

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, as amended by Regulation (EC) No 647/2005 of the European Parliament and of the Council of 13 April 2005, in conjunction with Title III, Chapter 1 of that regulation, and under Article 7(2) of Council Regulation (EEC) No 1612/68 of 15 October 1968 on freedom of movement for workers within the Community;

2. Orders the Federal Republic of Germany to pay the costs;
3. Orders the Kingdom of the Netherlands to bear its own costs.

(¹) OJ C 179, 3.7.2010.

Judgment of the Court (Eighth Chamber) of 5 May 2011 — European Commission v Kingdom of Belgium

(Case C-265/10) (¹)

(Failure of a Member State to fulfil obligations — Regulation (EC) No 1907/2006 — Chemicals — Registration, evaluation, authorisation of those substances and restrictions applicable to them — REACH Regulation — Article 126 — System of penalties in the event of infringement of the provisions of the REACH Regulation — Lack of implementation within the period prescribed)

(2011/C 186/13)

Language of the case: Dutch

Parties

Applicant: European Commission (represented by: P. Oliver and M. van Beek, acting as Agents)

Defendant: Kingdom of Belgium (represented by: T. Materne and L. Van den Broeck, acting as Agents)

Re:

Failure of a Member State to fulfil obligations — Infringement of Article 126 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC,

93/67/EEC, 93/105/EC and 2000/21/EC (OJ 2006 L 396, p.1) — Penalties applicable for infringement of the REACH Regulation

Operative part of the judgment

The Court:

1. Declares that, by failing to adopt all the laws, regulations and administrative provisions necessary to implement the penalties applicable to infringements of Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC, the Kingdom of Belgium has failed to fulfil its obligations under Article 126 of that regulation;

2. Orders the Kingdom of Belgium to pay the costs.

(¹) OJ C 221, 14.8.2010.

Judgment of the Court (First Chamber) of 28 April 2011 (reference for a preliminary ruling from the Corte d'appello di Trento — Italy) — Criminal proceedings against Hassen El Dridi alias Karim Soufi

(Case C-61/11 PPU) (¹)

(Area of freedom, security and justice — Directive 2008/115/EC — Return of illegally staying third-country nationals — Articles 15 and 16 — National legislation providing for a prison sentence for illegally staying third-country nationals in the event of refusal to obey an order to leave the territory of a Member State — Compatibility)

(2011/C 186/14)

Language of the case: Italian

Referring court

Corte d'appello di Trento

Party in the main proceedings

Hassen El Dridi alias Karim Soufi

Re:

Reference for a preliminary ruling — Corte di Appello di Trento — Interpretation of Articles 15 and 16 of Directive 2008/115/EC of the European Parliament and of the Council 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ 2008 L 348, p. 98) — Return of illegally staying third-country nationals — Conditions of detention for the purpose of removal — Direct applicability — National legislation providing for a sentence of up to four years' imprisonment for a third-country national who, after a removal order has been issued, continues to stay illegally in national territory

Operative part of the judgment

Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, in particular Articles 15 and 16 thereof, must be interpreted as precluding a Member State's legislation, such as that at issue in the main proceedings, which provides for a sentence of imprisonment to be imposed on an illegally staying third-country national on the sole ground that he remains, without valid grounds, on the territory of that State, contrary to an order to leave that territory within a given period.

(¹) OJ C 113, 9.4.2011.

Order of the Court of 4 March 2011 (reference for a preliminary ruling from the Tribunal Dâmbovița — Romania) — Nicușor Grigore v Regia Națională a Pădurilor Romsilva — Direcția Silvică București

(Case C-258/10) (¹)

(First subparagraph of Article 104(3) of the Rules of Procedure — Social policy — Protection of the safety and health of workers — Directive 2003/88/EC — Organisation of working time — Notion of 'working time' — 'Notion of maximum weekly working time' — Forest ranger subject, under the terms of his employment contract and the applicable collective agreement, to flexible working time of 8 hours per day and 40 hours per week — National legislation holding him liable for any damage suffered in the section of forest under his control — Classification — Effect of overtime on the remuneration and financial compensation of the person concerned)

(2011/C 186/15)

Language of the case: Romanian

Referring court

Tribunal Dâmbovița (Romania)

Parties to the main proceedings

Applicant: Nicușor Grigore

Defendant: Regia Națională a Pădurilor Romsilva — Direcția Silvică București

Re:

Reference for a preliminary ruling — Tribunal Dâmbovița — Interpretation of Articles 2(1) and 6 of Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time (OJ 2003 L 299, p. 9) — Notion of 'working time' — National legislation holding a forest ranger liable for any damage suffered in the section of forest under his control, despite the terms of his employment contract making him subject to a maximum daily working time of eight hours — Notion of 'maximum weekly working time' — Actual weekly working time exceeding the lawful maximum weekly working time — Effect of overtime on the remuneration and financial compensation of the person concerned

Operative part of the order

1. Article 2(1) of Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time must be interpreted as meaning that a period during which a forest ranger, whose daily working time, as stipulated in his employment contract, is eight hours, is required to carry out wardenship duties in a section of forest, making him liable to disciplinary action, the payment of compensation and civil or criminal sanctions, as the case may be, for any damage ascertained in the area under his control, regardless of the time when the damage occurs, constitutes 'working time' within the meaning of that provision only if the nature and extent of the wardenship obligation on that forest ranger and the system of liability applicable to him require his physical presence at the place of work and if, during that period, he must be available to his employer. It is for the national court to undertake the factual and legal checks necessary, in particular as regards the applicable national law, in order to assess whether that is the situation in the matter before it.
2. The classification of a period of 'working time' within the meaning of Article 2(1) of Directive 2003/88 does not depend on the provision of staff accommodation within the section of forest under the control of the forest ranger concerned provided that that provision does not imply that he is required to be physically present in the place determined by the employer and available there to his employer in order to be able to take appropriate action if necessary. It is for the national court to undertake the checks necessary in order to assess whether that is the situation in the matter before it.