# JUDGMENT OF THE COURT (Sixth Chamber)

6 July 2000 *

In Case C-11/99,

REFERENCE to the Court under Article 177 of the EC Treaty (now Article 234 EC) by the Arbeitsgericht Siegen (Germany) for a preliminary ruling in the proceedings pending before that court between

**Margrit Dietrich**

and

**Westdeutscher Rundfunk**

on the interpretation of Articles 2(a) and 1(3)(a) of Council Directive 90/270/EEC of 29 May 1990 on the minimum safety and health requirements for work

* Language of the case: German.

with display screen equipment (fifth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (OJ 1990 L 156, p. 14),

THE COURT (Sixth Chamber),

composed of: J.C. Moitinho de Almeida (Rapporteur), President of the Chamber, R. Schintgen, C. Gulmann, J.-P. Puissochet and V. Skouris, Judges,

Advocate General: A. Saggio,
Registrar: R. Grass,

after considering the written observations submitted on behalf of:

— Westdeutscher Rundfunk, by W. Rebel, of the Cologne Bar,

— the Netherlands Government, by M.A. Fierstra, Deputy Legal Adviser at the Ministry of Foreign Affairs, acting as Agent,

— the Commission of the European Communities, by P. Hillenkamp, Legal Adviser, and N. Yerrell, a national civil servant on secondment to the Commission's Legal Service, acting as Agents,

having regard to the report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 24 February 2000,

gives the following

## Judgment

1 By order of 7 January 1999, received at the Court on 18 January 1999, the Arbeitsgericht Siegen (Labour Court, Siegen) referred to the Court for a preliminary ruling under Article 177 of the EC Treaty (now Article 234 EC) three questions on the interpretation of Articles 2(a) and 1(3)(a) of Council Directive 90/270/EEC of 29 May 1990 on the minimum safety and health requirements for work with display screen equipment (fifth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (OJ 1990 L 156, p. 14).

2 Those questions were raised in proceedings between Ms Dietrich and her employer, Westdeutscher Rundfunk (hereinafter 'WDR'), a public utility broadcasting body governed by public law, which produces and broadcasts radio and television programmes in the *Land* of Nordrhein-Westfalen. Those proceedings are concerned with determining the limits to the time Ms Dietrich should spend each day working at her screen.

## The relevant Community legislation

3 Article 2(1) of Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (OJ 1989 L 183, p. 1, hereinafter 'the framework directive') provides as follows:

'This Directive shall apply to all sectors of activity, both public and private (industrial, agricultural, commercial, administrative, service, educational, cultural, leisure, etc.).'

4 Article 16(1) of the framework directive provides that the Council is to adopt individual directives, *inter alia*, in the areas listed in the Annex, which include 'work with visual display units'.

5 Article 1 of Directive 90/270 provides as follows:

'1. This Directive, which is the fifth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC, lays down minimum safety and health requirements for work with display screen equipment as defined in Article 2.

2. The provisions of Directive 89/391/EEC are fully applicable to the whole field referred to in paragraph 1, without prejudice to more stringent and/or specific provisions contained in the present Directive.

3. This Directive shall not apply to:

(a) drivers' cabs or control cabs for vehicles or machinery;

(b) computer systems on board a means of transport;

(c) computer systems mainly intended for public use;

(d) "portable" systems not in prolonged use at a workstation;

(e) calculators, cash registers and any equipment having a small data or measurement display required for direct use of the equipment;

(f) typewriters of traditional design, of the type known as "typewriter with window".'

6 Article 2(a) of the same directive provides that, for the purposes of the directive, 'display screen equipment' means 'an alphanumeric or graphic display screen, regardless of the display process employed'.

7 Section II of Directive 90/270 (Articles 3 to 9) imposes a series of health and safety obligations upon employers in relation to work carried out using display screen equipment.

8 In this regard, Article 7, entitled 'Daily work routine', provides that

'The employer must plan the worker's activities in such a way that daily work on a display screen is periodically interrupted by breaks or changes of activity reducing the workload at the display screen.'

