

Action brought on 20 September 2006 — Commission of the European Communities v Ireland

(Case C-391/06)

(2006/C 294/48)

Language of the case: English

Parties

Applicant: Commission of the European Communities (represented by: D. Lawunmi, U. Wölker, Agents)

Defendant: Ireland

The applicant claims that the Court should:

- declare that, by failing to adopt the laws, regulations and administrative provisions necessary to comply with Directive 2003/4/EC⁽¹⁾ of the European Parliament and of the Council, or in any event by failing to communicate them to the Commission, Ireland has failed to fulfil its obligations under the Directive;
- order Ireland to pay the costs.

Pleas in law and main arguments

The period within which the directive had to be transposed expired on 14 February 2005.

⁽¹⁾ OJ L 94, P.49

Action brought on 21 September 2006 — Commission of the European Communities v Kingdom of Spain

(Case C-392/06)

(2006/C 294/49)

Language of the case: Spanish

Parties

Applicant: Commission of the European Communities (represented by: N. Yerrell and R. Vidal Puig, acting as Agents)

Defendant: Kingdom of Spain

Form of order sought

- declare that, by failing to bring into force the provisions necessary to comply with Directive 2002/15/EC of the

European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities⁽¹⁾ and, in any event, by failing to communicate them to the Commission, the Kingdom of Spain has failed to fulfil its obligations under that directive;

- order the Kingdom of Spain to pay the costs.

Pleas in law and main arguments

The period for transposition of Directive 2002/15/EC expired on 23 March 2005.

⁽¹⁾ OJ L 80 of 23.3.2002, p. 35.

Action brought on 22 September 2006 — Commission of the European Communities v Italian Republic

(Case C-394/06)

(2006/C 294/50)

Language of the case: Italian

Parties

Applicant: Commission of the European Communities (represented by: B. Schima and D. Recchia, acting as Agents)

Defendant: Italian Republic

Form of order sought

- declare that, by failing to submit, before 1 July 2005, an annual national report on the promotion of biofuels including all the information laid down in Article 4(1) of Directive 2003/30/EC of the European Parliament and of the Council on the promotion of the use of biofuels or other renewable fuels for transport⁽¹⁾, the Italian Republic has failed to fulfil its obligations under that directive;
- order the Italian Republic to pay the costs.

Pleas in law and main arguments

The period for submitting the annual national report on the promotion of biofuels referred to in Article 4(1) of Directive 2003/30/EC expired on 1 July 2005.

The Italian Republic maintains that it sent to the Commission a report in accordance with the requirements of the directive on 14 July 2006.

In the opinion of the Commission, however, that report is incomplete because it does not make any reference to the national resources allocated to the production of biomass for energy uses other than transport, as laid down in the second indent of Article 4(1) of the directive.

(¹) OJ L 123 of 17.5.2003, p. 42.

Reference for a preliminary ruling from the Tribunal Supremo — Sala Primera Civil (Spain) lodged on 22 September 2006 — Entidad de Gestión de los Derechos de los Productores Audiovisuales (EGEDA) v Al Rima, S.A

(Case C-395/06)

(2006/C 294/51)

Language of the case: Spanish

Referring court

Tribunal Supremo — Sala Primera Civil (Spain)

Parties to the main proceedings

Applicant: Entidad de Gestión de los Derechos de los Productores Audiovisuales (EGEDA)

Defendant: Al Rima, S.A

Question(s) referred

1. Does the installation in the rooms of a hotel or similar establishment of television sets to which a terrestrial or satellite television signal is sent by cable constitute an act of communication to the public which is covered by the harmonisation of national laws protecting the rights of phonogram producers and producers of the first fixations of films provided for in Article 3(2) of Directive 2001/29/EC (¹) of the European Parliament and of the Council of 22 May 2001?
2. Is it contrary to the protection of the rights of phonogram producers and producers of the first fixations of films pursued by Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 to deem the room of a hotel or similar establishment to be a strictly domestic location, so that communication by means of television sets to which is fed a signal previously received by the hotel or similar establishment is not regarded as communication to the public?

3. For the purposes of protecting the rights of phonogram producers and producers of the first fixations of films pursued by Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001, can communication that is effected through television sets which are installed in rooms and to which a signal previously received by a hotel or similar establishment is fed be regarded as public because successive viewers have access to that communication?

(¹) On the harmonisation of certain aspects of copyright and related rights in the information society (OJ 2001 L 167, p. 10).

Reference for a preliminary ruling from the Østre Landsret (Denmark) lodged on 21 September 2006 — Eivind F. Kramme v SAS Scandinavian Airlines Danmark A/S

(Case C-396/06)

(2006/C 294/52)

Language of the case: Danish

Referring court

Østre Landsret

Parties to the main proceedings

Applicant: Eivind F. Kramme

Defendant: SAS Scandinavian Airlines Danmark A/S

Questions referred

1. Is there an extraordinary circumstance when an aircraft is taken out of operation due to technical problems, with the result that a flight is cancelled (see Article 5(3) of Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91)?
2. If Question 1 is answered in the affirmative, which reasonable measures for the purposes of the Regulation must an air carrier then take to avoid flight cancellations due to technical problems?