

protection of the national construction industry and the reduction in national unemployment for the purpose of preventing social tension, consistent with Community law?

- Does it amount to an unjustified restriction on the freedom to provide services under the EC Treaty if a domestic employer can pay less than the minimum wage laid down in a collective agreement declared to be generally binding by concluding a collective agreement specific to one undertaking (and enjoying precedence), whereas this is — at least in fact — not possible for a non-German EC employer in the case where he proposes to post workers to the Federal Republic of Germany?

**Action brought on 4 May 1999 by the Commission of the European Communities against the Kingdom of Spain**

(Case C-168/99)

(1999/C 204/51)

An action against the Kingdom of Spain was brought before the Court of Justice of the European Communities on 4 May 1999 by the Commission of the European Communities, represented by Juan Guerra Fernández, of its Legal Service, acting as Agent, with an address for service in Luxembourg at the office of Carlos Gómez de la Cruz, of its Legal Service, Wagner Centre, Kirchberg.

The applicant claims that the Court should:

- Declare that, by failing to adopt and bring into force or communicate all the laws, regulations and administrative provisions necessary to comply with Council Directive 96/43/EC of 26 June 1996 amending and consolidating Directive 85/73/EEC in order to ensure financing of veterinary inspections and controls on live animals and certain animal products and amending Directives 90/675/EEC and 91/496/EEC<sup>(1)</sup>, the Kingdom of Spain has failed to fulfil its obligations under the EC Treaty; and
- Order the defendant to pay the costs.

*Pleas in law and main arguments*

The mandatory nature of the provisions of the third paragraph of Article 249 and the first paragraph of Article 10 of the EC Treaty requires Member States to adopt the measures necessary to transpose directives addressed to them into their domestic law before the expiry of the period prescribed for doing so. That period, which is laid down in Article 4 of the directive, expired on 1 July 1997 without Spain having brought into force the necessary provisions.

<sup>(1)</sup> OJ 1996 L 162, p. 1.

**Reference for a preliminary ruling from the Korkein Oikeus by order of that court of 27 April 1999 in the case of Oy Liikenne Ab v Pekka Liskojärvi and Pentti Juntunen**

(Case C-172/99)

(1999/C 204/52)

Reference has been made to the Court of Justice of the European Communities by an order of the Korkein Oikeus (Supreme Court), Finland, of 27 April 1999, which was received at the Court Registry on 7 May 1999, for a preliminary ruling in the case of Oy Liikenne Ab v Pekka Liskojärvi and Pentti Juntunen on the following question:

Is a situation in which the operation of bus routes passes from one bus undertaking to another as a consequence of a tender procedure under Directive 92/50/EEC on public service contracts<sup>(1)</sup> to be regarded as a transfer of a business for the purposes of Article 1(1) of Directive 77/187/EEC<sup>(2)</sup>?

<sup>(1)</sup> Council Directive 92/50/EEC of 18 June 1992 relating to the coordination of procedures for the award of public service contracts (OJ L 209 of 24.7.1992, p. 1).

<sup>(2)</sup> Council Directive 77/187/EEC of 14 February 1977 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or arts of businesses (OJ L 61 of 5.3.1977, p. 26).

**Reference for a preliminary ruling by the High Court of Justice (England & Wales), Queen's Bench Division (Crown Office), by order of that court of 14 April 1999, in the case of The Queen against Secretary of State for Trade and Industry, Ex parte: Broadcasting, Entertainment, Cinematographic and Theatre Union (BECTU)**

(Case C-173/99)

(1999/C 204/53)

Reference has been made to the Court of Justice of the European Communities by an order of the High Court of Justice (England & Wales), Queen's Bench Division (Crown Office), of 14 April 1999, which was received at the Court Registry on 10 May 1999, for a preliminary ruling in the case of The Queen against Secretary of State for Trade and Industry, Ex parte: Broadcasting, Entertainment, Cinematographic and Theatre Union (BECTU), on the following questions:

- Is the expression 'in accordance with the conditions for entitlement to, and granting of, such leave laid down by national legislation and/or practice' in Article 7 of Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organization of working time (OJ 1993 L 307, p. 18: 'the Working Time Directive') to be