

Defendant: Italian Republic (represented by: G. Palmieri, acting as Agent, and G. Fiengo, lawyer)

Re:

Failure of a Member State to fulfil obligations — Infringement of Article 9 of Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds (OJ 1979 L 103, p. 1) — Derogations from the system of protection for wild birds — Veneto Region

Operative part of the judgment

The Court:

1. Declares that, since the Veneto Region has adopted and applied legislation authorising derogations from the system of protection for wild birds which fails to satisfy the conditions laid down in Article 9 of Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds, the Italian Republic has failed to fulfil its obligations under Article 9 of that directive;
2. Orders the Italian Republic to pay the costs.

⁽¹⁾ OJ C 180, 1.8.2009.

Judgment of the Court (Fourth Chamber) of 18 November 2010 — European Commission v Ireland

(Case C-226/09) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Directive 2004/18/EC — Public procurement procedures — Award of a contract for interpretation and translation services — Services falling within the ambit of Annex II B of the Directive — Services not subject to all the requirements of the Directive — Weighting of the award criteria determined after tenders have been submitted — Weighting altered following an initial review of the tenders submitted — Compliance with the principle of equal treatment and the obligation of transparency)

(2011/C 13/15)

Language of the case: English

Parties

Applicant: European Commission (represented by: M. Konstantinidis and A.-A. Gilly, Agents)

Defendant: Ireland (represented by: D. O'Hagan, Agent, and A.M. Collins, SC)

Re:

Failure of a Member State to fulfil obligations — Public procurement procedures — Award of a contract for interpretation and translation services — Services not subject to all the requirements of Directive 2004/18/EC of the European Parliament and the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts,

public supply contracts and public service contracts (OJ 2004 L 134, p. 114) — Weighting of the award criteria after the submission of tenders — Principles of equal treatment as between tenderers and transparency

Operative part of the judgment

The Court:

1. Declares that, by altering the weighting of the award criteria for a contract for the provision of interpretation and translation services following an initial review of the tenders submitted, Ireland has failed to fulfil its obligations under the principle of equal treatment and the consequent obligation of transparency, as interpreted by the Court of Justice of the European Union;
2. Dismisses the action as to the remainder;
3. Orders the European Commission and Ireland to bear their own costs.

⁽¹⁾ OJ C 220, 12.09.2009.

Judgment of the Court (Second Chamber) of 11 November 2010 (reference for a preliminary ruling from the Bundespatentgericht (Germany)) — Hogan Lovells International LLP v Bayer CropScience AG

(Case C-229/09) ⁽¹⁾

(Patent law — Plant-protection products — Regulation (EC) No 1610/96 — Directive 91/414/EEC — Supplementary protection certificate for plant protection products — Grant of a certificate for a product which had obtained a provisional marketing authorisation)

(2011/C 13/16)

Language of the case: German

Referring court

Bundespatentgericht

Parties to the main proceedings

Applicant: Hogan Lovells International LLP

Defendant: Bayer CropScience AG

Re:

Reference for a preliminary ruling — Bundespatentgericht — Interpretation of Article 3(1)(b) of Regulation (EC) No 1610/96 of the European Parliament and of the Council of 23 July 1996 concerning the creation of a supplementary protection certificate for plant protection products (OJ 1996 L 198, p. 30) — Conditions governing the acquisition of a supplementary protection certificate — Possibility of having such a certificate issued on the basis of a previous marketing authorisation issued pursuant to Article 8(1) of Directive 91/414/EEC — Active substance iodosulfuron

Operative part of the judgment

Article 3(1)(b) of Regulation (EC) No 1610/96 of the European Parliament and of the Council of 23 July 1996 concerning the creation of a supplementary protection certificate for plant protection products must be interpreted as not precluding a supplementary protection certificate from being issued for a plant protection product in respect of which a valid marketing authorisation has been granted pursuant to Article 8(1) of Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market, as amended by Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005.

(¹) OJ C 220, 12.09.2009.

Judgment of the Court (Second Chamber) of 11 November 2010 (reference for a preliminary ruling from the Augstākās tiesas Senāts (Latvia)) — Dita Danosa v LKB Līzings SIA

(Case C-232/09) (¹)

(Social policy — Directive 92/85/EEC — Measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding — Articles 2(a) and 10 — Concept of ‘pregnant worker’ — Prohibition on the dismissal of a pregnant worker during the period from the beginning of pregnancy to the end of maternity leave — Directive 76/207/EEC — Equal treatment for men and women — Member of the Board of Directors of a capital company — National legislation permitting the dismissal of a Board Member without any restrictions)

(2011/C 13/17)

Language of the case: Latvian

Referring court

Augstākās tiesas Senāts

Parties to the main proceedings

Applicant: Dita Danosa

Defendant: LKB Līzings SIA

Re:

Reference for a preliminary ruling — Augstākās tiesas Senāts — Interpretation of Article 10 of Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (OJ 1992 L 348, p. 1) — Definition of worker — Compatibility of the directive of national legislation authorising the dismissal of a member of the board of directors of a capital company without any restriction taking account in particular of that member's pregnancy

Operative part of the judgment

1. A member of a capital company's Board of Directors who provides services to that company and is an integral part of it must be regarded as having the status of worker for the purposes of Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC), if that activity is carried out, for some time, under the direction or supervision of another body of that company and if, in return for those activities, the Board Member receives remuneration. It is for the national court to undertake the assessments of fact necessary to determine whether that is so in the case pending before it.
2. Article 10 of Directive 92/85 is to be interpreted as precluding national legislation, such as that at issue in the main proceedings, which permits a member of a capital company's Board of Directors to be removed from that post without restriction, where the person concerned is a ‘pregnant worker’ within the meaning of that directive and the decision to remove her was taken essentially on account of her pregnancy. Even if the Board Member concerned is not a ‘pregnant worker’ within the meaning of Directive 92/85, the fact remains that the removal, on account of pregnancy or essentially on account of pregnancy, of a member of a Board of Directors who performs duties such as those described in the main proceedings can affect only women and therefore constitutes direct discrimination on grounds of sex, contrary to Article 2(1) and (7) and Article 3(1)(c) of Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions, as amended by Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002.

(¹) OJ C 220, 12.9.2009.

Judgment of the Court (Eighth Chamber) of 18 November 2010 (reference for a preliminary ruling from the Finanzgericht Baden-Württemberg — Germany) — Alketa Xhymshiti v Bundesagentur für Arbeit — Familienkasse Lörrach

(Case C-247/09) (¹)

(Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons — Regulations (EEC) No 1408/71 and No 574/72 and Regulation (EC) No 859/2003 — Social security for migrant workers — Family benefits — National of a non member country working in Switzerland and residing with his spouse and children in a Member State of which the children are nationals)

(2011/C 13/18)

Language of the case: German

Referring court

Finanzgericht Baden-Württemberg