

Pleas in law and main arguments:

The hunting of returning migratory birds, 'caza a contrapasa', in this instance woodpigeon returning to their rearing grounds, entails a failure to comply with Article 7(4) of Directive 79/409.

None of the reasons put forward by the Kingdom of Spain to justify the practice of that type of hunting in Guipúzcoa is acceptable:

- adoption of a derogation from Article 7(4) on the basis of Article 9(1)(c) of the Directive, since in this case the condition that there is no other satisfactory solution, which must be met for the system of exceptions to apply properly, is not fulfilled.
- historical and cultural traditions and social convention, since those are not reasons capable of justifying the derogations laid down in Article 9, given that they are not mentioned in that provision.
- judgment of the Court of Justice in Case 252/85 Commission v France, since the judgment was given in relation to a derogation from Article 8(1) of the Directive relating to hunting methods.

(¹) OJ L 103 of 25.4.1979.

Reference for a preliminary ruling by the Regeringsrätten (Sweden) by decision of that Court of 8 March 2004 in the case of Amy Rockler against the Riksförsäkringsverket (the social insurance office)

(Case C-137/04)

(2004/C 106/69)

Reference has been made to the Court of Justice of the European Communities by the Regeringsrätten (Supreme Administrative Court) for a preliminary ruling by decision of 8 March 2004, received at the Court Registry on 15 March 2004 in the case of Amy Rockler against the Riksförsäkringsverket on the following question:

Are the provisions of Article 39 EC to be interpreted as meaning that - on application of a provision of national law requiring a worker to have been insured for a certain qualifying period in order to receive payment at the rate of sickness benefit during parental leave - aggregation should be allowed with a period during which the worker was covered by the Joint Sickness Insurance Scheme in accordance with the rules in the Staff Regulations for officials of the European Communities?

Action brought on 15 March 2004 by the Commission of the European Communities against the Italian Republic

(Case C-139/04)

(2004/C 106/70)

An action against the Italian Republic was brought before the Court of Justice of the European Communities on 15 March 2004 by the Commission of the European Communities, represented by Gregorio Valero Jordana and Roberto Amorosi, acting as Agents.

The applicant claims that the Court should:

- Declare that, by communicating to the Commission only in part the methods used for the preliminary assessment of air quality under Article 3 in respect of the substances covered by Directive 1999/30/EC (¹) and by sending after 30 September 2002 the questionnaire adopted by Decision 2001/839/EC (²), providing only certain information in respect of 2001 on the substances covered by Directive 1999/30/EC, as laid down by Article 11(1)(a)(i) and (ii) and Article 11(1)(b) of Directive 1996/62/EC (³), the Italian Republic has failed to fulfil its obligations under Article 11 in conjunction with Article 4(1) of Directive 1996/62/EC and with Directive 1999/30/EC, and its obligations under Article 11 in conjunction with Article 4(1) of Directive 1996/62/EC, with Directive 1999/30/EC and with Article 1 of Decision 2001/839/EC;
- Order the Italian Republic to pay the costs.

Pleas in law and main arguments:

The treatment of the information communicated by Italy with regard to the Regions and certain of them appears to infringe the obligations stated in the reasoned opinion. To date, however, the Commission has not received information on the methods used for the preliminary assessment of air quality under Article 5 of Directive 96/62/EC in respect of the substances covered by Directive 1999/30/EC from the following regions: Abruzzo, Basilicata, Calabria, Campania, Emilia Romagna, Friuli Venezia Giulia, Lazio, Molise, Puglia, Sardegna, Sicilia, Provincia Autonoma di Bolzano, Umbria and Veneto. Furthermore, the questionnaires in respect of 2001 on the substances covered by Directive 99/30/EC, as laid down by Article 11(1)(a)(i) and (ii) and Article 11(1)(b) of Directive 1996/62/EC appear to be missing in respect of the following Regions: Abruzzo, Basilicata, Calabria, Campania, Friuli Venezia Giulia, Molise, Puglia, Sardegna, Sicilia, Provincia Autonoma di Bolzano and Umbria.

⁽¹⁾ OJ L 163 of 29.06.1999, p. 41.

⁽²⁾ OJ L 319 of 04.12.2001, p. 45.

⁽³⁾ OJ L 296 of 21.11.1996, p. 55.

Reference for a preliminary ruling from the Hof van Beroep te Antwerpen, of 11 March 2004 in proceedings between N.V. United Antwerp Maritime Agencies and the Kingdom of Belgium and between N.V. Seaport Terminals and (1) the Kingdom of Belgium and (2) N.V. United Antwerp Maritime Agencies

(Case C-140/04)

(2004/C 106/71)

The Hof van Beroep Antwerp te Antwerpen (Court of Appeal, Antwerp), on the basis of its decision of 11 March 2004, received at the Court's Registry on 16 March 2004, in the proceedings pending before that court between N.V. United Antwerp Maritime Agencies and the Kingdom of Belgium and between N.V. Seaport Terminals and (1) the Kingdom of Belgium and (2) N.V. United Antwerp Maritime Agencies, refers to the Court of Justice for the European Communities for a preliminary ruling the following questions:

1. May the person who must present the goods to customs (Article 40 of the Community Customs Code in Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ 1992 L 302, p.1)) be deemed to be the person required to fulfil the obligations arising from temporary storage of the goods (final indent of Article 203(3) of the Community Customs Code), in which connection he or his representative must lodge the summary declaration (Article 44(2) thereof) and must sign it

(Article 183(1) of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ 1993 L 253, p. 1)), and must make the goods available to the customs authorities for as long as they have not been released from the means of transport in which they are located when the goods are brought into the Community and until such time as those goods have received a custom designation?

2. May the person required to fulfil the obligations arising from temporary storage of the goods (final indent of Article 203(3) of the Community Customs Code) be deemed to be the person who, after release of the goods, has them in his possession in order to move them or store them, in consequence of which, under Article 51(2) and 53(2) of the Community Customs Code, he is deemed to be the holder of the goods and is consequently required, under Article 184(2) of the implementing provisions, to re-present the goods at the request of the customs authorities?
3. If the first and second questions are answered affirmatively, may the persons referred to in those questions consequently be deemed to be joint and several customs debtors, it being understood that the persons mentioned in the first and second questions are different persons (in this case the representative of the shipping line by which the goods were brought into the Community and the freight forwarder responsible for the storage and removal of the goods at the unloading place or quayside indicated by the customs authorities)?
4. If the third question is answered affirmatively does the person mentioned in the first question remain the debtor until the goods are given a customs designation, regardless of the fact that after release of the goods from the means of transport by which they entered the Community they were stored with or removed by the person mentioned in the second question?
5. If the third question is answered in the negative must the person mentioned in the first question be regarded as remaining a customs debtor until the goods are received by the person mentioned in the second question and does the person mentioned in the second question become a debtor only from the time when he arranges the storage and removal of the goods?
6. If the first question is answered affirmatively and the second question negatively must the person mentioned in the first question continue to be regarded as the debtor until the time when the goods are received by the person mentioned in the second question or until the time when the goods have been given a customs designation?