JUDGMENT OF THE COURT

(Sixth Chamber)

of 22 January 2004

in Case C-353/01 P: Olli Mattila [1]

(Appeal — Access to documents — Decisions 93/731/EC and 94/90/ECSC, EC, Euratom — Exception relating to the protection of the public interest in the field of international relations — Partial access)

(2004/C 71/02)

(Language of the case: English)

In Case C-353/01 P, Olli Mattila (Agent: Z. Sundström), with an address for service in Luxembourg: Appeal against the judgment of the Court of First Instance of the European Communities (Fifth Chamber) of 12 July 2001 in Case T-204/99 Mattila v Council and Commission [2001] ECR II-2265, seeking to have that judgment set aside, the other parties to the proceedings being: Council of the European Union (Agents: J. Aussant and M. Bauer), with an address for service in Luxembourg, and Commission of the European Communities (Agents: C. Docksey and U. Wölker) with an address for service in Luxembourg, the Court (Sixth Chamber), composed of: C. Gulmann, acting for the President of the Sixth Chamber, J.N. Cunha Rodrigues (Rapporteur), J.-P. Puissochet, R. Schintgen and F. Macken, Judges; P. Léger, Advocate General; H. von Holstein, Deputy Registrar, has given a judgment on 22 January 2004, in which it:

1. *Sets aside the judgment of the Court of First Instance of the European Communities of 12 July 2001 in Case T-204/99 Mattila v Council and Commission in so far as it rejects Mr Mattila's form of order seeking annulment of the decisions of the Commission of the European Communities and the Council of the European Union of 5 and 12 July 1999 respectively refusing the appellant access to certain documents;*

2. *Annuls those decisions;*

3. *Dismisses the remainder of the appeal;*

4. *Orders the Council and the Commission to pay the costs relating to both sets of proceedings.*

([1]) OJ C 317 of 10.11.2001.

JUDGMENT OF THE COURT

(Fifth Chamber)

of 15 January 2004

in Case C-433/01 (Reference for a preliminary ruling from the Bundesgerichtshof): Freistaat Bayern v Jan Blijdenstein [1]

(Brussels Convention — Special rules of jurisdiction — Article 5(2) — Maintenance — Action for recovery brought by a public body subrogated to the rights of the maintenance creditor)

(2004/C 71/03)

(Language of the case: German)

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

In Case C-433/01: Reference to the Court, pursuant to the Protocol of 3 June 1971 on the interpretation by the Court of Justice of the Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters, by the Bundesgerichtshof (Germany) for a preliminary ruling in the proceedings pending before that court between Freistaat Bayern and Jan Blijdenstein, on the interpretation of Article 5(2) of the abovementioned Convention of 27 September 1968 (OJ 1978 L 304, p. 36), as amended by the Convention of 9 October 1978 on the accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland (OJ 1978 L 304, p. 1, and — amended text— p. 77), by the Convention of 25 October 1982 on the accession of the Hellenic Republic (OJ 1982 L 388, p. 1), and by the Convention of 26 May 1989 on the accession of the Kingdom of Spain and the Portuguese Republic (OJ 1989 L 285, p. 1), the Court (Fifth Chamber), composed of: P. Jann (Rapporteur), acting for the President of the Fifth Chamber, C.W.A. Timmermans and A. Rosas, Judges; A. Tizzano, Advocate General; R. Grass, Registrar, has given a judgment on 15 January 2004, in which it has ruled:

Article 5(2) of the Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters, as amended by the Convention of 9 October 1978 on the accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, by the Convention of 25 October 1982 on the accession of the Hellenic Republic and by the Convention of 26 May 1989 on the accession of the Kingdom of Spain and the Portuguese Republic must be interpreted as meaning that it cannot be relied on by a public body which seeks, in an action for recovery,

reimbursement of sums paid under public law by way of an education grant to a maintenance creditor, to whose rights it is subrogated against the maintenance debtor.

(1) OJ C 31 of 2.2.2002.

JUDGMENT OF THE COURT

(Sixth Chamber)

of 5 February 2004

in Case C-18/02 (Reference for a preliminary ruling from the Arbejdsret): Danmarks Rederiforening v LO Landsorganisationen i Sverige (1)

(Brussels Convention — Article 5(3) — Jurisdiction in matters relating to tort, delict or quasi-delict — Place where the harmful event occurred — Measure taken by a trade union in a Contracting State against the owner of a ship registered in another Contracting State)

(2004/C 71/04)

(Language of the case: Danish)

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

In Case C-18/02: Reference to the Court under the Protocol of 3 June 1971 on the interpretation by the Court of Justice of the Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters by the Arbejdsret (Denmark) for a preliminary ruling in the proceedings pending before that court between Danmarks Rederiforening, acting on behalf of DFDS Torline A/S, and LO Landsorganisationen i Sverige, acting on behalf of SEKO Sjöfolk Facket för Service och Kommunikation, on the interpretation of Article 5(3) of the abovementioned Convention of 27 September 1968 (OJ 1978 L 304, p. 36), as amended by the Convention of 9 October 1978 on the Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland (OJ 1978 L 304, p. 1, and — amended version — p. 77), by the Convention of 25 October 1982 on the Accession of the Hellenic Republic (OJ 1982 L 388, p. 1), by the Convention of 26 May 1989 on the Accession of the Kingdom of Spain and the Portuguese Republic (OJ 1989 L 285, p. 1) and by the Convention of 29 November 1996 on the Accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden (OJ 1997 C 15, p. 1), the Court (Sixth Chamber), composed of: V. Skouris, acting on behalf of the President of the Sixth Chamber, J.N. Cunha Rodrigues (Rapporteur), J.-P. Puissochet, R. Schintgen and F. Macken, Judges; F.G. Jacobs, Advocate General; H. von Holstein, Deputy Registrar, has given a judgment on 5 February 2004, in which it has ruled:

1. (a) *Article 5(3) of the Brussels Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters, as amended by the Convention of 9 October 1978 on the Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, by the Convention of 25 October 1982 on the Accession of the Hellenic Republic, by the Convention of 26 May 1989 on the Accession of the Kingdom of Spain and the Portuguese Republic and by the Convention of 29 November 1996 on the Accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden, must be interpreted as meaning that a case concerning the legality of industrial action, in respect of which exclusive jurisdiction belongs, in accordance with the law of the Contracting State concerned, to a court other than the court which has jurisdiction to try the claims for compensation for the damage caused by that industrial action, falls within the definition of 'tort, delict or quasi-delict'.*

   (b) *For the application of Article 5(3) of the Brussels Convention to a situation such as that in the dispute in the main proceedings, it is sufficient that that industrial action is a necessary precondition of sympathy action which may result in harm.*

   (c) *The application of Article 5(3) of the Brussels Convention is not affected by the fact that the implementation of industrial action was suspended by the party giving notice pending a ruling on its legality.*

2. *In circumstances such as those in the main proceedings, Article 5(3) must be interpreted as meaning that the damage resulting from industrial action taken by a trade union in a Contracting State to which a ship registered in another Contracting State sails can be regarded as having occurred in the flag State, with the result that the shipowner can bring an action for damages against that trade union in the flag State.*

(1) OJ C 109 of 4.5.2002.