

# Joined Cases C-72/91 and C-73/91

**Sloman Neptun Schiffahrts AG**

v

**Seebetriebsrat Bodo Ziesemer der Sloman Neptun Schiffahrts AG**

(References for a preliminary ruling  
from the Arbeitsgericht Bremen)

(Articles 92 and 117 of the EEC Treaty — National shipping legislation —  
Employment of foreign seafarers without a permanent abode or residence  
in the Federal Republic of Germany on working conditions  
and rates of pay less favourable than those of German seafarers)

Report for the Hearing .....	I - 889
Opinion of Advocate General Darmon delivered on 17 March 1992 .....	I - 903
Judgment of the Court, 17 March 1993 .....	I - 927

## Summary of the Judgment

- 1. State aid — Definition — Application to shipping undertakings of a system enabling them to subject seafarers who are nationals of non-member countries with no abode or residence on national territory to working conditions and rates of pay less favourable than those applicable to nationals — Advantage not granted from State resources — Excluded (EEC Treaty, Art. 92(1))*

2. *Social policy — Social objectives — In the nature of a programme — Improvement of standard of living and working conditions — Direct effect — None — Respect for powers of the Member States — National measures of social policy — Review by the Court — Excluded (EEC Treaty, Arts 2, 5 and 117)*

1. The application by a Member State to merchant vessels entered in its International Shipping Register of a system enabling seafarers who are nationals of non-member countries and have no permanent abode or residence in that Member State to be subjected to working conditions and rates of pay which are not covered by the law of that Member State and are considerably less favourable than those applicable to seafarers who are nationals of that Member State does not constitute State aid within the meaning of Article 92(1) of the Treaty.

A system of that kind does not seek, through its object and general structure, to create an advantage financed from State resources, that is, one which would constitute an additional burden for the State or for public or private bodies designated or established by the State, since its only purpose is to alter, in favour of shipping undertakings, the framework within which contractual relations are formed between those undertakings and their employees. The consequences of this with regard to the basis for the calculation of social security contributions and tax revenue, determined on the basis of low rates of pay, are inherent in the system and are not a means of granting a particular advantage to the undertakings concerned.

2. The fact that the social policy objectives laid down in Article 117 of the Treaty are

in the nature of a programme does not mean that they are devoid of any legal effect. They constitute an important aid, in particular for the interpretation of other provisions of the Treaty and of secondary Community legislation in social matters. The attainment of those objectives must nevertheless be the result of a social policy to be defined by the competent authorities.

Consequently, neither the general trends of the social policy defined by each Member State nor special measures adopted within that framework are open to review by the Court in order to determine whether they are consistent with the social objectives set out in Article 117 of the Treaty.

The fact that those objectives are in the nature of a programme also means that, even though the improvement of working conditions and of the standard of living constitutes a fundamental objective of the Treaty, as shown by the preamble and Articles 2 and 117, the Member States are free to take their own decisions in that regard which prevents the obligation contained in Article 5 of the Treaty from conferring rights on individuals which the national courts would be under a duty to safeguard.