9 Under Article 11(1) of Directive 90/270, the Member States were to bring into force the laws, regulations and administrative provisions necessary to comply with that directive by 31 December 1992.

**Relevant national legislation**

10 The framework directive was transposed into German law by the Gesetz zur Umsetzung der EG-Rahmenrichtlinie Arbeitsschutz und weiterer Arbeitsschutz-Richtlinien (Law transposing into national law the framework directive on safety at work and other directives on safety at work) of 7 August 1996 (BGBl. 1996 I, p. 1246).

11 Directive 90/270 was transposed into German law by the Verordnung zur Umsetzung von EG-Einzelrichtlinien zur EG-Rahmenrichtlinie Arbeitsschutz (Regulation transposing individual directives adopted pursuant to the framework

directive on safety at work) of 4 December 1996 (BGBl. 1996 I, p. 1841), more specifically by Article 3 thereof, entitled 'Verordnung über Sicherheit und Gesundheitsschutz bei der Arbeit an Bildschirmgeräten' (Regulation on safety and health protection in relation to work carried out using display screens, hereinafter 'the Display Screen Work Regulation'.

12 For the purposes of applying the Display Screen Work Regulation, Article 2(1) thereof defines a display screen as 'an alphanumeric or graphic screen, regardless of the display process employed'. Article 1(2)(i) of the regulation excludes from its scope of application work carried out at 'control stations for machines or drivers' cabs for vehicles equipped with display screens'.

## The main proceedings

13 The order for reference states that, since 1 April 1974, Ms Dietrich has been working as a film cutter at WDR's production studio in Siegen. Her work consists in assembling film material and preparing it for broadcasting. This she does in collaboration with the makers of television broadcasts. Viewing and selecting unedited video clips and checking the results of her editing make up the majority of her work.

14 The studio at Siegen has four workstations that Ms Dietrich may use along with other film cutters. At two of these workstations, analogue material, recorded on magnetic media, is processed in preparation for analogue broadcasting. Cutters have various technical tools at their disposal in order to do this, which they operate via a control desk. Data captured at the control desk is displayed on a separate monitor. At the two other workstations, analogue material is digitised after preliminary selection. The video material thus produced is then processed

using computer programmes which the cutters access via a keyboard. The resulting programmes are broadcast in digital form.

15 Ms Dietrich takes the view that the four workstations just mentioned fall within the class of display screen equipment workstations covered by the Display Screen Work Regulation and demands that, in accordance with Article 5 of that regulation, her employer plan her activities in such a way that her daily work at the screen is periodically interrupted either by allowing her to switch to a different activity or by allowing her a paid break of ten minutes every hour.

16 WDR rejects that claim, arguing that the Display Screen Work Regulation does not apply to cutters' workstations, for the reason that cutters work on sequences of animated electronic images which do not fit within the definition of an 'alphanumeric or graphic display screen'. Their work consists in producing televisual images rather than text or graphics. The various stages involved in film editing and the addition of soundtrack material are, according to WDR, akin to 'control of machinery', in the same way that display screens are commonly used in order to execute commands in chemical production processes or medical diagnoses. Television production work is characterised by its reliance upon workstations equipped with the various monitors that are needed for processing material and evaluating the results of that work.

17 The national court takes the view the solution to the dispute rests upon whether or not the Display Screen Work Regulation does in fact apply to cutters. It would apply if the analogue and/or digitised display of film material on a monitor could be brought within the definition of a 'graphic display screen' within the meaning of Article 2(1) of the Display Screen Work Regulation, provided that it was not covered by 'control cabs for machines' within the meaning of Article 1(2)(i) of that regulation.

18 The Arbeitsgericht Siegen suggests that the concept of a workstation with display screen equipment, within the meaning of Directive 90/270, should be understood in the broad sense, so as to take account of the directive's purpose, which is to ensure a better level of safety at workstations with display screens and to protect the health and safety of workers. So much is clear from the fact that Article 2(a) of the directive refers not only to traditional word processing but also to graphic screens, regardless of the display process employed, and that Article 2(b) gives a definition of workstation that includes a variety of types of work using computers.

