

**Action brought on 18 January 2007 — Commission of the European Communities v Council of the European Union**

(Case C-13/07)

(2007/C 56/40)

*Language of the case: English*

**Parties**

*Applicant:* Commission of the European Communities (represented by: P.J. Kuijper and M. Huttunen, Agents)

*Defendant:* Council of the European Union

**The applicant claims that the Court should:**

- annul the decision of the Council and the Member States establishing the Community's and the Member States' position within the General Council of the World Trade Organization on the accession of the Socialist Republic of Viet Nam to the World Trade Organization (COM/2005/0659 final-ACC 2006/0215);
- declare that the effects of the annulled decision are definitive;
- order Council of the European Union to pay the costs.

**Pleas in law and main arguments**

The proposal submitted by the Commission was based on article 133, paragraphs 1 and 5 of the EC Treaty in conjunction with the second subparagraph of article 300(2) thereof. The Council added article 133(6) to the legal basis and consequently a formally separate decision of the Representatives of the Governments of Member States meeting within the Council was adopted. Thus, the Council and the Member States adopted 'jointly' the position of the Community and its Member States as foreseen by the last sentence of article 133(6), second subparagraph.

The Commission's choice of the legal basis was decided according to the parameters established by the case-law of the Court of Justice of the European Communities, which are the aim and the content of the act. In particular, it was based on the appreciation that the content of the act falls within article 133(1) and (5), which establishes an exclusive competence, and that consequently recourse to article 133(6) was not necessary. The Commission believes that the decision should be annulled as far as this aspect of its legal basis is concerned.

**Reference for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 22 January 2007 — Ingenieurbüro Michael Weiss und Partner GbR v Industrie und Handelskammer Berlin, intervener: Nicholas Grimshaw & Partners Ltd**

(Case C-14/07)

(2007/C 56/41)

*Language of the case: German*

**Referring court**

Bundesgerichtshof

**Parties to the main proceedings**

*Appellant on a point of law:* Ingenieurbüro Michael Weiss und Partner GbR

*Respondent to the appeal on a point of law:* Industrie und Handelskammer Berlin

*Intervener:* Nicholas Grimshaw & Partners Ltd.

**Questions referred**

1. Must Article 8(1) of Council Regulation (EC) No 1348/2000<sup>(1)</sup> of 29 May 2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters ('the Regulation') be interpreted as meaning that an addressee does not have the right to refuse to accept a document pursuant to Article 8(1) of the Regulation if only the annexes to a document to be served are not in the language of the Member State addressed or in a language of the Member State of transmission which the addressee understands?
2. If the answer to the first question is in the negative:
 

Must Article 8(1)(b) of the Regulation be interpreted as meaning that the addressee 'understands' the language of a Member State of transmission within the meaning of that regulation because, in the exercise of his business activity, he agreed in a contract with the applicant that correspondence was to be conducted in the language of the Member State of transmission?
3. If the answer to the second question is in the negative:

Must Article 8(1) of the Regulation be interpreted as meaning that the addressee may not in any event rely on that provision in order to refuse acceptance of such annexes to a document, which are not in the language of the Member State addressed or in a language of the Member State of transmission which the addressee understands, if the addressee concludes a contract in the exercise of his business activity in which he agrees that correspondence is to be conducted in the language of the Member State of transmission and the annexes transmitted concern that correspondence and are written in the agreed language?

<sup>(1)</sup> OJ L 160, 2000, p. 37.