

**Reference for a preliminary ruling by the Bundesgerichtshof by order of that Court of 27 November 2003 in respect of the opening of insolvency proceedings against Susanne Staubitz-Schreiber**

(Case C-1/04)

(2004/C 71/13)

Reference has been made to the Court of Justice of the European Communities by order of the Bundesgerichtshof (Federal Court of Justice) of 27 November 2003, received at the Court Registry on 2 January 2004, for a preliminary ruling in respect of the opening of insolvency proceedings against Susanne Staubitz-Schreiber on the following question:

Does the court of the Member State which receives a request for the opening of insolvency proceedings still have jurisdiction to open insolvency proceedings if the debtor moves the centre of his or her main interests to the territory of another Member State after filing the request but before the proceedings are opened, or does the court of that other Member State acquire jurisdiction?

**Action brought on 16 January 2004 by the Commission of the European Communities against the Republic of Finland**

(Case C-13/04)

(2004/C 71/14)

An action against the Republic of Finland was brought before the Court of Justice of the European Communities on 16 January 2004 by the Commission of the European Communities, represented by M. Konstantinidis and P. Aalto, acting as Agents, with an address for service in Luxembourg.

The Commission claims that the Court should:

1. Declare that the Republic of Finland has failed to enact national legislation in a manner ensuring legal certainty and clarity as regards the second subparagraph of Article 7(1) of Council Directive 94/62/EC on packaging and packaging waste<sup>(1)</sup> and has failed to ensure that the above obligation is applied in practice;
2. Order the Republic of Finland to pay the costs.

*Pleas in law and main arguments*

The period allowed for implementing the directive ended on 30 June 1996. The Republic of Finland has not enacted national legislation in a manner ensuring legal certainty and clarity as regards the second subparagraph of Article 7(1) of Council Directive 94/62/EC on packaging and packaging waste and has not ensured that the above obligation is applied in practice.

<sup>(1)</sup> European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste, OJ L 365 of 31.12.1994, p. 10.

**Reference for a preliminary ruling by the Dioikitiko Protodikeio Athens by order of that Court of 30 September 2003 in the case of Sphakianakis AEBE against Hellenic Republic**

(Case C-23/04)

(2004/C 71/15)

Reference has been made to the Court of Justice of the European Communities by order of the Dioikitiko Protodikeio Athens (Administrative Court of First Instance, Athens) of 30 September 2003, received at the Court Registry on 26 January 2004, for a preliminary ruling in the case of Sphakianakis AEBE against Hellenic Republic on the following questions:

1. Does Article 31(2) of Protocol 4 (appended to the Europe agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Hungary, of the other part) impose an obligation of mutual cooperation on the customs authorities of the Member State of importation to take into account decisions of the Hungarian courts concerning the validity of the investigations carried out by the authorities of the exporting State into the correctness of the EUR.1 certificate in light of the fact that:
  - (a) the Hungarian authorities duly informed the customs authorities of the importing State concerning the results of the investigation initially carried out concerning the inaccuracy of certain export certificates, stressing none the less that the validity of the investigation formed the subject matter of proceedings pending before the Hungarian courts and
  - (b) the Hungarian authorities officially communicated to the customs authorities of the importing State the outcome of those proceedings, that is to say the decisions of the abovementioned courts whereby it was finally ascertained that a number of EUR.1 certificates were accurate;