

**Judgment of the Court (Third Chamber) of 18 July 2006  
(reference for a preliminary ruling from the Korkein  
hallinto-oikeus — Finland) — Maija T.I. Nikula**

(Case C-50/05) <sup>(1)</sup>

**(Social security — Sickness and maternity benefits — Calculation of contributions — Regulation No 1408/71 — Right of a Member State to include, in the basis for calculating contributions, the pensions or annuities paid by an institution of another Member State — Pensioner entitled to pensions and annuities payable under the legislation of two Member States)**

(2006/C 224/17)

Language of the case: Finnish

**Referring court**

Korkein hallinto-oikeus

**Parties to the main proceedings**

Applicant: Maija T.I. Nikula

**Re:**

Reference for a preliminary ruling — Korkein hallinto-oikeus — Interpretation of Article 33(1) of Regulation (EEC) No 1408/71 of the Council 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, as amended and updated by Council Regulation (EC) No 118/97 of 2 December 1996 (OJ 1997 L 28, p. 1) — Contributions for sickness and maternity benefits payable by a recipient of pensions received under the legislation of two Member States who resides in one of those Member States and is entitled to benefits solely from the institution of that Member State — Whether pensions or annuities received from the other Member State are to be taken into account when calculating contributions

**Operative part of the judgment**

1) Article 33(1) 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, as amended and updated by Council Regulation (EC) No 118/97 of 2 December 1996, does not preclude, when the basis is determined for calculating sickness insurance contributions applied in the Member State of residence of the recipient of pensions paid by the institutions of that Member State responsible for the payment of benefits under Article 27 of that regulation, the inclusion in that basis of calculation, in addition to the pensions paid in the Member State of residence, also of pensions paid by the institutions of another Member State, provided that the sickness insurance contributions do not exceed the amount of pensions paid in the State of residence.

2) However, Article 39 EC precludes the amount of pensions received from institutions of another Member State from being taken into account if contributions have already been paid in that other State out of the income from work received in that State. It is for the persons concerned to prove that the earlier contributions were in fact paid.

<sup>(1)</sup> OJ C 93, 16.4.2005.

**Judgment of the Court (Third Chamber) of 13 July 2006 —  
Commission of the European Communities v Portuguese  
Republic**

(Case C-61/05) <sup>(1)</sup>

**(Failure of a Member State to fulfil obligations — Directive 92/100/EEC — Copyright — Exclusive right to authorise or prohibit rental and lending — Incorrect transposition)**

(2006/C 224/18)

Language of the case: Portuguese

**Parties**

Applicant: Commission of the European Communities (represented by: P. Guerra e Andrade and W. Wils, Agents)

Defendant: Portuguese Republic (represented by: L. Fernandes and N. Gonçalves, Agents)

**Re:**

Failure of a Member State to fulfil obligations — Infringement of Articles 2 and 4 of Council Directive 92/100/EEC of 19 November 1992 on rental right and lending right and on certain rights related to copyright in the field of intellectual property (OJ 1992 L 346, p. 61)

**Operative part of the judgment**

The Court hereby:

1. Declares that:

— by creating in national law a rental right also in favour of producers of videograms, the Portuguese Republic has failed to fulfil its obligations under Article 2(1) of Council Directive 92/100/EEC of 19 November 1992 on rental right and lending right and on certain rights related to copyright in the field of intellectual property, as last amended by Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society;