Roj: **ATSJ PV 141/2023 - ECLI:EN:TSJPV:2023:141A**

Cendoj Id: **48020340012023200032**
Body: **Tribunal Superior de Justicia. Social Chamber**
Headquarters: **Bilbao**
Section: **1**
Date: **20/06/2023**
Appeal No: **517/2023**
Resolution No:
Procedure: **Appeal**
Rapporteur: **JOSE FELIX LAJO GONZALEZ**
Type of Resolution: **Auto**

Case decisions: **ATSJ PV 141/2023,**
PTJUE 372/2024

Social Division of the High Court of Justice of the Basque Country

Euskal Autonomia Erkidegoko Justizia Auzitegi Nagusia Lan-Arloko

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0000517/2023 Section: JT6 Appeals for judicial review / Erregutze-errekurtsoak

Juzgado de lo Social Nº 2 de Bilbao 0000370/2021 - 0 Social Ordinary Proceedings Migration) 0000370/2021

AUTO

ILMOS./ILMA. MR/MADAM.

President

Ms. Garbiñe Biurrun Mancisidor

Magistrates

Mr José Félix Lajo Gonzalez (Rapporteur)

D. Fernando Breñosa Álvarez de

Miranda In Bilbao, 20 June 2023.

APPEAL 517/2023

Appellant: The applicant worker, Sonia Challengers:

There is no challenge to the appeal. QUESTION

REFERRED FOR A PRELIMINARY RULING

In the city of Bilbao, 20 June 2023.

Pursuant to Article 19(3)(b) of the Treaty on European Union (referred to as the "Treaty on European Union"), (hereinafter "TEU"); 267 of the Treaty on the Functioning of the European Union (hereinafter "TFEU"), and 4 bis of the Organic Law on the Judiciary hereinafter "LOPJ") it is necessary for the CJEU to interpret:

A.- Articles 3, 5, 6, 16, 17, 17.4 b), 19 and 22 of the Working Time Directive 2003/88 and Article 31.2 of the Charter of Fundamental Rights of the EU, in the light of EU case law (Judgment of the CJEU of 14 May 2019, C-55/18).

B.- Articles 20 and 21 of the Charter of Fundamental Rights of the European Union. Article 3(2) of the EC Treaty, Articles 1 and 4 of Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC; and Articles 1, 4 and 5 of Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast), Articles 2 and 3 of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation; in conjunction with Community case law (judgment of the CJEU of 20 February 2020, C-389/2020); to which end the following question is referred for a preliminary ruling.

FACTUAL BACKGROUND

1 .- The subject matter of the dispute

On 31 March 2021, the plaintiff worker, Sonia, brought an action for dismissal and claim for payment against the individuals Adela and Oscar. This claim was referred to the SOCIAL COURT Nº 2 of Bilbao, and processed under number 370/2021.

By order of 18 November 2021, the Court summoned the co-defendants with the warnings article 94.2 LRJS, (to be able to consider the facts invoked by the plaintiff as proven), so that they could contribute to the proceedings:

-Worker's time records.

- Work calendar.

The documentation requested by the Court was not provided by the co-defendants.

On 11 January 2023, the SOCIAL COURT Nº 2 of Bilbao issued a judgement that upheld the claim for dismissal and claim for payment, declaring the dismissal to be unfair, and ordered defendants to pay the plaintiff the sum of 364.39 euros compensation, and 934.89 euros in settlement for holiday pay and extra pay.

The worker appealed against the judgement handed down by Bilbao Social Court No. 2, claiming that she was not being protected and that her right to effective judicial protection had been violated, so that, in accordance with the principle of ease of proof, a new judgement should be handed down on the basis of the proven facts that she had sought to prove.

The co-defendants did not appear at the trial, nor did they contest the plaintiff's appeal. 2. The facts

which gave rise to the dispute

The judgment declares the following to be proven:

"The plaintiff has been providing services for the defendants with a seniority of 15 September 2020, category of domestic employee and monthly salary of 1108 '33 euros with pro rata pay.

The defendants did not register the worker with the social security; and they paid the plaintiff 1,000 euros per month by bank transfer.

