

Reference for a preliminary ruling from the Zala megyei Bíróság Hongrie lodged on 29 June 2006 — Kögáz Rt., E-ON IS Hungary Kft., E-ON DÉDÁSZ Rt., Schneider Electric Hungária Rt., TESCO Áruházak Rt., OTP Garancia Biztosító Rt., OTP Bank Rt., ERSTE Bank Hungary Rt., and Vodafone Magyarország Mobil Távközlési Rt. v Zala Megyei Közigazgatási Hivatal Vezetője

(Case C-283/06)

(2006/C 212/38)

Language of the case: Hungarian

Referring court

Zala megyei Bíróság/Hongrie

Parties to the main proceedings

Applicant: Kögáz Rt., E-ON IS Hungary Kft., E-ON DÉDÁSZ Rt. Schneider Electric Hungária Rt. TESCO Áruházak Rt., OTP Garancia Biztosító Rt., OTP Bank Rt., ERSTE Bank Hungary Rt. and Vodafone Magyarország Mobil Távközlési Rt.

Defendant: Zala Megyei Közigazgatási Hivatal Vezetője

Question(s) referred

1. Must point 3(a) of part 4 of Annex X to the 'Act of Accession' (the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded), which provides that 'Hungary may apply, up to and including 31 December 2007, local business tax reductions of up to 2 % of the net receipts of undertakings, granted by local government for a limited period of time on the basis of Articles 6 and 7 of Act C of 1990 on Local Taxes', be interpreted as meaning that:
 - Hungary has been granted a temporary derogation which allows it to maintain local business tax, or that
 - by granting the possibility to maintain local business tax reductions, the Act of Accession also recognises that Hungary has the (provisional) right to maintain a tax on economic activities?

2. Should Question 1 be answered in the negative, the referring court also asks the following question:

On a correct interpretation of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment, what are the criteria on which a tax may be considered not to be characterised as a turnover tax for the purposes of Article 33 of the Sixth Directive?

Action brought on 29 June 2006 — Commission of the European Communities v Kingdom of Spain

(Case C-286/06)

(2006/C 212/39)

Language of the case: Spanish

Parties

Applicant: Commission of the European Communities (represented by: H.Støvelbæk and R.Vidal Puig, Agents)

Defendant: Kingdom of Spain

Form of order sought

- Declare that the Kingdom of Spain has failed to fulfil its obligations under Council Directive 89/48/EC of 21 December 1988 on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three year's duration (⁽¹⁾), and in particular Article 3 thereof, by refusing to recognise the professional qualification of engineer obtained in Italy and by making admission to internal exams for promotion in the civil service subject in the case of engineers with professional qualifications obtained in another Member State to academic recognition of those qualifications;
- Order the Kingdom of Spain to pay the costs.

Pleas in law and main arguments

The Commission has received numerous complaints concerning the rejection by the competent Spanish authorities of applications for recognition of the professional qualification of engineer obtained in Italy for the purpose of exercising in Spain the profession of Road, Canal and Port Engineer.

Under Article 3 of Directive 89/48/EEC the Spanish authorities are required to allow any national of a Member State who holds the diploma required for pursuing a regulated profession in another Member State to take up and pursue that profession. According to the facts set out by the Commission,

- (1) the profession of Road, Canal and Port Engineer is a regulated profession in Spain;
- (2) the complainants are nationals of a Member State;
- (3) the diploma required in Italy for taking up the profession of engineer is the Diploma de Laurea in Ingegneria Civile together with the Abilitazione all'esercizio della professione di ingegnere. The complainants hold both qualifications and are therefore entitled to pursue the profession of engineer in Italy; and
- (4) the combined qualification composed of the Laurea in Ingegneria Civile and the Abilitazione all'esercizio della professione di ingegnere meets all the requirements of the definition of 'diploma' in Article 1(a) of the Directive.

Consequently, the Spanish authorities were required to allow the complainants to take up the profession of Road, Canal and Port Engineer. By refusing them access to the profession, the Kingdom of Spain has failed to fulfil its obligations under Article 3 of the Directive.

It is also apparent from the facts stated by the Commission that the Spanish authorities make participation in the internal exams for promotion in the civil service where possession of the diploma of engineer is required subject, in the case of diplomas acquired outside Spain, to their being 'approved', that is to say, recognised as academically equivalent to a Spanish diploma. That requirement makes it more difficult to achieve promotion within the service, and hence to pursue the profession of engineer, for nationals of a Member State who hold the professional diploma required in another Member State, and is also contrary to Article 3 of the Directive.

⁽¹⁾ OJ 1989 L 19, p. 16.

Action brought on 4 July 2006 — Commission of the European Communities v Hellenic Republic

(Case C-297/06)

(2006/C 212/40)

Language of the case: Greek

Parties

Applicant: Commission of the European Communities (represented by: E. Tserepa-Lacombe and I. Khatzigiannis, acting as Agents)

Defendant: Hellenic Republic

Form of order sought

- declare that, by not adopting, and in any event by not notifying to the Commission, the laws, regulations and administrative provisions necessary to comply with Council Directive 2003/85/EC ⁽¹⁾ of 29 September 2003 on Community measures for the control of foot-and-mouth disease repealing Directive 85/511/EEC and Decisions 89/531/EEC and 91/665/EEC and amending Directive 92/46/EEC, the Hellenic Republic has failed to fulfil its obligations under that directive;
- order the Hellenic Republic to pay the costs.

Pleas in law and main arguments

The time-limit for transposition of the directive into domestic law expired on 30 June 2004.

⁽¹⁾ OJ L 306, 22.11.2003, p. 1.

Action brought on 4 July 2006 — Commission of the European Communities v Hellenic Republic

(Case C-299/06)

(2006/C 212/41)

Language of the case: Greek

Parties

Applicant: Commission of the European Communities (represented by: G. Zavvos and N.Yerrell)

Defendant: Hellenic Republic