

The EU Court of Justice (ECJ) Rulings in Brief

There are four decisions of the EU Court of Justice (ECJ) since December 2007 which have a bearing on Irish domestic law. The cases are concerned in different ways with the free movement of businesses throughout the EU, and the impact on established terms and conditions of employment.

The Viking Case (December 2007)

The Court held that although protected by domestic labour law (in that case the Finnish Constitution), industrial action may be unlawful under EU law if it breaches the terms of the EC Treaty, Article 43. The case concerned industrial action by Finnish unions and the ITF against a Finnish company proposing to re-flag its ships in Estonia, where terms and conditions of employment were inferior to those in Finland.

The Laval Case (December 2007)

The Court held that, although protected by Swedish national law, (i) industrial action by Swedish unions, (ii) designed to compel a Latvian contractor to pay Swedish rates determined by a Swedish collective agreement to his Latvian workers employed on Swedish building sites, (iii) may be unlawful under EU law if it breaches the terms of the EC Treaty, article 49.

The Ruffert case (April 2008)

The Court held that a Polish sub-contractor, (i) could not be required by the law of Lower Saxony, (ii) to pay his workers posted from Poland, (iii) the terms of a collective agreement in force at a site where the work was being carried out. Such a requirement (even though imposed by state law) was held to breach the provisions of the Posted Workers' Directive.

The Luxembourg Case (June 2008)

The Court held that the government of Luxembourg had acted in breach of EC Treaty, Article 49, and the Posted Workers' Directive, on a number of grounds. The Court effectively held that the Directive was both a floor and a ceiling, and that it was not possible in that case to require by legislation adherence to collective agreements other than those covered by Article 3(8) of the Directive.