

Operative part of the judgment

The first paragraph of Article 27 of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) and Article 16(1)(a) of Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) must be interpreted as meaning that a statutory requirement for the approval of tariffs for the supply of retail voice telephony services provided by undertakings with a dominant position in that market, such as that provided for in Paragraph 25 of the Law on Telecommunications (Telekommunikationsgesetz) of 25 July 1996, enacted by national law and preceding the regulatory framework resulting from those directives, together with administrative measures confirming that requirement, must be temporarily maintained.

(¹) OJ C 212, 2.9.2006.

Judgment of the Court (First Chamber) of 6 December 2007 (reference for a preliminary ruling from the Bundesverwaltungsgericht (Germany)) — Ursula Voß v Land Berlin

(Case C-300/06) (¹)

(Article 141 EC — Principle of equal pay for men and women — Civil servants — Overtime — Indirect discrimination against women employed part-time)

(2008/C 22/16)

Language of the case: German

Referring court

Bundesverwaltungsgericht

Parties to the main proceedings

Applicant: Ursula Voß

Defendant: Land Berlin

Re:

Reference for a preliminary ruling — Bundesverwaltungsgericht — Interpretation of Article 141 of the EC Treaty — National legislation laying down, for both full-time and part-time workers, a reduction in the remuneration for overtime as against that received for normal working hours — Remuneration of a female part-time teacher, who is a civil servant, who works overtime (but not sufficient to bring the hours worked overall above the level of normal working hours for full-time

civil servants), which is lower than that which would be received if the same number of hours were worked in the context of full-time employment — Indirect discrimination against female workers

Operative part of the judgment

Article 141 EC is to be interpreted as precluding national legislation on the remuneration of civil servants, such as that at issue in the main proceedings — which defines overtime, for both full-time civil servants and part-time civil servants, as hours worked over and above their normal working hours, and which remunerates those additional hours at a rate lower than the hourly rate applied to their normal working hours, so that part-time civil servants are less well paid than full-time civil servants in respect of hours which are worked over and above their normal working hours, but which are not sufficient to bring the number of hours worked overall above the level of normal working hours for full-time civil servants — where:

— in the group of workers subject to that legislation, a considerably higher percentage of women is affected as compared with the percentage of men so affected;

and

— the difference in treatment is not justified by objective factors wholly unrelated to discrimination based on sex.

(¹) OJ C 96, 22.4.2006.

Judgment of the Court (Second Chamber) of 22 November 2007 (reference for a preliminary ruling from the Juzgado de lo Mercantil — Spain) — Alfredo Nieto Nuño v Leonci Monlleó Franquet

(Case C-328/06) (¹)

(Trade marks — Directive 89/104/EEC — Article 4(2)(d) — 'Well-known' marks in a Member State within the meaning of Article 6 bis of the Paris Convention — Knowledge of the trade mark — Geographical area)

(2008/C 22/17)

Language of the case: Spanish

Referring court

Juzgado de lo Mercantil

Parties to the main proceedings

Applicant: Alfredo Nieto Nuño

Defendant: Leonci Monlleó Franquet

Re:

Reference for a preliminary ruling — Juzgado de lo Mercantil — Interpretation of Article 4 of Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks (OJ 1989 L 40, p. 1) — Meaning of ‘well known’ — Whether knowledge and use may be confined to a limited territory, such as an autonomous community, a region, an area or a city, depending on the goods or services concerned and the public for whom the mark is intended

Operative part of the judgment

Article 4(2)(d) of First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks is to be interpreted as meaning that the earlier trade mark must be well known throughout the territory of the Member State of registration or in a substantial part of it.

(¹) OJ C 237, 30.9.2006.

Judgment of the Court (Third Chamber) of 6 December 2007 — Commission of the European Communities v Federal Republic of Germany

(Case C-401/06) (¹)

(Failure of a Member State to fulfil obligations — Taxation — Sixth VAT Directive — Supply of services — Executor of a will — Place where the service is performed — Article 9(1) and (2)(e))

(2008/C 22/18)

Language of the case: German

Parties

Applicant: Commission of the European Communities (represented by: D. Triantafyllou, Agent)

Defendant: Federal Republic of Germany (represented by: M. Lumma, Agent)

Re:

Failure of a Member State to fulfil obligations — Infringement of Article 9(2)(e) 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 (OJ 1977 L 145, p. 1) — Services supplied by executors for customers established outside the Community or for taxable persons established in the Community but not in the same country as the supplier — Place of supply of services — Characterisation of activities of executors

Operative part of the judgment

The Court:

1. Dismisses the action.
2. Orders the Commission of the European Communities to pay, in addition to its own costs, those of the Federal Republic of Germany.

(¹) OJ C 294, 2.12.2006.

Judgment of the Court (Third Chamber) of 29 November 2007 — Italian Republic v Commission of the European Communities

(Case C-417/06 P) (¹)

(Appeal — Admissibility — Structural Funds — Financing of Community initiatives — Amendment of indicative allocations — Enforcement of the final judgment)

(2008/C 22/19)

Language of the case: italian

Parties

Appellant: Italian Republic (represented by: I. Braguglia, Agent, D. Del Gaizo and G. Albenzio, avvocati dello Stato)

Other party to the proceedings: Commission of the European Communities (represented by: E. de March and L. Flynn, Agents, and A. Dal Ferro, avvocato)

Re:

Appeal against the judgment of the Court of First Instance (Fourth Chamber) of 13 July 2006 in Case T-225/04 *Italy v Commission* dismissing the action for annulment of Commission Decision C(2003) 3971 final of 26 November 2003 establishing indicative allocations between the Member States of the commitment appropriations under Community initiatives for the period 1994-1999 and of all related prior measures.

Operative part of the judgment

The Court:

1. Dismisses the appeal;
2. Orders the Italian Republic to pay its own costs and those of the Commission of the European Communities.

(¹) OJ C 310 of 16.12.2006.