In conclusion, pursuant to Article 234 EC, the questions indicated above regarding the interpretation of Articles 17 and 19 of Council Directive 86/653/EEC of 18 December 1986 on the coordination of the laws of the Member States relating to self-employed commercial agents must be referred to the Court of Justice.

Reference for a preliminary ruling by the Gerechtshof Arnhem, by decision of that court of 27 October 2004 in the case of N. against Inspecteur van de Belastingdienst Oost/Kantoor Almelo

(Case C-470/04)

(2005/C 31/11)

(Language of the case: Dutch)

Reference has been made to the Court of Justice of the European Communities by order of the Gerechtshof Arnhem, (Court of Appeal, Arnhem) (Netherlands) of 27 October 2004 received at the Court Registry on 2 November 2004, for a preliminary ruling in the case of N. against Inspecteur van de Belastingdienst Oost/Kantoor Almelo on the following questions:

1.1.1 Can a resident of a Member State who ceases to reside in that Member State in order to establish himself in another Member State rely, in proceedings against the Member State which he is leaving, on the application of Article 18 EC, solely on the ground that the serving of a tax assessment linked with his departure entails, or may entail, an obstacle to that departure?

1.1.2 If the answer to question 1.1.1 is negative, can a resident of a Member State who ceases to reside in that Member State in order to establish himself in another Member State rely, in proceedings against the Member State which he is leaving, on the application of Article 43 EC if it is not clear or plausible from the outset that he will be pursuing in the other Member State an economic activity as referred to in that article? Is it relevant to the answer to the previous question that that activity will be pursued within a foreseeable period? If so, how long may that period be?

1.1.3 If the answer to question 1.1.1 or 1.1.2 is affirmative, do Articles 18 or 43 EC preclude the relevant Dutch legislation by virtue of which an assessment to income tax and social insurance contributions is served in respect of the deemed enjoyment of profit from a substantial shareholding, solely on the ground that a resident of the Netherlands who ceases to be a domestic taxpayer because he has moved his place of residence to another Member State is deemed to have disposed of those of his shares which form part of a substantial holding?

1.1.4 If the answer to question 1.1.3 is affirmative because of the fact that security has to be provided to enable a deferment of payment of the tax assessed, can the existing obstacle then be removed with retroactive effect through the release of the security provided? Does the answer to this question depend on whether the security is released on the basis of legislation or a rule of policy, whether or not adopted in the context of enforcement? Does the answer to this question depend on whether compensation is provided for any loss incurred as a result of the provision of security?

1.1.5 If the answer to question 1.1.3 is affirmative and the answer to the first question in 1.1.4 is negative, can the obstacle which then exists be justified?

Action brought on 16 November 2004 by the Commission of the European Communities against the Italian Republic

(Case C-477/04)

(2005/C 31/12)

(Language of the case: Italian)

An action against the Italian Republic was brought before the Court of Justice of the European Communities on 16 November 2004 by the Commission of the European Communities, represented by Chiara Cattabriga and Barry Doherty, acting as Agents.

The Commission claims that the Court should:

— declare that, by having failed to adopt the laws, regulations and administrative provisions necessary to comply with Council Directive 2002/11/EC [1] of 14 February 2002 amending Directive 68/193/EEC [2] on the marketing of material for the vegetative propagation of the vine and repealing Directive 74/649/EEC or, in any case, by having failed to communicate them to the Commission, the Italian Republic has failed to fulfil its obligations under Article 3 of that directive;

— order the Italian Republic to pay the costs.

Pleas in law and main arguments

The period prescribed for the transposition of the directive into national law expired on 3 February 2003.

[1] OJ L 53 of 23 February 2002, p. 20.
[2] OJ, English Special Edition: 1968(I), p. 93

Action brought on 16 November 2004 by the Commission of the European Communities against the Italian Republic

(Case C-478/04)

(2005/C 31/13)

(Language of the case: Italian)

An action against the Italian Republic was brought before the Court of Justice of the European Communities on 16 November 2004 by the Commission of the European Communities, represented by Minas Konstantinidis and Giuseppe Bambara, acting as Agents.

— The applicant claims that the Court should declare that:

a) by not adopting the necessary measures to ensure that dangerous waste deposited in the dump of Ca di Capri (Verona) are recovered or disposed of without endangering human health and without using procedures or methods which might be prejudicial to the environment; and

b) by not adopting the necessary measures to ensure that the owner of dangerous waste deposited in that dump consigns such waste to a private or public disposal contractor, or to an undertaking carrying out the operations referred to in Annexes IIA or IIB to the directive, or himself carries out its recovery or disposal in compliance with Community provisions; and

c) by not adopting the necesssary measures to ensure, in relation to such dumping, that, at the place where dangerous waste is deposited, it is catalogued and identified, that various categories of dangerous waste are not mixed together, and that dangerous waste is not mixed with non-dangerous waste,

the Italian Republic has failed to fulfil its obligations under Articles 4 and 8 of Directive 75/442/EEC [1] on waste, as amended by Council Directive 91/156/EEC [2] and under Article 2(1) and (2) of Council Directive 91/689/EEC [3] on hazardous waste.

— order the Italian Republic to pay the costs

Pleas in law and main arguments

The Commission maintains that, on the grounds set out in its application, the Italian Republic has, in relation to the dump of Ca di Capri (Verona) failed to fulfil its obligations under Directive 75/442/EEC as amended by Directive 91/156/EC, and under Directive 91/689/EEC.

[1] OJ 1975 L 194, p. 39
[2] OJ 1991 L 78, p. 32
[3] OJ 1991 L 377, p. 20

Reference for a preliminary ruling by the Østre Landsret by decision of that court of 16 November 2004 in the case of Laserdisken ApS against Kulturministeriet

(Case C-479/04)

(2005/C 31/14)

(Language of the case: Danish)

By order of 16 November 2004 of the Østre Landsret (Eastern Regional Court), Denmark, received at the Court Registry on 19 November 2004, reference has been made to the Court of Justice of the European Communities for a preliminary ruling in the case of Laserdisken ApS against Kulturministeriet on the following questions:

1. Is Article 4(2) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society [1] invalid?