

**Action brought on 15 October 1991 by the Commission of the European Communities against the Italian Republic**

(Case C-270/91)

(91/C 302/13)

An action against the Italian Republic was brought before the Court of Justice on 15 October 1991 by the Commission of the European Communities, represented by Eugenio De March, a member of the Commission's Legal Department, acting as Agent, with an address for service in Luxembourg at the office of Roberto Hayder, Wagner Centre, Kirchberg.

The applicant claims that the Court should:

1. declare that, by failing to notify the laws, regulations and administrative provisions which were necessary in order to fulfil the obligations imposed on it by Directives 89/321/EEC<sup>(1)</sup> and 89/360/EEC<sup>(2)</sup>, or by failing to adopt the necessary measures to comply with those Directives by the prescribed dates, the Italian Republic has failed to fulfil its obligations under the EEC Treaty;
2. order the Italian Republic to pay the costs.

The *pleas in law and main arguments adduced in support* are similar to those in Case C-269/91<sup>(3)</sup>; Directive 89/321/EEC should have been transposed into national law by 1 September 1989 and Directive 89/360/EEC by 1 October 1989.

<sup>(1)</sup> Commission Directive 89/321/EEC of 27 April 1989 amending for the second time the Annexes to Council Directive 77/96/EEC on the examination for *Trichinae* (*Trichinella spiralis*) upon importation from third countries of fresh meat derived from domestic swine (OJ No L 133, 17. 5. 1989, p. 33).

<sup>(2)</sup> Council Directive 89/360/EEC of 30 May 1989 amending Directive 64/432/EEC as regards administrative areas and a cessation of serological testing for brucellosis in certain types of swine (OJ No L 153, 6. 6. 1989, p. 29).

<sup>(3)</sup> See page 0 of this Official Journal.

**Reference for a preliminary ruling made by the House of Lords by order of that court dated 14 October 1991 in the case of Miss M. H. Marshall against Southampton and South West Hampshire Area Health Authority**

(Case C-271/91)

(91/C 302/14)

The Court of Justice of the European Communities has received a reference for a preliminary ruling made by an order of the House of Lords of 14 October 1991 in the proceedings between Miss M. H. Marshall and Southampton and South West Hampshire Area Health Authority which was lodged at the Court Registry on 17 October 1991 on the following questions:

1. Where the national legislation of a Member State provides for the payment of compensation as one remedy available by judicial process to a person who has been subjected to unlawful discrimination of a kind prohibited by Council Directive 76/207/EEC of 9 February 1976 ('the Directive'), is the Member State guilty of a failure to implement Article 6 of the Directive by reason of the imposition by the national legislation of an upper limit of £ 6 250 on the amount of compensation recoverable by such a person?
2. Where the national legislation provides for the payment of compensation as aforesaid, is it essential to the due implementation of Article 6 of the Directive that the compensation to be awarded:
  - (a) should not be less than the amount of the loss found to have been sustained by reason of the unlawful discrimination, and
  - (b) should include an award of interest on the principal amount of the loss so found from the date of the unlawful discrimination to the date when the compensation is paid?
3. If the national legislation of a Member State has failed to implement Article 6 of the Directive in any of the respects referred to in questions 1 and 2, is a person who has been subjected to unlawful discrimination as aforesaid entitled as against an authority which is an emanation of the Member State to rely on the provisions of Article 6 as overriding the limits imposed by the national legislation on the amount of compensation recoverable?