On 17 February 2021 she was dismissed".

3.- The position of the parties with regard to the matter in dispute

The statement of claim details that the worker has been a domestic employee of the defendants since 15 September 2020, and that she was hired full-time with a gross monthly salary of 2,363'04 euros per month that until 18 October 2020 she worked 46 hours per week and from 19 October 79 hours per week; that she was dismissed without meeting the formal requirements on 17 February 2021; and that she has not been paid 7.183.17 euros for excess working hours and holidays not taken; she therefore concludes by requesting that her dismissal be declared null and void or unlawful, and that she be paid the sum of 7,183.17 euros, plus 10% legal interest.

The defendants did not appear at the trial, nor have they contested the plaintiff worker's appeal.

The lower court's judgment considers that neither the reality of the working day worked by the employee nor the salary claimed has been proven, and therefore the claim for wage differences cannot be upheld, as the salaries were actually paid in accordance with the salary declared proven; and partially upholds the claim, declaring the dismissal unlawful, and ordering the defendants to pay plaintiff 364.39 euros in severance pay, as well as 934.89 euros for payment of holiday pay and extra pay.

The judgment under appeal states that the evidence provided by the plaintiff is totally insufficient, and that the plaintiff's claims cannot be deemed to be proven simply by the failure to provide the time records, given that Royal Decree Law 8/2019 provides for a series of exceptions to clocking in and out at the beginning and end of the working day in special employment relationships, such as that of domestic workers, so that the failure to provide these documents, which are not mandatory, cannot mean that the plaintiff's allegations are deemed to be proven.

4.- The handling of the question referred for a preliminary ruling

In accordance with Article 4 bis of the Organic Law of the Judiciary (LOPJ), by order of 28 July 2022, this Chamber of the High Court of the Basque Country granted the parties a hearing for a common period of 10 days in order for them to submit their arguments on the raising of a preliminary question of interpretation before the CJEU in accordance with Article 267 TFEU.

None of the parties has made any submissions on the question referred for a preliminary ruling.

THE LEGAL BASIS

I.- The legal controversy from the perspective of European Union law.

The disputed issue is whether domestic do not enjoy the right to record their working hours, i.e. whether employers are not obliged to provide domestic servants with any record of their working hours, unlike ordinary employers and employers. The judgment under examination by this Chamber states that there is no such obligation to record working hours in the case of domestic workers, so that the failure to provide such records, as required by the courts, is of no significance.

The ultimate consequence of the court's decision is that the worker lacks any proof of the working hours she claims, as well as of the salary, which leads, due to lack of proof, to the setting of lower compensation for dismissal, and to the rejection of a large part of her salary claim. The judgment leaves the plaintiff worker without proof, invoking the absence of an obligation to record working hours in the context of employment in the home.

This court decision, which is the subject of the appeal, directly affects Community law and the CJEU's interpretation of it, from a twofold perspective: a) the obligation to respect maximum working hours and times, and the consequent obligation of employers to record these hours, (Directive 2003/88); b) the prohibition of discrimination on grounds of sex against women, 95% of whom make up the group of domestic workers - C-389/20 of 20 February - and who must be treated equally with men in all areas, including working hours, (Directive 2006/54).

It is necessary to determine whether a Spanish regulation, specifically Article 9.3 of Royal Decree 1620/11, which regulates the employment relationship in the family home, complies with Community law and the principles which underlie it. That regulation exempts employers in the domestic sphere from the obligation to record the working day, unlike employers and entrepreneurs in other spheres, who are subject to that obligation (Articles 34.9 and 35.5 of the E.T.). This difference in treatment of domestic workers must be examined by the CJEU, as it could infringe Community legislation on equality and time.

II.- European Union regulations.

Without wishing to be exhaustive, we cite some of the Community rules applicable to the

case: Charter of Fundamental Rights of the European Union.

Article 31 2.

Every worker has the right to limitation of maximum working hours, to daily and weekly rest periods and to a period of paid annual leave.

