

Re:

Annulment of Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (OJ 2006 L 190, p. 1) — Choice of legal basis — Act pursuing a dual purpose or having a dual component and requiring cumulative legal bases (Art. 175(1) EC and Art. 133 EC)

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders the Commission of the European Communities to pay the costs;
3. Orders the French Republic, the Republic of Austria and the United Kingdom of Great Britain and Northern Ireland to bear their own costs.

⁽¹⁾ OJ C 294, 02.12.2006.

Judgment of the Court (Grand Chamber) of 8 September 2009 (reference for a preliminary ruling from the Tribunal de Pequena Instância Criminal do Porto (Portugal)) — Liga Portuguesa de Futebol Profissional (CA/LFPF), Bwin International Ltd, formerly Baw International Ltd v Departamento de Jogos da Santa Casa da Misericórdia de Lisboa

(Case C-42/07) ⁽¹⁾

(Reference for a preliminary ruling — Article 49 EC — Restrictions on the freedom to provide services — Offer of games of chance via the internet)

(2009/C 267/15)

Language of the case: Portuguese

Referring court

Tribunal de Pequena Instância Criminal do Porto

Parties to the main proceedings

Applicants: Liga Portuguesa de Futebol Profissional (CA/LFPF), Bwin International Ltd, formerly Baw International Ltd

Defendant: Departamento de Jogos da Santa Casa da Misericórdia de Lisboa

Re:

Reference for a preliminary ruling — Tribunal de Pequena Instância Criminal do Porto — Interpretation of Articles 43 EC, 49 EC and 56 EC — National legislation granting a specific organisation the exclusive rights to operate games of

chance and lotteries, and classing as administrative offences the activities of organising, promoting and collecting bets on sporting events, including over the internet — Prohibition of an undertaking which operates betting and lotteries online, and having its registered office in another Member State, from promoting, organising or operating such betting and lotteries over the internet or from awarding the value of the prizes to the winners

Operative part of the judgment

Article 49 EC does not preclude legislation of a Member State, such as that at issue in the main proceedings, which prohibits operators such as Bwin International Ltd, which are established in other Member States, in which they lawfully provide similar services, from offering games of chance via the internet within the territory of that Member State.

⁽¹⁾ OJ C 69, 24.3.2007.

Judgment of the Court (Second Chamber) of 10 September 2009 — Commission of the European Communities v Federal Republic of Germany

(Case C-269/07) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Freedom of movement for workers — Regulation (EEC) No 1612/68 — Savings-pension bonus — Full liability to tax)

(2009/C 267/16)

Language of the case: German

Parties

Applicant: Commission of the European Communities (represented by: R. Lyal and W. Mölls, Agents)

Defendant: Federal Republic of Germany (represented by: C. Blaschke and M. Lumma, Agents, W. Wellisch, Rechtsanwalt)

Re:

Failure of Member State to fulfil obligations — Infringement of Articles 12 EC, 18 EC and 39 EC, and of Article 7 of Council Regulation (EEC) No 1612/68 of 15 October 1968 on freedom of movement for workers within the Community (OJ, English Special Edition I 1968(II), p. 475) — National legislation concerning incentive allowances for savings pensions, the grant of which is conditional upon full liability to taxation in the Member State, providing for the repayment of the allowance on termination of such liability and prohibiting the use of capital accrued in accordance with such a scheme for the acquisition of residential property occupied by the owner unless the property is situated within the territory of that Member State.

Operative part of the judgment

The Court:

1. Declares that, by introducing and maintaining the provisions for complementary pensions in Paragraphs 79 to 99 of the Federal Law on Income Tax (*Einkommensteuergesetz*), the Federal Republic of Germany has failed to fulfil its obligations under Article 39 EC and Article 7(2) of Regulation (EEC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community and Article 18 EC, in so far as those provisions:

— deny cross-border workers and their spouses the right to the savings pension bonus, unless they are fully liable to tax in that Member State;

— prohibit cross-border workers from using the subsidised capital for the acquisition or construction of an owner-occupied dwelling unless the property is situated in Germany, and

— provide that the bonus be reimbursed on termination of full liability to tax in that Member State;

2. Orders the Federal Republic of Germany to pay the costs.

⁽¹⁾ OJ C 199, 25.8.2007.

Judgment of the Court (Third Chamber) of 10 September 2009 — Commission of the European Communities v Hellenic Republic

(Case C-416/07) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Directives 91/628/EEC and 93/119/EC — Regulation (EC) No 1/2005 — Protection of animals during transport and at the time of slaughter or killing — Structural and general infringement of Community rules)

(2009/C 267/17)

Language of the case: Greek

Parties

Applicant: Commission of the European Communities (represented by: H. Tserépa-Lacombe and F. Erlbacher, acting as Agents)

Defendant: Hellenic Republic (represented by: S. Charitaki, S. Papaïoannou and E.-M. Mamouna, acting as Agents)

Re:

Failure of a Member State to fulfil obligations — Infringement of Articles 5, 8, 9 and 18(2) of Council Directive 91/628/EEC of 19 November 1991 on the protection of animals during transport and amending Directives 90/425/EEC and 91/496/EEC (OJ 1991 L 340, p. 17) — Infringement of Articles 5(4), 6(1), 13(3) and (4), 15(1), 25, 26 and 27(1) of Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97 (OJ 2005 L 3, p. 1) — Infringement of Articles 3, 5(1), 6(1) and 8 of Council Directive 93/119/EC of 22 December 1993 on the protection of animals at the time of slaughter or killing (OJ 1993 L 340, p. 21)

Operative part of the judgment

The Court:

1. Declares that by failing to take the measures necessary:

— to ensure that the competent authorities carry out obligatory checks of route plans;

— to provide for facilities in or in the immediate vicinity of ferry ports to enable animals to rest after unloading;

— so as to ensure that the inspections of the means of transport and the animals are actually carried out;

— to ensure that the rules on the stunning of animals at the time of slaughter are complied with, and

— to ensure that inspections and controls in slaughterhouses are carried out in an appropriate manner,

the Hellenic Republic has failed to fulfil its obligations under the first indent of Article 5(A)(2)(d)(i) and Article 8 of Council Directive 91/628/EEC of 19 November 1991 on the protection of animals during transport and amending Directives 90/425/EEC and 91/496/EEC, as amended by Council Regulation (EC) No 806/2003 of 14 April 2003, point 48.7(b) of Chapter VII of the Annex to that directive, as amended by Regulation No 806/2003, and Articles 3, 5(1)(d), 6(1) and 8 of Council Directive 93/119/EC of 22 December 1993 on the protection of animals at the time of slaughter or killing;

2. Dismisses the action as to the remainder;

3. Orders the Hellenic Republic to pay two thirds of the costs. The Commission of the European Communities is ordered to pay one third of the costs.

⁽¹⁾ OJ C 283, 24.11.2007.