

I

(Information)

COURT OF JUSTICE

COURT OF JUSTICE

Judgment of the Court (Grand Chamber) of 13 June 2006 (reference for a preliminary ruling from the Tribunale di Genova (Italy)) — Traghetti del Mediterraneo SpA, in liquidation v Repubblica italiana

(Case C-173/03) ⁽¹⁾

(Non-contractual liability of Member States — Damage caused to individuals by infringements of Community law attributable to a national court adjudicating at last instance — National legislation limiting State liability to cases of intentional fault and serious misconduct on the part of the court — Liability excluded in connection with the interpretation of provisions of law or assessment of facts or evidence in the exercise of judicial functions)

(2006/C 190/01)

Language of the case: Italian

Referring court

Tribunale di Genova

Parties to the main proceedings

Applicant: Traghetti del Mediterraneo SpA, in liquidation

Defendant: Repubblica italiana

Re:

Reference for a preliminary ruling — Tribunale di Genova — Non-contractual liability of a Member State towards its nationals for errors committed by its own courts in the application of Community law, in particular the failure by a court adjudicating at last instance to refer a case to the Court in accordance with Article 234 EC

Operative part of the judgment

Community law precludes national legislation which excludes State liability, in a general manner, for damage caused to individuals by an infringement of Community law attributable to a court adjudicating

at last instance by reason of the fact that the infringement in question results from an interpretation of provisions of law or an assessment of facts or evidence carried out by that court.

Community law also precludes national legislation which limits such liability solely to cases of intentional fault and serious misconduct on the part of the court, if such a limitation were to lead to exclusion of the liability of the Member State concerned in other cases where a manifest infringement of the applicable law was committed, as set out in paragraphs 53 to 56 of the judgment in Case C-224/01 Köbler [2003] ECR I-10239.

⁽¹⁾ OJ C 158, 5.7.2003.

Judgment of the Court (Grand Chamber) of 27 June 2006 — European Parliament v Council of the European Union

(Case C-540/03) ⁽¹⁾

(Immigration policy — Right to family reunification of minor children of third country nationals — Directive 2003/86/EC — Protection of fundamental rights — Right to respect for family life — Obligation to have regard to the interests of minor children)

(2006/C 190/02)

Language of the case: French

Parties

Applicant: European Parliament (represented by: H. Duintjer Tebbens and A. Caiola, Agents)

Defendant: Council of the European Union (represented by: O. Petersen and M. Simm, Agents)

Interveners in support of the defendant: Commission of the European Communities (represented by: C. O'Reilly and C. Ladenburger, Agents) and Federal Republic of Germany (represented by: A. Tiemann, W.-D. Plessing and M. Lumma, Agents)

Re:

Annulment of the last subparagraph of Article 4(1), Article 4(6) and Article 8 of Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJ 2003 L 251, p. 12) — Derogations from the right to family reunification of minor children.

Operative part of the judgment

The Court:

- 1) Dismisses the application;
- 2) Orders the European Parliament to pay the costs;
- 3) Orders the Federal Republic of Germany and the Commission of the European Communities to bear their own costs.

(¹) OJ C 47, 21.02.2004.

Judgment of the Court (First Chamber) of 15 June 2006 — Commission of the European Communities v French Republic

(Case C-255/04) (¹)

(Admissibility — Inconsistency between the grounds pleaded and the heads of claim in the application initiating proceedings — Rule whereby a Court may not rule ultra petita — Article 49 EC — National legislation making the grant of a licence subject to the needs of the market — National legislation imposing a presumption of salaried status — Reversal of the burden of proof — Absence of detailed procedural rules within the meaning of the Peterbroeck case-law — Social protection — Coordination of the applicable legislation by Regulation (EEC) No 1408/71 — Pre-emption — Action to combat concealed employment)

(2006/C 190/03)

Language of the case: French

Parties

Applicant: Commission of the European Communities (represented by: E. Traversa and A.-M. Rouchaud-Joët, Agents)

Defendant: French Republic (represented by: G. de Bergues and A. Hare, Agents)

Re:

Failure of a Member State to fulfil obligations — Articles 43 EC and 49 EC — French system for the grant of licences to performing artists established in another Member State who do not possess a licence issued under comparable conditions in their State of origin — Presumption of salaried status applied to performing artists recognised as service providers established in their State of origin where they usually provide similar services

Operative part of the judgment

1. *By making the grant of a licence to performing artists' engagements agencies, established in another Member State, subject to the need to engage performers, and*
 - *by imposing the presumption of salaried status on performing artists who are recognised as service providers and established in their Member State of origin, where they usually provide similar services,*
 - *the French Republic has failed to fulfil its obligations under Article 49 EC.*
2. *The action is dismissed as to the remainder.*
3. *The Commission of the European Communities and the French Republic are ordered to bear their own costs.*

(¹) OJ C 217, 28.8.2004.

Judgment of the Court (Third Chamber) of 15 June 2006 (reference for a preliminary ruling from the Amtsgericht Breisach — Germany) — Badischer Winzerkeller eG v Land Baden-Württemberg

(Case C-264/04) (¹)

(Directive 69/335/EEC — Indirect taxes on the raising of capital — Merger of companies — Rectification of the land register — Charging of a fee — Whether a 'transfer duty' — Conditions for charging the fee)

(2006/C 190/04)

Language of the case: German

Referring court

Amtsgericht Breisach