

Action brought on 15 February 2007 — Commission of the European Communities v French Republic

(Case C-89/07)

(2007/C 95/40)

Language of the case: French

Parties

Applicant: Commission of the European Communities (represented by: G. Rozet, Agent)

Defendant: French Republic

Form of order sought

- Declare that by maintaining in force in its national law a requirement of French nationality for the pursuit of employment as master (captain) or officer (chief mate) on all vessels flying the French flag, the French Republic has failed to fulfil its obligations under Article 39 EC;
- order the French Republic to pay the costs.

Pleas in law and main arguments

In so far as it imposes a requirement of French nationality for the pursuit of employment as master (captain) or officer (chief mate) on all vessels flying the French flag, French legislation conflicts with the provisions of Community law relating to freedom of movement for workers, as interpreted by the Court of Justice in its judgments of 30 September 2003 in Case C-405/01 *Colegio de Oficiales de la Marina Mercante Española* [2003] ECR I-10391 and in Case C-47/02 *Anker and Others* [2003] ECR I-10447. Such a nationality requirement can be imposed only in respect of the posts of master and chief mate actually involving the exercise of rights conferred by public law on a regular basis.

Action brought on 16 February 2007 — Commission of the European Communities v Kingdom of Belgium

(Case C-90/07)

(2007/C 95/41)

Language of the case: French

Parties

Applicant: Commission of the European Communities (represented by: M. Konstantinidis and J.-B. Laignelot, Agents)

Defendant: Kingdom of Belgium

Form of order sought

- declare that, by failing to adopt the laws, regulations and administrative provisions necessary to comply with Directive 2004/12/EC of the European Parliament and of the Council of 11 February 2004 amending Directive 94/62/EC on packaging and packaging waste ⁽¹⁾, or in any event by failing to communicate them to the Commission, the Kingdom of Belgium has failed to fulfil its obligations under that directive;
- order the Kingdom of Belgium to pay the costs.

Pleas in law and main arguments

The period for the transposition of Directive 2004/12/EC expired on 18 August 2005.

⁽¹⁾ OJ 2004 L 47, p. 26.

Action brought on 16 February 2007 — Commission of the European Communities v Kingdom of the Netherlands

(Case C-92/07)

(2007/C 95/42)

Language of the case: Dutch

Parties

Applicant: Commission of the European Communities (represented by: P.J. Kuijper and S. Boelaert, Agents)

Defendant: Kingdom of the Netherlands

Form of order sought

- declare that, by introducing and maintaining a system of administrative fees for the issue of residence permits which are higher than those imposed on nationals of Member States and nationals of Norway, Iceland, Liechtenstein and Switzerland for the issue of an equivalent document, and by applying that system to Turkish nationals who have a right of residence in the Netherlands on the basis of the Association Agreement ⁽¹⁾, the Additional Protocol ⁽²⁾ or Decision No 1/80 ⁽³⁾, the Kingdom of the Netherlands has failed to fulfil its obligations under the Association Agreement, in particular Article 9, the Additional Protocol, in particular Article 41, and Decision No 1/80, in particular Articles 10 (1) and 13;
- order the Kingdom of the Netherlands to pay the costs.

Pleas in law and main arguments

The Commission finds that the rates of administrative fees for residence permits which the Netherlands have imposed since 1994 on Turkish nationals are at variance with the standstill and non-discrimination provisions of the Association Agreement, the Additional Protocol and Decision No 1/80.

Under the standstill provisions of the Additional Protocol and Decision No 1/80, a Member State is not entitled to introduce any new measure having the purpose or effect of making the rights which Turkish nationals derive from the Association Agreement, the Additional Protocol and Decision No 1/80, and the right of residence closely connected thereto, subject to more stringent conditions. In the Commission's view, the Netherlands administrative fees in question infringe those standstill provisions inasmuch as they were introduced after the standstill provisions had entered into force for the Netherlands and inasmuch as they hinder or make less attractive the exercise of the rights which Turkish nationals derive from the Association Agreement, the Additional Protocol and Decision No 1/80.

The Commission submits further that, in so far as the Netherlands make Turkish nationals subject to the payment of administrative fees for residence permits, such fees may not, pursuant to the provisions on non-discrimination contained in the Association Agreement and Decision No 1/80, be higher than those imposed, in respect of equivalent documents, on EU nationals and nationals of Norway, Iceland, Liechtenstein and Switzerland.

(¹) Agreement establishing an Association between the European Economic Community and Turkey, approved and confirmed by Council Decision 64/732/EEC of 23 December 1963 (OJ 1973 C 113).

(²) Additional Protocol, approved by Council Regulation (EEC) No 2760/72 of 19 December 1972 (OJ 1973 C 113).

(³) Decision No 1/80 of 19 September 1980 on the development of the Association.

Action brought on 20 February 2007 — Commission of the European Communities v Kingdom of Belgium**(Case C-93/07)**

(2007/C 95/43)

*Language of the case: French***Parties**

Applicant: Commission of the European Communities (represented by: M. Konstantinidis and J.-B. Laignelot, Agents)

Defendant: Kingdom of Belgium**Form of order sought**

- declare that, by failing to adopt the laws, regulations and administrative provisions necessary to comply with Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC (¹), or in any event by failing to communicate them to the Commission, the Kingdom of Belgium has failed to fulfil its obligations under that directive;
- order the Kingdom of Belgium to pay the costs.

Pleas in law and main arguments

The period for transposition of Directive 2003/35/EC expired on 25 June 2005.

(¹) OJ 2003 L 156, p. 17.

Reference for a preliminary ruling from the Tribunal Superior de Justicia de Galicia lodged on 20 February 2007 — Rosa Méndez López v Instituto Nacional de Empleo (INEM); Instituto Nacional de la Seguridad Social (INSS)

(Case C-97/07)

(2007/C 95/44)

*Language of the case: Spanish***Referring court**

Tribunal Superior de Justicia de Galicia

Parties to the main proceedings*Applicant:* Rosa Méndez López

Defendants: Instituto Nacional de Empleo (INEM); Instituto Nacional de la Seguridad Social (INSS)