Federal Republic of Germany (represented by: W.-D. Plessing and A. Tiemann, Agents)

Party intervening in support of the applicant: Italian Republic (represented by: I.M. Braguglia, Agent, and M. Fiorilli, avvocato dello Stato)

Re:

Failure of a Member State to fulfil obligations — Articles 8a and 48 of the EC Treaty (now, after amendment, Articles 18 EC and 39 EC) — Articles 3 and 9 of Council Directive 64/221/EEC of 25 February 1964 on the coordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health (OJ, English Special Edition 1963-1964, p. 117) — Article 1 of Regulation (EEC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community (OJ, English Special Edition 1968 (II), p. 475) — Articles 1, 4, 5, 8 and 10 of Council Directive 73/148/EEC of 21 May 1973 on the abolition of restrictions on movement and residence within the Community for nationals of Member States with regard to establishment and the provision of services (OJ 1973 L 172, p. 14) — Articles 1 and 2 of Council Directive 90/364/EEC of 28 June 1990 on the right of residence (OJ 1990 L 180, p. 26) — National legislation relating to residence prohibitions and expulsion on grounds of public policy, in particular for criminal convictions — Administrative practice

Operative part of the judgment

The Court:

- 1) Declares that, by failing to transpose in sufficiently clear terms in Paragraph 12(1) of the Law on entry and residence of nationals of Member States of the European Economic Community (*Gesetz über Einreise und Aufenthalt von Staatsangehörigen der Mitgliedstaaten der Europäischen Wirtschaftsgemeinschaft*) of 21 January 1980 the requirements under Community law with regard to restriction of freedom of movement, the Federal Republic of Germany has failed to fulfil its obligations under Article 39 EC, Article 3 of Council Directive 64/221/EEC of 25 February 1964 on the coordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health and Article 10 of Council Directive 73/148/EEC of 21 May 1973 on the abolition of restrictions on movement and residence within the Community for nationals of Member States with regard to establishment and the provision of services;
- 2) For the rest, dismisses the application;
- 3) Orders the Commission of the European Communities to pay the costs;
- 4) Orders the Italian Republic to bear its own costs.

⁽¹⁾ OJ C 31 of 8.2.2003.