

and a daily allowance to employees posted to their territory, taking into account that under the national legislation referred to all posted workers are regarded as travelling to work for the whole period of their posting, which entitles them to compensation for travelling time and daily allowances?

- 1.6.2. Must Articles 56 and 57 TFEU and/or Article 3 of Directive 96/71/EC be interpreted as not permitting the national court to decline to recognise a pay classification created and used in its home State by a company from another Member State, if that has been done?
- 1.6.3. Must Articles 56 and 57 TFEU and/or Article 3 of Directive 96/71/EC be interpreted as permitting an employer from another Member State to determine, validly and so as to bind the court of the country in which the work is performed, the categorisation of employees in pay groups in a situation in which a universally applicable collective agreement in the country in which the work is performed requires a categorisation into pay groups with a different end result to be made, or may the Member State which is the host State to which the employees of a service provider from another Member State have been posted lay down rules to be observed by the service provider on the criteria for categorisation of employees into pay groups?
- 1.6.4. When interpreting Article 3 of Directive 96/71/EC, read in the light of Articles 56 and 57 TFEU, are accommodation paid for by an employer who is obliged under a collective agreement mentioned in Question 6 and meal vouchers provided in accordance with a contract of employment by a service provider from another Member State to be regarded as compensation for expenses caused by being a posted worker or as part of the concept of minimum rates of pay within the meaning of Article 3(1)?
- 1.6.5. May Article 3 of Directive 96/71/EC in conjunction with Articles 56 and 57 TFEU be interpreted as meaning that a universally applicable collective agreement of the State in which the work is performed must be regarded as justified on the ground of requirements of public policy, when interpreting the question of job-based pay, compensation for travelling time and daily allowances?

Action brought on 17 July 2013 — European Commission v Romania

(Case C-405/13)

(2013/C 260/68)

Language of the case: Romanian

Parties

Applicant: European Commission (represented by: P. Hetsch. O. Beynet and L. Nicolae, acting as Agents)

Defendant: Romania

Form of order sought

- Declare that by failing to adopt all the laws, regulations and administrative provisions necessary for the transposition of the provisions in Article 2(1), Article 3(5)(b), (7), (8) and (9)(c), Article 5, Article 7(4), Article 9(1) to (7), Article 10(2) and (5), Article 11(8), Article 13(4) and (5)(b), Article 16(1) and (2), Article 25(1), Article 26(2)(c), Article 31(3), Article 34(2), Article 37(1)(k), (p) and (q), (3)(b) and (d) and (10) to (12), Article 38(1), Article 39(1), (4) and (8) and point I of Annex I to Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC, ⁽¹⁾ or in any event failing to notify such measures to the European Commission, Romania has failed to fulfil its obligations under Article 49(1) of the directive;
- order Romania, in accordance with Article 260(3) TFEU, to pay a penalty of EUR 30 228,84 for each day of delay in complying with its obligation to communicate the measures necessary for the transposition of Directive 2009/72/EC, with effect from the day on which judgment is delivered in the present case;
- order Romania to pay the costs.

Pleas in law and main arguments

The period for the transposition of the directive into national law expired on 3 March 2011.

⁽¹⁾ Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (OJ 1997 L 18, p. 1).

⁽¹⁾ OJ 2009 L 211, p. 55.