Article 20. Equality before the law. All persons are equal before the law

Article 21. Non-discrimination. 1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited. 2. Within the scope of application of the Treaty establishing the European Community and the Treaty on European Union and without prejudice to the special provisions of those Treaties, any discrimination on grounds of nationality shall be prohibited.

Treaty on European Union

The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to Member States in a society characterised by pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men.

Article 3 (ex Article 2 TEU). The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological progress. The Union shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child. The Union shall promote economic, social and territorial cohesion and solidarity among Member States. The Union shall respect its rich cultural and linguistic diversity, and shall ensure that Europe's cultural heritage is safeguarded and enhanced.

Directive 2006/54/EC:

Article 14

1. There shall be no direct or indirect discrimination on grounds of sex in the public or private sectors, including public bodies, in relation to:

a) conditions for access to employment, self-employment or occupation, including selection and recruitment conditions, whatever the sector of activity and at all levels of the professional hierarchy, including promotion;

b) access to all types and levels of vocational guidance, vocational training, advanced vocational training and , including practical work experience;

c) conditions of employment and working conditions, including dismissal and pay in accordance with Article 141 of the Treaty;

d) membership of and involvement in an organisation of workers or employers, or any organisation whose members carry on a particular profession, including the benefits provided by such organisations.

Directive 2000/78

Article 2. Concept of discrimination.

1. For the purposes of this Directive, the principle of equal treatment shall mean that there shall be no direct or indirect discrimination based on any of the grounds referred to in Article 1.

2. For the purposes of paragraph 1:

a) direct discrimination shall be taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation on any of the grounds referred to in Article 1;

b) indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice is likely to cause a particular disadvantage to persons with a particular religion or belief, disability, age, or sexual orientation, compared with other , except where:

i) such provision, criterion or practice can be objectively justified by a legitimate aim and unless the means of achieving that aim are appropriate and necessary; or

ii) in respect of persons with a particular disability, the employer, or any person or organisation to whom the provisions of this apply, is required under national law to take appropriate measures in accordance with the principles referred to in Article 5 to eliminate disadvantages caused by that provision, criterion or practice.

3. Harassment shall be deemed to constitute discrimination within the meaning of paragraph 1 when an unwanted conduct related to any of the grounds referred to in Article 1 takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, degrading, humiliating or offensive environment. In this respect, the concept of harassment may be defined in accordance with the national laws and practices of each Member State.

4. An instruction to discriminate against persons on any of the grounds referred to in Article I shall be deemed to be discrimination within the meaning of paragraph 1.

5. This Directive is without prejudice to measures laid down in national law which, in a democratic society, are necessary for public security, for the prevention of disorder and criminal offences, for the protection of health and for the protection of the rights and freedoms of citizens.

Article 3. Scope of application.

1. Within the limits of the powers conferred upon the Community this Directive shall apply to all persons, in respect of both the public and private sectors, including public bodies, in relation :

a) conditions for access to employment, self-employment and occupation, including selection criteria and conditions for recruitment and promotion, whatever the branch of activity and at all levels of the occupational classification, including promotion;

b) access to all types and levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience;

c) employment and working conditions, including dismissal and remuneration;

d) membership of and involvement in an organisation of workers or employers, or any organisation whose members carry on a particular profession, including the benefits provided by such .

2. This Directive shall be without prejudice to the provisions and conditions governing the entry into and residence of third-country and stateless persons in the territory of the Member States and the treatment arising from the legal status of third-country nationals and stateless persons.

3. This Directive shall not apply to payments of any kind made by public or equivalent schemes, including public social security or social protection schemes.

4. Member States may provide for the possibility for this Directive not to apply to the armed forces as regards discrimination based on disability and age.

Working Time Directive 2003/88:

Article 3. Daily rest.

Member States shall take the necessary measures to ensure that all workers have a minimum daily rest period of 11 consecutive hours in each 24-hour period.

Article 5. Weekly rest. Member States shall take the measures necessary to ensure that all workers have, for each period, a minimum uninterrupted rest period of 24 hours, plus the 11 hoursdaily rest provided for in Article 3. Where justified by objective, technical or work organisation conditions, a minimum rest period of 24 hours may be laid down.