19 The national court takes the view that, if the term 'graphic display screen' is understood in a broad sense, the computer processing of digital video recordings may be regarded as covered by that term. Replaying analogue images, on the other hand, seems unlikely to fall within the same concept. Nevertheless, given that the difference between the two methods is not apparent to the viewer and that the health protection considerations apply to both digital and analogue display processes, there are factors which militate in favour of reaching a common solution, by analogy if necessary, as regards those two image processing technologies.

20 The national court also relies on the fact that the list of exceptions set out in Article 1(3) of Directive 90/270 is not intended to limit the directive's scope of application in such a way as to exclude many different types of work carried out at the screen. It thus supposes that 'drivers' cabs or control cabs for vehicles or machinery', within the meaning of Article 1(3)(a) of the directive, simply means workstations where a machine or a technical device is operated with the aid of an automated information processing tool and where screen displays merely reproduce data that has been captured and technical information relating to a production process.

21 Given that a narrow interpretation of the term 'graphic display screen', for the purposes of Article 2(a) of Directive 90/270, or a broad interpretation of controlling vehicles or machinery, for the purposes of Article 1(3)(a) of the directive, could lead to a quite different conclusion, the national court takes the

view that it must apply to the Court of Justice for interpretation of those provisions.

22 The answers to the questions it asks will have a bearing on its judgment in the main proceedings in that, if Directive 90/270 was applicable to the job of a cutter, the Display Screen Work Regulation would also be applicable and Ms Dietrich would be entitled, in accordance with Article 5 of the Display Screen Work Regulation, to interrupt her work at the screen either to do other work or simply to rest.

23 Lastly, the national court observes that the Court of Justice has thus far expressed its position on Directive 90/270 only once, that is in Joined Cases C-74/95 and C-129/95 *X* [1996] ECR I-6609, on which occasion it did not address the issues raised in the case in the main proceedings.

24 Those were the circumstances in which the Arbeitsgericht Siegen stayed proceedings and referred to the Court the following questions for a preliminary ruling:

'1. On a proper interpretation of Article 2(a) of Council Directive 90/270/EEC of 29 May 1990 on the minimum safety and health requirements for work with display screen equipment, does "graphic display" within the meaning of that provision also include the replay of film clips on monitors?

2. If not, does "graphic display" within the meaning of Article 2(a) of Council Directive 90/270/EEC include the replay of video data files on monitors, which include film clips in digitised form?

3. If either Question 1 or Question 2 is answered in the affirmative, must Article 1(3)(a) of Council Directive 90/270/EEC be interpreted as meaning that "control cabs for ... machinery" within the meaning of that provision include a workstation at which analogue or digitised picture material is processed with the aid of technical installations and/or computer programmes?'

**The first and second questions**

25 By these questions, which it is appropriate to consider together, the national court seeks essentially to establish whether 'graphic display screen' within the meaning of Article 2(a) of Directive 90/270 is to be understood as including screens which display film material recorded in analogue or digital form.

26 According to WDR and the Netherlands Government, those questions should be answered in the negative.

27 WDR argues that, for the purposes of Article 2(a) of Directive 90/270, display screen equipment means an alphanumeric or graphic display screen, regardless of the display process employed. The issue in the case in the main proceedings is whether or not the screen at which the applicant in those proceedings works is a 'graphic' display screen.

28 Graphic display screens are, it submits, exclusively screens used to display a drawing or design with a view to its reproduction or as a form of artistic expression. The term 'graphics' should be understood as meaning the 'reproduc-

tion of text and prints and also the art of drawing, the reproduction of copper plate engraving, steel engraving, wood engraving, or of a single page with a picture obtained using one of the aforementioned techniques'.

29 In this connection, WDR states that, as far as 'graphic' display is concerned, the creator of the graphic image which is to be displayed draws directly at the screen. Cutters, however, do not work on computer programmes by entering alphanumeric symbols, nor do they produce graphic images. Instead, they select from a range of filmed material, that is to say sequences of animated images, clips that are suitable for the given subject they are working on and, together with the writer or producer of the programme, choose the images and soundtrack to be played alongside each other or one after the other and decide on their length and order of play.

