Must a Member State or one of a Member State's regional or local authorities take account, when calculating the remuneration of contractual public servants, of periods of employment in certain institutions in Switzerland, which are comparable to institutions listed in Paragraph 41(2) of the Tiroler Landesvertragsbedienstetengesetz (Law of the Province of Tyrol on Contractual Public Servants) (or, in the alternative, of Paragraph 26(2) of the Vertragsbedienstetengesetz 1948 (Federal Law on Contractual Public Servants of 1948)) *without temporal limitation*, or is the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons (OJ 2002 L 114), in particular Article 9(1) of Annex I thereto, rather to be interpreted as meaning that it is permissible *to take account only* of periods of employment by contractual public servants in Switzerland *after the entry into force* of that agreement on 1 June 2002?

Reference for a preliminary ruling from the Arbetsdomstolen by order of that court of 15 September 2005 in Laval un Partneri Ltd v Svenska Byggnadsarbetareförbundet, Avdelning 1 of the Svenska Byggnadsarbetareförbundet, Svenska Elektrikerförbundet

(Case C-341/05)

(2005/C 281/18)

(Language of the case: Swedish)

Reference has been made to the Court of Justice of the European Communities by order of the Arbetsdomstolen of 15 September 2005, received at the Court Registry on 19 September 2005, for a preliminary ruling in the proceedings between Laval un Partneri Ltd and Svenska Byggnadsarbetareförbundet, Avdelning 1 of the Svenska Byggnadsarbetareförbundet, Svenska Elektrikerförbundet on the following questions:

1. Is it compatible with rules of the EC Treaty on the freedom to provide services and the prohibition of discrimination on the grounds of nationality and with the provisions 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 for trade unions to attempt, by means of industrial action in the form of a blockade, to force a foreign temporary provider of services in the host country to sign a collective agreement in respect of terms and conditions of employment such as that set out in the above-mentioned decision of the Arbetsdomstolen, if the situation in the host country is such that the legislation intended to implement Directive 96/71 has no express provisions concerning the application of terms and conditions of employment in collective agreements?

2. The Swedish Medbestämmandelagen (Law on workers' participation in decisions) prohibits industrial action taken with the intention of circumventing a collective agreement concluded by other parties. That prohibition applies, however, pursuant to a special provision contained in part of the law known as the 'lex Britannia', only where a trade union takes measures in respect of industrial relations to which the Medbestämmandelagen is directly applicable, which means in practice that the prohibition is not applicable to industrial action against a foreign undertaking which is temporarily active in Sweden and which brings its own workforce. Do the rules of the EC Treaty on the freedom to provide services and the prohibition on discrimination on grounds of nationality and the provisions of Directive 96/71 constitute an obstacle to an application of the latter rule — which, together with other parts of the lex Britannia also mean in practice that Swedish collective agreements become applicable and take precedence over foreign collective agreements already concluded — to industrial action in the form of a blockade taken by Swedish trade unions against a foreign temporary provider of services in Sweden?

Action brought on 19 September 2005 by the Commission of the European Communities against the Republic of Finland

(Case C-342/05)

(2005/C 281/19)

(Language of the case: Finnish)

An action against the Republic of Finland was brought before the Court of Justice of the European Communities on 19 September 2005 by the Commission of the European Communities, represented by M. van Beek and I. Koskinen, acting as Agent, with an address for service in Luxembourg.

The Commission claims that the Court should:

1. declare that, by regularly permitting the hunting of wolves contrary to the principles for derogations laid down in Article 16(1) of Council Directive 92/43/EEC [1] of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, the Republic of Finland has failed to fulfil its obligations under Articles 12(1) and 16(1) of the directive;

2. order the Republic of Finland to pay the costs.

Pleas in law and main arguments

Article 16 of Directive 92/43/EEC is an exception to the system of the strict protection of species in Article 12, so that it must be interpreted strictly. Article 12(1) lays down two preconditions for derogating on the basis of points (a) to (e). First, the derogation must not be detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range. Second, a derogation is possible only where there is no other satisfactory solution.

Since the level of protection of the wolf is not favourable in Finland and other alternative methods are available, and since permits for hunting wolves are regularly issued without there being a properly ascertained connection with individuals causing particularly significant damage, the hunting of wolves is permitted in Finland to an extent which exceeds the conditions laid down in Article 16(1) of Directive 92/43/EEC.

(1) OJ L 206 of 22.7.1992, p. 7.

Action brought on 19 September 2005 by the Commission of the European Communities against the Republic of Finland

(Case C-343/05)

(2005/C 281/20)

(Language of the case: Finnish)

An action against the Republic of Finland was brought before the Court of Justice of the European Communities on 19 September 2005 by the Commission of the European Communities, represented by L. Pignataro Nolin and M. Huttunen, acting as Agents, with an address for service in Luxembourg.

The Commission claims that the Court should:

1. declare that:

   by not ensuring that Ahvenanmaa (Åland) has transposed into its legislation Article 8a of Directive 89/622/EEC, which was added by Directive 92/41/EC and is contained in Article 8 of Directive 2001/37/EC, (1) and

   by not enduring that the prohibition in the abovementioned Community provisions of marketing nuuska (oral tobacco) is complied with on vessels registered in Finland,

   the Republic of Finland has failed to fulfil its obligations under the EC Treaty and Directive 2001/37/EC;

2. order the Republic of Finland to pay the costs.

Pleas in law and main arguments

The list in Annex II to Directive 2001/37/EC mentions Directive 92/41/EEC and the time-limit for transposing its provisions into national legislation was 1 July 1992. In the case of Finland, the time-limit for transposing the provisions into national legislation based on Finland's accession was 1 January 1995, even though it must be stated that compliance with the directive was already mandatory for Finland from 1 January 1994 under the Agreement on the European Economic Area.

(1) Directive 2001/37/EC of the European Parliament and of the Council of 5 June 2001 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco products, OJ L 194 of 18.7.2001, p. 26.

Appeal brought on 21 September 2005 by the Commission of the European Communities against the judgment delivered on 12 July 2005 by the Court of First Instance of the European Communities (single judge) in Case T-157/04 *Joël de Bry* v *Commission of the European Communities*

(Case C-344/05 P)

(2005/C 281/21)

(Language of the case: French)

An appeal against the judgment delivered on 12 July 2005 by the Court of First Instance of the European Communities (single judge) in Case T-157/04 *Joël de Bry* v *Commission of the European Communities* was brought before the Court of Justice of the European Communities on 21 September 2005 by the Commission of the European Communities, represented by Lidia Lozano Palacios and Hannes Kraemer, acting as Agents.

The appellant claims that the Court should:

— set aside the judgment under appeal

— pass final judgment on the dispute, allowing the claims submitted by the defendant at first instance and, consequently, dismissing the application in Case T-157/04;