— *excluding, by means of Article 23 of Law No 179 of 31 July 2002 laying down provisions on environmental matters, from the scope of the legislation on waste leftovers from the kitchen preparation of all types of solid food, cooked and uncooked, which have not entered the distribution system and are intended for shelters for pet animals;*

2) *Orders the Italian Republic to pay the costs.*

([1]) OJ C 182, 23.7.2005.

Judgment of the Court (Third Chamber) of 18 December 2007 — Commission of the European Communities v Italian Republic

(Case C-263/05) ([1])

(Failure of a Member State to fulfil obligations — Environment — Directives 75/442/EEC and 91/156/EEC — Concept of 'waste' — Substances or objects intended for disposal or recovery operations — Production residues capable of re-use)

(2008/C 51/13)

Language of the case: Italian

Parties

Applicant: Commission of the European Communities (represented by: M. Konstantinidis and L. Cimaglia, Agents)

Defendant: Italian Republic (represented by: I.M. Braguglia, Agent and G. Fiengo, lawyer)

Re:

Failure of a Member State to fulfil its obligations — Infringement of Article 1(a) of Council Directive 75/442 of 15 July 1975 on waste (OJ 1975 L 194, p. 39), as amended by Council Directive 91/156/EEC of 18 March 1991 (OJ 1991 L 78, p. 32) — National law excluding from the scope of the directive certain substances or objects intended for disposal or recovery operations and also certain production waste of which the holder disposes or intends to dispose

Operative part of the judgment

The Court:

1) *Declares that the Italian Republic has failed to fulfil its obligations under Article 1(a) of Council Directive 75/442/EEC of 15 July 1975 on waste, as amended by Council Directive 91/156/EEC of 18 March 1991 and Commission Decision 96/350/EC of 24 May 1996, by adopting and maintaining in force Article 14 of Decree-Law No 138 of 8 July 2002 laying down urgent measures concerning taxation, privatisation and control of pharmaceutical expenditure and economic support in disadvantaged areas, now, after amendment, Law No 178 of 8 August 2002, which excludes from the scope of Legislative Decree No 22 of 5 February 1997 implementing Directives 91/156/EEC on waste, 91/689/EEC on hazardous waste and 94/62/EC on packaging and packaging waste the following: (i) substances, objects or goods intended for waste disposal or recovery operations not expressly listed in Annexes B or C to Legislative Decree No 22/97; and (ii) substances or objects forming production residue which the holder intends or is required to discard, where they may be and are re-used in a production or consumption cycle without undergoing prior treatment and without harming the environment, or, if they have undergone prior treatment, provided that that treatment is not one of the recovery operations listed in Annex C to Legislative Decree No 22/97;*

2) *Orders the Italian Republic to pay the costs.*

([1]) OJ C 217, 3.9.2005.

Judgment of the Court (Grand Chamber) of 11 December 2007 (Reference for a preliminary ruling from the Raad van State — Netherlands) — Minister voor Vreemdelingenzaken en Integratie v R.N.G. Eind

(Case C-291/05) ([1])

(Freedom of movement for persons — Workers — Right of residence for a family member who is a third-country national — Return of the worker to the Member State of which he is a national — Obligation for the worker's Member State of origin to grant a right of residence to the family member — Whether there is such an obligation where the worker does not carry on any effective and genuine activities)

(2008/C 51/14)

Language of the case: Dutch

Referring court

Raad van State

Parties to the main proceedings

Applicant: Minister voor Vreemdelingenzaken en Integratie

Defendant: R.N.G. Eind

Re:

Reference for a preliminary ruling — Nederlandse Raad van State — Interpretation of Article 10 of Regulation (EEC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community (OJ, English Special Edition 1968(II), p. 475) and of Council Directive 90/364/EEC of 28 June 1990 on the right of residence (OJ 1990 L 180, p. 26) — Interpretation of Article 18 EC — Right of residence of a family member who is a national of a non-member country — Existence of such a right in the absence of genuine and actual work on the part of the worker — Return of the worker to his or her State of origin — No right of residence in that State for the family member

Operative part of the judgment

1) *In the event of a Community worker returning to the Member State of which he is a national, Community law does not require the authorities of that State to grant a right of entry and residence to a third-country national who is a member of that worker's family because of the mere fact that, in the host Member State where that worker was gainfully employed, that third-country national held a valid residence permit issued on the basis of Article 10 of Regulation (EEC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community, as amended by Council Regulation (EEC) No 2434/92 of 27 July 1992.*

2) *When a worker returns to the Member State of which he is a national, after being gainfully employed in another Member State, a third-country national who is a member of his family has a right under Article 10(1)(a) of Regulation No 1612/68 as amended by Regulation No 2434/92, which applies by analogy, to reside in the Member State of which the worker is a national, even where that worker does not carry on any effective and genuine economic activities. The fact that a third-country national who is a member of a Community worker's family did not, before residing in the Member State where the worker was employed, have a right under national law to reside in the Member State of which the worker is a national has no bearing on the determination of that national's right to reside in the latter State.*

[1] OJ C 296, 26.11.2005.

Judgment of the Court (Grand Chamber) of 18 December 2007 (reference for a preliminary ruling from the Arbetsdomstolen — Sweden) — Laval un Partneri Ltd v Svenska Byggnadsarbetareförbundet, Svenska Byggnadsarbetareförbundets avd. 1, Byggettan, Svenska Elektrikerförbundet

(Case C-341/05) [1]

(Freedom to provide services — Directive 96/71/EC — Posting of workers in the construction industry — National legislation laying down terms and conditions of employment covering the matters referred to in Article 3(1), first sub-paragraph, (a) to (g), save for minimum rates of pay — Collective agreement for the building sector the terms of which lay down more favourable conditions or relate to other matters — Possibility for trade unions to attempt, by way of collective action, to force undertakings established in other Member States to negotiate on a case by case basis in order to determine the rates of pay for workers and to sign the collective agreement for the building sector)

(2008/C 51/15)

Language of the case: Swedish

Referring court

Arbetsdomstolen

Parties to the main proceedings

Applicant: Laval un Partneri Ltd

Defendants: Svenska Byggnadsarbetareförbundet, Svenska Byggnadsarbetareförbundets avd. 1, Byggettan, Svenska Elektrikerförbundet

Re:

Reference for a preliminary ruling — Arbetsdomstolen — Interpretation of Articles 12 EC and 49 EC and of Articles 3(1); 3(7); 3(8); 3(10) and Article 4 of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (OJ 1997 L 18, p. 1) — Collective action against a construction company which supplied paid workers in a Member State other than that of its head office and which did not enter into a collective agreement in that State.