Action brought on 11 April 2007 — Commission of the European Communities v Kingdom of Spain

(Case C-196/07)

(2007/C 155/18)

Language of the case: Spanish

Parties

Applicant: Commission of the European Communities (represented by: V. Di Bucci and E. Gippini Fournier, Agents)

Defendant: Kingdom of Spain

Form of order sought

— declare that by not withdrawing without delay a number of conditions imposed by the decision of the National Energy Committee (CNE) (conditions 1 to 6, 8 and 17) which were declared incompatible with Community law by Article 1 of the Commission Decision of 26 September 2006 (Case No COMP/M.4197 — E.ON/Endesa — C(2006)4279 final) and by not withdrawing by 19 January 2007 a number of conditions imposed by decision of the Ministry (amended conditions 1, 10, 11 and 15) which declared incompatible with Community law by Article 1 of the Commission Decision of 20 December 2006 (Case No COMP/M.4197 — E.ON/Endesa — C(2006)7039 final), the Kingdom of Spain has failed to fulfil its obligations under Article 2 of both decisions;

— order the Kingdom of Spain to pay the costs.

Pleas in law and main arguments

The Spanish authorities have not withdrawn a number of conditions imposed by the decision of the CNE (conditions 1 to 6, 8 and 17) which were declared incompatible with Community law by Article 1 of the Commission Decision of 26 September 2006 and have not withdrawn the amended conditions imposed by decision of the Ministry (amended conditions 1, 10, 11 and 15) which were declared incompatible with Community law by Article 1 of the second Commission Decision of 20 December 2006.

The first decision required that the Kingdom of Spain withdraw the conditions in question 'without delay'. Upon expiry of the period prescribed by the Commission for compliance with the reasoned opinion, almost six months had elapsed since the notification of the first decision, so that it is clear that the Kingdom of Spain had not complied 'without delay' with the obligation imposed by Article 2.

The deadline of 19 January 2007 for compliance with the Commission's second decision expired without the Kingdom of Spain having withdrawn the conditions declared by that decision to be incompatible with Community law.

It follows that the Kingdom of Spain has failed to comply with Article 2 of the Commission's first decision and with Article 2 of its second decision.

Appeal brought on 16 April 2007 by the Hellenic Republic against the judgment delivered by the Court of First Instance (First Chamber) on 17 January 2007 in Case T-231/04 Hellenic Republic v Commission of the European Communities

(Case C-203/07 P)

(2007/C 155/19)

Language of the case: Greek

Parties

Appellant: Hellenic Republic (represented by: P. Milonopoulos and S. Trekli)

Other party to the proceedings: Commission of the European Communities

Form of order sought

— allow the present appeal;

— set aside the judgment of the Court of First Instance in so far as it is contested;

— grant the application in accordance with the form of order sought;

— order the Commission to pay the costs.

Pleas in law and main arguments

The Hellenic Republic submits that the Court of First Instance of the European Communities misinterpreted Articles 12, 13 and 15 of the initial memorandum of understanding, Article 14 of the additional memorandum and the principles of good faith and of the protection of legitimate expectations, since it held that the obligations of the Member States in connection with the Abuja I and II projects were determined by the conduct of each Member State and not that they were of a purely contractual nature and determined by the provisions of the two abovementioned memoranda; on a proper interpretation of the foregoing provisions of those contractual documents, however, it had to be accepted that financial obligations had not arisen for the Hellenic Republic since it had only signed and had not ratified the additional memorandum, it had therefore not approved that memorandum, and all the special conditions laid down for the arising of financial obligations had not been met in the case of the Hellenic Republic.

The Hellenic Republic submits that the Court of First Instance of the European Communities misinterpreted Article 15 of the initial memorandum of understanding in holding that, prior to signature of the additional memorandum, an agreement was implicitly concluded by the partners on 24 February 1997 to implement the project and in this way Article 15(1) essentially was set aside or was amended.

Reference for a preliminary ruling from the Bayerisches Landessozialgericht (Germany) lodged on 20 April 2007 — Petra von Chamier-Glisczinki v Deutsche Angestellten-Krankenkasse

(Case C-208/07)

(2007/C 155/20)

Language of the case: German

Referring court

Bayerisches Landessozialgericht

Parties to the main proceedings

Appellant: Petra von Chamier-Glisczinki

Respondent: Deutsche Angestellten-Krankenkasse

Questions referred

1. Should Article 19(1)(a) — in conjunction, as the case may be, with Article 19(2) — of Regulation (EEC) No 1408/71 ([1]) be interpreted in the light of Article 18 EC and Articles 39 EC and 49 EC, in conjunction with Article 10 of Regulation (EEC) No 1612/68 ([2]), as meaning that an employed or self-employed person, or a member of that person's family, may not receive any cash benefits or reimbursement provided on behalf of the competent institution by the institution of the place of residence, if there is provision under the law applicable to the institution of the place of residence for persons insured by that institution to receive only cash benefits, and not benefits in kind?

2. If there is no such entitlement to benefits in kind, is there, in the light of Article 18 EC, or Articles 39 EC and 49 EC, any entitlement to payment — subject to prior approval — by the competent institution of the costs of in-patient care in a care home situated in another Member State, in the amount of the benefits payable in the competent Member State?

([1]) OJ, English Special Edition 1971(II), p. 416.
([2]) OJ, English Special Edition 1968(II), p. 475.

Action brought on 20 April 2007 — Commission of the European Communities v Ireland

(Case C-211/07)

(2007/C 155/21)

Language of the case: English

Parties

Applicant: Commission of the European Communities (represented by: N. Yerrell, Agent)

Defendant: Ireland

The applicant claims that the Court should:

— declare that in maintaining in force Sections 5.2 and 5.3 of the Motor Insurance Agreement of 31st May 2004 and in particular by i) excluding compensation to users of vehicles if all vehicles involved are uninsured, and ii) limiting the right to compensation in respect of persons in an uninsured vehicle which did not cause the damage or injury, the Republic of Ireland has failed to fulfil its obligations under Council Directive 84/5/EEC of 30th December 1983 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles, and in particular Article 1(4), third subparagraph thereof, and

— order Ireland to pay the costs.

Pleas in law and main arguments

Section 5.3 of the Agreement between the Minister of Transport and the Motor Insurers' Bureau of Ireland of 31st May 2004 ('the Agreement') provides for the exclusion of compensation for **all** drivers of uninsured vehicles, whether causing the accident or not), and thus goes beyond the permitted scope of the exclusion laid down in the third subparagraph of Article 1(4) of the directive.

As regards the situation of passengers travelling in uninsured vehicles, section 5.2 of the Agreement provides for a general exclusion from compensation in all cases where the injured person '*knew or ought reasonably to have known that there was not in force an approved policy of insurance*'. **All** passengers in uninsured vehicles are accordingly treated identically, regardless of whether they were travelling in the vehicle causing the damage or injury or not. This is in clear contradiction with the wording of the third subparagraph of Article 1(4) of the directive, which