Maximum weekly working time. Member States shall take the measures necessary to ensure that, having regard to the need to protect the safety and health of workers: (a) weekly working time is limited by law, regulation or administrative provision or by collective agreements or agreements concluded between the two sides of industry; (b) average working hours do not exceed 48 hours, including overtime, in any seven-day period.

III.- National law.

Workers' Statute, (RD Legislative 2/2015): Article 34:

9. The company shall ensure the daily record of the working day, which shall include the specific start and end times of the working day of each worker, without prejudice to the flexible working hours established in this article.

By collective bargaining or company agreement or, failing this, by decision of the employer after consultation with the legal representatives of the employees in the company, this record of working hours shall be organised and documented.

The records referred to in this provision shall be kept by the company for four years and shall remain at the disposal of the workers, their legal representatives and the Labour and Social Security Inspectorate.

- Added by RD Law 8/2019-.

Article 35.5 ET

5. For the purposes of calculating overtime, each worker's working day shall be recorded day by day and totalled in the period fixed for the payment of remuneration, and a copy of the summary shall be given to the worker in the corresponding receipt.

Royal Decree 1620/2011, of 14 November, which regulates the special employment relationship of the family home service:

Article 9. Working time.

1. The maximum ordinary working week shall be forty hours of actual work, without prejudice to any time at the employer's disposal that may be agreed between the parties. The hours shall be fixed by agreement between the parties.

After the end of the daily working day and, where applicable, the agreed attendance time, the employee is not obliged to remain in the family home.

2. While respecting the maximum working day and minimum rest periods, the time spent on duty shall be of such duration and shall be paid or compensated on the same terms as agreed between the parties. In any case, unless it is agreed to be compensated with equivalent periods of paid rest, the hours of presence may not exceed an average of twenty hours per week in a reference period of one month and shall be paid at a salary not less than that corresponding to ordinary hours.

3. The overtime regime shall be that laid down in Article 35 of the Workers' Statute, except as provided for in paragraph 5 thereof.

Article 94 LRJS:

Documents and other means of obtaining certainty as to relevant facts in the possession of the parties must be produced if they have been offered as evidence by the opposing party and admitted by the judge or court or if the judge or court has requested their production. If they are not produced without good cause, the allegations made by the opposing party in relation to the agreed evidence may be deemed to be proven.

Article 217 LEC

Burden of proof.

1. Where, at the time of the delivery of the judgment or similar decision, the court considers that facts relevant to the decision are in doubt, it shall reject the claims of the plaintiff or counterclaimant, or those of the defendant or counterclaimant, depending on whether the burden of proving the facts which remain uncertain and which form the basis of the claims is on the plaintiff or counterclaimant.

2. It is for the plaintiff and the counterclaimant to prove the certainty of the facts from which, according to the rules of law applicable to them, the legal effect corresponding to the form of order sought in the claim and the counterclaim would ordinarily follow.

3. The defendant and the counterclaimant shall have the burden of proving the facts which, according to the rules applicable to them, prevent, extinguish or increase the legal effectiveness of the facts referred to in the preceding paragraph.

4. In proceedings unfair competition and unlawful advertising, the burden of proof shall be on the defendant to prove the accuracy and truthfulness of the indications and statements made and the material particulars expressed in the advertising, respectively.

5. In those proceedings in which the plaintiff's allegations are based on discriminatory actions on the grounds of sex, sexual orientation and identity, gender expression or sexual characteristics, and provides well-founded evidence of their existence, it will be up to the defendant to provide an objective and reasonable justification, sufficiently proven, of the measures adopted and their proportionality.

For the purposes of the provisions of the preceding paragraph, the court may, of its own motion or at the request of a party, seek a report or opinion from the competent public bodies.

6. The rules contained in the preceding paragraphs shall apply insofar as an express statutory provision does not allocate the burden of proving the relevant facts on a special basis.

7. In applying the provisions of the preceding paragraphs of this Article, the court shall take into account the availability and ease of proof for each of the parties to the dispute.

IV.- Interpretative (and/or validity) doubts about EU law.