30 WDR argues that it is immaterial whether those images are presented in analogue or digital form. Both display processes result in a sequence of animated images being displayed on a screen. Moreover, according to the definition given in Article 2 of Directive 90/270, the display process has no bearing whatsoever on the directive's scope.

31 Consequently, it submits, the term 'graphic display screen' does not include the display of film recordings on a monitor, be they in analogue or digital form.

32 Similarly, the Netherlands Government argues that the definition of 'display screen' within the meaning of Directive 90/270 depends upon the alphanumeric or graphic nature of the information displayed and not on the manner in which it is displayed.

33 It maintains that 'alphanumeric' and 'graphic' mean, for the purposes of Article 2(a) of Directive 90/270, the representation of characters rather than moving images, as is borne out by the annex to the directive, which lays down the minimum requirements that workstations must meet. Those relating to the screen, set out at point 1(b) of the annex, concern the characteristics of the screen (definition quality, size, etc.) and of the image itself (brightness and contrast), whereas no requirements are laid down with respect to moving images.

34 The Netherlands Government takes the view that the reproduction of film shots or video recordings on monitors involves information in the form of moving images and that that, consequently, does not amount to the reproduction of characters within the meaning of Article 2(a) of Directive 90/270. Thus the work carried out at monitors to edit and subsequently digitise analogue images does not fall within the directive's scope of application.

35 The Court cannot accept that the term 'graphic display screen' should be understood as not referring to screens displaying film recordings.

36 It should be pointed out in this connection that the purpose of Directive 90/270 is, as stated in its title and in Article 1 thereof, to lay down minimum safety and health requirements for work with display screen equipment and that, as stated in the fourth recital of its preamble, compliance with the minimum requirements for ensuring a better level of safety at workstations with display screens is essential for ensuring the safety and health of workers.

37 In view of the directive's purpose of protecting the health and safety of workers, compliance with the requirements set out in the directive and its annex, such as

reducing all radiation to negligible levels, for example, or taking into account the noise emitted by workstation equipment, is essential regardless of the type of image displayed on the screen.

38 Moreover, interpreting Article 2(a) of Directive 90/270 narrowly, so as to exclude from its scope screens that display film recordings, would cause a significant number of workers to be deprived of the protection afforded by the directive, despite their being in a similar situation to workers who do use a graphic display screen in the sense understood by WDR and the Netherlands Government. That would seriously undermine the directive's effectiveness.

39 Furthermore, it should be observed, as the Commission appositely pointed out, that the types of equipment excluded from the scope of Directive 90/270, listed exhaustively in Article 1(3) thereof, belong in situations where screen use is of either secondary importance or limited duration. On the other hand, all forms of work carried out at the screen over an extended period of time fall within the scope of the directive.

40 In addition, and as the Commission also quite rightly observed, the fact that the Community legislature has not, as far as display screens are concerned, adapted the minimum requirements, set out in the annex, to take account of technical progress, as provided for in Article 10 of Directive 90/270, implies that it must have considered the term 'display screen equipment' to be sufficiently broad to enable the directive's objectives to be fully met.

41 That being so, it must be held that the term 'graphic display screen' in Article 2(a) of Directive 90/270 must be understood in a broad sense so as to include screens which display film recordings.

42 In this regard it is irrelevant whether the display process involves material stored in analogue or in digital form, if for no other reason than that Article 2 of Directive 90/270 states that it refers to display screens 'regardless of the display process employed'.

43 The answer to be given to the first and second questions must therefore be that the term 'graphic display screen', for the purposes of Article 2(a) of Directive 90/270, must be interpreted as including screens that display film recordings in analogue or digital form.

## The third question

44 In the event that the Court should answer the first or second question in the affirmative, WDR argues that 'drivers' cabs or control cabs for vehicles or machinery', covering the workstations occupied by Ms Dietrich, are in any event excluded from the scope of Directive 90/270.

