

The applicant claims that the Court should:

- lift the Commission's immunity so that the funds which it holds in favour of the judgment debtor, in this case CESD – Communautaire a.s.b.l., may be garnisheed, there being no argument either in law or fact that the Commission, as garnishee, does not validly discharge its liability for the funds which it holds provisionally to the judgment debtor's order by paying them to the judgment creditor;
- order the Commission to pay all the costs.

Application for authorisation to serve a garnishee order brought on 28 January 2005 by Names b.v. against the Commission of the European Communities

(Case C-2/05 SA)

(2005/C 82/12)

An application for authorisation to serve a garnishee order on the Commission of the European Communities was brought before the Court of Justice of the European Communities on 28 January 2005 by Names b.v., represented by R. Nathan, avocat.

The applicant claims that the Court should:

- lift the Commission's immunity so that the funds which it holds in favour of the judgment debtor, in this case CESD – Communautaire a.s.b.l., may be garnisheed, there being no argument either in law or fact that the Commission, as garnishee, does not validly discharge its liability for the funds which it holds provisionally to the judgment debtor's order by paying them to the judgment creditor;
 - order the Commission to pay all the costs.
-

Application for authorisation to serve a garnishee order brought on 28 January 2005 by the Republic of Kazakhstan Statistics Agency against the Commission of the European Communities

(Case C-3/05 SA)

(2005/C 82/13)

An application for authorisation to serve a garnishee order on the Commission of the European Communities was brought before the Court of Justice of the European Communities on 28 January 2005 by the Republic of Kazakhstan Statistics Agency, represented by R. Nathan, avocat.

The applicant claims that the Court should:

- lift the Commission's immunity so that the funds which it holds in favour of the judgment debtor, in this case CESD – Communautaire a.s.b.l., may be garnisheed, there being no argument either in law or fact that the Commission, as garnishee, does not validly discharge its liability for the funds which it holds provisionally to the judgment debtor's order by paying them to the judgment creditor;
- order the Commission to pay all the costs.

Reference for a preliminary ruling by the Arbeidshof te Brussel of 23 December 2004 in the case of Rijkdienst voor Sociale Zekerheid. v N.V. Herbosch-Kiere

(Case C-2/05)

(2005/C 82/14)

(Language of the case: Dutch)

Reference has been made to the Court of Justice of the European Communities by judgment of 23 December 2004 of the Arbeidshof te Brussel (Brussels Higher Labour Court), which was received at the Court Registry on 5 January 2005, for a preliminary ruling in the case of Rijkdienst voor Sociale Zekerheid. v N.V. Herbosch-Kiere on the following questions:

May a court of the host State examine and/or determine whether a direct relationship exists between the undertaking which has posted a worker and the posted worker himself, in view of the fact that the term 'undertaking to which he is normally attached' in Article 14(1)(a) of Regulation (EEC) No 1408/71⁽¹⁾ requires (pursuant to Decision No 128) that there be a direct relationship throughout the period of posting?

May a court of a Member State other than that which issued the abovementioned certificate (E 101 certificate) disregard and/or annul that certificate if it appears from the factual circumstances presented for its consideration that the direct relationship between the undertaking which posted the worker and the posted worker himself did not exist during the period of posting?

Is the competent institution of the State of origin bound by a decision of a court of the host State which, in circumstances such as those set out above, disregards and/or annuls the abovementioned certificate (E 101 certificate)?

⁽¹⁾ Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community (O), English Special Edition 1971(II), p. 416.

References for preliminary rulings from the Bundesgerichtshof by orders of that court of 11 October 2004 in *Saatgut-Treuhandverwaltungs GmbH v The heirs of Dieter Deppe*: 1. Ulrich Deppe, 2. Hanne-Rose Deppe, 3. Thomas Deppe, 4. Matthias Deppe, 5. Christine Urban, née Deppe (C-7/05), *Siegried Hennings* (C-8/05) and *Hartmut Lübbe* (C-9/05)

(Cases C-7/05, C-8/05, C-9/05)

(2005/C 82/15)

(Language of the cases: German)

References have been made to the Court of Justice of the European Communities by orders of the Bundesgerichtshof (Federal Court of Justice) (Germany) of 11 October 2004, received at the Court Registry on 14 January 2005, for preliminary rulings in the proceedings between *Saatgut-Treuhandverwaltungs GmbH* and the heirs of *Dieter Deppe*: 1. Ulrich Deppe, 2. Hanne-Rose Deppe, 3. Thomas Deppe, 4. Matthias Deppe, 5. Christine Urban, née Deppe (C-7/05), *Siegried Hennings* (C-8/05) and *Hartmut Lübbe* (C-9/05) on the following questions:

1. Is the requirement that the level of remuneration for the planting of harvested material within the meaning of Article 5(2) of Regulation (EC) No 1768/95⁽¹⁾ be 'sensibly lower' than the amount charged for the licensed production of propagating material of the same variety in the same area satisfied even if the remuneration is calculated at a flat rate of 80 % of that amount?

2. Does Article 5(4) and (5) of Regulation (EC) No 1768/95, as amended by Regulation (EC) No 2605/98⁽²⁾, contain a commitment in value terms with respect to the level of remuneration for the planting of harvested material in the event of statutory assessment?

If so, does that commitment, as the expression of a general idea, also apply to plantings of harvested material occurring before Regulation (EC) No 2605/98 entered into force?

3. Does the guideline function of an agreement between organisations of holders of plant variety rights and farmers within the meaning of Article 5(4) of Regulation (EC) No 1768/95, as amended by Regulation (EC) No 2605/98, include the possibility, in the event of statutory assessment, of the essential elements (calculation parameters) of that agreement being applied even if, at the time of the calculation of the statutory remuneration, not all of the parameters lying within the sphere of the planter of the harvested material and required for calculation based on the agreement are known to the holder and he is not entitled to be notified of the relevant facts by the farmer?

If so, does such an agreement, if it is to perform a guiding function along these lines, presuppose, for its effectiveness, compliance with the requirements laid down in Article 5(4) of Regulation (EC) No 1768/95, as amended by Regulation (EC) No 2605/98, even if it was concluded before the latter regulation entered into force?

4. Does Article 5(5) of Regulation (EC) No 1768/95, as amended by Regulation (EC) No 2605/98, set an upper limit on the remuneration under contractual and/or statutory remuneration arrangements?

5. Can an agreement between professional organisations be used as a guideline within the meaning of Article 5(4) of Regulation (EC) No 1768/95, as amended by Regulation (EC) No 2605/98, if it exceeds the rate of remuneration of 50 % of the amount defined in Article 5(5) of that regulation?

⁽¹⁾ OJ 1995 L 173, p. 14.

⁽²⁾ OJ 1998 L 328, p. 6.