This Social Division of the High Court of Justice of the Basque Country has serious doubts that the article 9.3 of Royal Decree 1620/2011, is respectful of EU law on the two levels described above:

A.- From the perspective of Directive 2003/88. The obligation to record the working day is essential for controlling compliance with the maximum working day limits, as well as for claiming overtime. There is also a risk that working hours do not respect the mandatory rest periods, with a risk to health, and that situations of abuse of weaker party in the employment relationship may arise. Excluding domestic employers from this recording obligation makes it very difficult for workers to prove the working hours actually worked, and puts them in a very difficult situation in terms of proving their claims. This is a consequence that may be contrary to Directive 2003/88 and to the interpretation of this rule by the Community Court to which we are addressing this order. We refer to the judgment of the CJEU of 14 May 2019, C-55/18, according to which the burden of proof of the working day is on the employer. As stated in paragraph 60 of the ECJ's judgment, the Member States must require employers to set up a system for calculating working time. The CJEU adds in its judgment that the employee is the weaker party in the employment relationship, so it is necessary to prevent the employer from being able to impose a restriction on his rights, (44); and that the national courts must change established national case law if it is based on an interpretation that is incompatible with the objectives of a Community Directive. The following recitals should also be noted:

46 It is precisely in the light of those general considerations that it is necessary to examine whether and to what extent it is necessary to establish a system for calculating the daily working time worked by each worker in order to ensure effective compliance with the maximum weekly working time and the minimum daily and weekly rest periods,

47 In that regard, it must be pointed out, as the Advocate General did in points 57 and 58 of his Opinion, that without such a system it is not possible to determine objectively and reliably the number of hours worked by the worker and their distribution over time, or the number of hours worked in excess of the normal working hours which may be regarded as overtime.

48 In these circumstances, it is extremely difficult, if not impossible in , for workers to obtain respect for the rights conferred on them by Article 31(2) of the Charter and Directive 2003/88 in order to effectively enjoy the limitation of weekly working time and the minimum daily and weekly rest periods laid down by that directive.

49 It is essential to determine objectively and reliably the number of daily and weekly working hours in order to verify, first, whether the maximum weekly working time defined in Article 6 of Directive 2003/88 - which includes, under that provision, overtime - has been observed during the reference period referred to in Article 16(b) or Article 19 of that directive and, second, whether the minimum daily and weekly rest periods defined in Articles 3 and 5 respectively of that directive have been complied with during each 24-hour period, and, second, whether the minimum daily and weekly rest periods defined in Articles 3 and 5 of that directive have been observed during each 24-hour period, (b) or 19 of directive and, second, whether the minimum daily and weekly rest periods, as defined respectively in Articles 3 and 5 of that directive, have been respected during each 24-hour period in respect of daily rest or during the reference period referred to in Article 16(a) of that directive in respect of weekly rest.

In the light of the aforementioned EU law and its interpretation by the CJEU, it is necessary to determine whether article 9.3 of RD 1620/2011 is harmonious and respectful with them.

It should be added that we are not dealing with a worker in a family regime, an exception contemplated in Article 17.1 b) of Directive 2003/88; nor is it a case of an activity characterised by the splitting of the working day (Article 17.4 b) of the said Directive), since the claim is based at all times the provision of services on a full-time basis, 40 hours per week. Furthermore, the exceptions recognised by Article 17 of Directive 2003/88 were established two decades ago, and it is extremely doubtful that, at present, they can be extended to the group of female domestic workers.

B. From the point of view of the principle of equal treatment and non-discrimination laid down in Articles 20 and 21 of the Charter of Fundamental Rights of the European Union. This Chamber considers, and this leads us to ask this question for a preliminary ruling, that it is inescapable to take into account the fact that the applicant worker is a woman. She is a woman who is a member of the group domestic workers, which is a clearly "feminised" group, that is to say, made up almost entirely of women. As stated in the CJEU judgment C-389/20 of 20 February, 95% of domestic workers are women. This being the case, the difference in treatment with regard to the recording of working hours compared to men raises serious doubts. This is a right, that of recording the working day, which is guaranteed to all male workers, and which female domestic workers do not have, according to the current article 9.3 of Royal Decree 1620/11. This difference in treatment must be examined in the light of the Community legislation that we set out and whose assessment we ask the CJEU to make. The absence of indirect discrimination on the grounds of sex in the Royal Decree in question must be ensured, and it must be determined whether this apparently neutral rule gives rise to indirect discrimination on the grounds of sex against the applicant worker.