45 According to WDR, Directive 90/270 takes into account the fact that the rules it sets out, which are essentially adapted to administrative activities such as office work, cannot be applied in areas with special requirements. That conclusion stems, in particular, from Article 1(3)(b) of Directive 90/270, which excludes from the directive's scope computer systems on board a means of transport.

46 WDR submits that 'control cabs for ... machinery' refers to control posts built into a piece of production machinery which must be regarded as forming an integral

part of the machine by virtue of controls, with a display screen, which allow direct intervention in the machine's production cycle. In this regard it argues that the national court is wrong to proceed on the basis that control cabs for machinery are exclusively control cabs where a machine or a technical device is operated with the aid of a computer system and where screen displays merely reproduce data that has been captured and technical information resulting from a production process. Neither the Directive nor the Display Screen Work Regulation contains any such restriction.

47 According to WDR, the exception set out in Article 1(3)(a) of Directive 90/270 will apply where processing operations form an integral part of a control cab for machinery equipped with a screen, as is normally the case where instructions are given using a display screen, for example, in producing a medical diagnosis. That is so, it maintains, in the case of workstations having an editing table with an integrated control panel. These are also workstations where raw images are edited by means of a technical device operated via an integrated control panel equipped with a screen.

48 It is appropriate to observe that the wording itself of Article 1(3)(a) of Directive 90/270 does not elucidate the meaning of 'control cabs for ... machinery' for the purposes of that provision.

49 As the Court held in its answer to the first and second questions, the Community legislature intended to give Directive 90/270 a very broad scope, the only workstations excluded from its scope being those listed exhaustively in

Article 1(3) of the directive, which are devices whose display function is of secondary importance or used only for short periods of time.

50 That being so, inasmuch as 'control cabs for vehicles or machinery' are excluded from the directive's scope of application, the term must, in any event, be interpreted narrowly.

51 As the Commission rightly pointed out, a job such as that done by Ms Dietrich requires, in addition to constant keying in during the production phases, that those phases be followed visually and aurally and that they be displayed in the form of sequences of images on a number of display screens and monitors simultaneously, not to mention the intellectual and creative input required of cutters which is dependent upon both their sight and hearing.

52 There is no indication that the Community legislature's intention was to include under the term 'drivers' cabs or control cabs for vehicles or machinery' work carried out at the screen in such a continuous manner.

53 Furthermore, the inclusion of such an activity within the scope of Directive 90/270 is all the more justified by the fact that significantly more time must be spent working at the screen than is required at ordinary office workstations equipped with a computer, which, it is well established, attract the protection afforded by the directive.

54 The answer to be given to the third question must therefore be that Article 1(3)(a) of Directive 90/270 is to be interpreted as meaning that the term 'control cabs for

... machinery' does not extend to a job such as that at issue in the main proceedings, in which analogue or digital images are processed with the aid of technical devices and/or computer programmes in order to produce television broadcasts.

## Costs

55 The costs incurred by the Netherlands Government and by the Commission, which have submitted observations to the Court, are not recoverable. Since these proceedings are, in so far as the parties to the main proceedings are concerned, in the nature of a step in the proceedings pending before the national court, the decision on costs is a matter for that court.

On those grounds,

THE COURT (Sixth Chamber),

in answer to the questions referred to it by the Arbeitsgericht Siegen by order of 7 January 1999, hereby rules:

1. **The term 'graphic display screen', for the purposes of Article 2(a) of Council Directive 90/270/EEC of 29 May 1990 on the minimum safety and health**

requirements for work with display screen equipment (fifth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC), must be interpreted as including screens that display film recordings in analogue or digital form.

2. Article 1(3)(a) of Directive 90/270 is to be interpreted as meaning that the term 'control cabs for ... machinery' does not extend to a job such as that at issue in the main proceedings, in which analogue or digital images are processed with the aid of technical devices and/or computer programmes in order to produce television broadcasts.

Moitinho de Almeida Schintgen Gulmann

Puissochet Skouris

Delivered in open court in Luxembourg on 6 July 2000.

R. Grass

Registrar

J.C. Moitinho de Almeida

President of the Sixth Chamber