

JUDGMENT OF THE COURT**(Second Chamber)****of 14 October 2004****in Case C-55/03: Commission of the European Communities v Kingdom of Spain ⁽¹⁾****(Workers — Recognition of diplomas — Civil air traffic controllers — Inadmissibility)**

(2004/C 300/35)

(Language of the case: Spanish)

In Case C-55/03: action under Article 226 EC for failure to fulfil obligations, brought on 11 February 2003 by Commission of the European Communities (Agents: M. Patakia and M. Valverde López) against Kingdom of Spain (Agent: S. Ortiz Vaamonde) — the Court (Second Chamber), composed of: C.W.A. Timmermans (Rapporteur), President of the Chamber, C. Gulmann, R. Schintgen, G. Arestis and J. Klučka, Judges; Advocate General: P. Léger; Registrar: R. Grass, gave a judgment on 14 October 2004, in which it:

1. Dismisses the action as inadmissible;
2. Orders the Commission of the European Communities to pay the costs.

⁽¹⁾ OJ C 83 of 5.4.2003.

JUDGMENT OF THE COURT**(Second Chamber)****of 12 October 2004****in Case C-60/03 (reference for a preliminary ruling from the Bundesarbeitsgericht): Wolff & Müller GmbH & Co. KG v José Filipe Pereira Félix ⁽¹⁾****(Article 49 EC — Restrictions on freedom to provide services — Undertakings in the construction sector — Subcontracting — Obligation on an undertaking to act as guarantor in respect of the minimum remuneration of workers employed by a subcontractor)**

(2004/C 300/36)

(Language of the case: German)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case C-60/03: reference for a preliminary ruling under Article 234 EC, from the Bundesarbeitsgericht (Germany),

made by decision of 6 November 2002, received at the Court on 14 February 2003, in the proceedings between Wolff & Müller GmbH & Co. KG and José Filipe Pereira Félix — the Court (Second Chamber), composed of: C.W.A. Timmermans (Rapporteur), President of the Chamber, C. Gulmann and R. Schintgen, F. Macken and N. Colneric, Judges; D. Ruiz-Jarabo Colomer, Advocate General; M. Múgica Arzamendi, Principal Administrator, for the Registrar, has given a judgment on 12 October 2004, in which it has ruled:

Article 5 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, interpreted in the light of Article 49 EC, does not preclude, in a case such as that in the main proceedings, a national system whereby, when subcontracting the conduct of building work to another undertaking, a building contractor becomes liable, in the same way as a guarantor who has waived benefit of execution, for the obligation on that undertaking or that undertaking's subcontractors to pay the minimum wage to a worker or to pay contributions to a joint scheme for parties to a collective agreement where the minimum wage means the sum payable to the worker after deduction of tax, social security contributions, payments towards the promotion of employment or other such social insurance payments (net pay), if the safeguarding of workers' pay is not the primary objective of the legislation or is merely a subsidiary objective.

⁽¹⁾ OJ C 112 of 10.5.2003.

JUDGMENT OF THE COURT**(Second Chamber)****of 12 October 2004****in Case C-106/03 P: Vedral SA v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) ⁽¹⁾****(Appeal — Community trade mark — Article 8(1)(b) of Regulation (EC) No 40/94 — Likelihood of confusion — Word and figurative mark HUBERT — Opposition of the proprietor of the national word mark SAINT-HUBERT 41 — Capacity of OHIM as defendant before the Court of First Instance)**

(2004/C 300/37)

(Language of the case: French)

In Case C-106/03 P: appeal under Article 56 of the Statute of the Court of Justice, lodged at the Court on 27 February 2003, Vedral SA, established in Ludres (France), (avocats: T. van Innis, G. Glas and F. Herbert) and Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (Agents: O. Montalto and P. Geroulakos — the Court (Second Chamber),