V.- The relevance of the CJEU's reply

In the context of the national dispute, a ruling by the CJEU is essential to clarify the interpretation and scope to be given to Article 9.3 of Spanish Royal Decree 1620/11, in relation to the obligation to record working hours which, in general, is laid down in Article 34.9 of the Workers' Statute.

The judgment under appeal is based on those rules, so that the validity of the Article 9.3 of RD 1620/2011 in accordance with EU law is essential. In the event that this regulation is in line with EU law, there would be no obligation on the part of employers to keep any record of the domestic 's working day or working hours, and their failure to provide it to the proceedings, despite the injunction - Article 94.2 LRSJ - would be logical and coherent, and would not have any consequences. However, in the event that the regulatory precept does not comply with the Community rules and their interpretation by the CJEU, there would be an obligation on the employer to record the working day of the plaintiff, and the failure to provide such records to the proceedings would be prejudicial to the defendant employer, is responsible for the proof of the working day, - judgment of the CJEU dated 14 May 2019, C-55/18-. The lack of proof of working time could not prejudice the applicant, who does not have the evidentiary facility, - article 217.7 LEC-, so the ruling of the judgement we are examining should be different, taking the salary and working day that the plaintiff is claiming on the basis of Article 94.2 LRJS. In other words, in our opinion, the ruling of the judgement we are examining depends entirely on the final ruling of the CJEU, hence the issuing of this order.

In the light of all legal reasoning set out above, the question referred to the Court for a preliminary ruling is set out in the operative part of this order.

ENACTING TERMS

Agreed:

First: Suspend appeal 517/23 until the resolution of the preliminary ruling.

Secondly, the following question is referred to the Court of Justice of the European Union for a preliminary ruling:

"Articles 3, 5, 6, 16, 17, 17.4 b), 19 and 22 of the Working Time Directive 2003/88, 31.2 of the Charter of Fundamental Rights of the EU, in the light of EU case law (Judgment of the CJEU of 14 May 2019, C-55/18);

20 and 21 of the Charter of Fundamental Rights of the European Union. Article 3(2) of the EC Treaty, Articles 1 and 4 of Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity, Articles 1, 4 and 5 of Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation; and Articles 2 and 3 of Council Directive 2000/78/EC of 27 November 2000 on the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation; and Articles 2 and 3 of Directive 2000/78/EC of the European

Parliament and of the Council of 27 November 2000 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity.

2000, establishing a general framework for equal treatment in employment and occupation; also in relation to EU case law, (Judgment of the CJEU of 20 February 2020, C-389/2020);
are they to be interpreted as precluding a regulatory rule such as Article 9.3 of Royal Decree 1620/2011, which exempts the employer from the obligation to record the worker's working day?"

Send a copy of this order to the Court of Justice of the European Union, together with a copy of the , by registered letter with acknowledgement of receipt* addressed to the Registry of the Court of Justice of the European Communities, rue du Fort Niedergrünewald, L-2925 Luxembourg, and a to the International Relations Department of the General Council of the Judiciary (Fax: 91 7006350) (CGPJ Network of Experts on European Union Law). *It can also be sent electronically (DDP- GreffeCour@curia.europa.eu).

This decision shall be notified to the parties, who shall be informed that it is final and not subject to appeal.

We so agree and sign. E/

The dissemination of the text of this decision to parties not interested in the proceedings in which it has been issued may only be carried out after dissociation of the personal data contained therein and with full respect for the right to privacy, the rights of persons requiring a special duty of protection or the guarantee of anonymity of the victims or injured parties, where appropriate.

The personal data included in this resolution may not be transferred or communicated for purposes contrary to the law.