

Judgment of the Court (Second Chamber) of 12 June 2014 (request for a preliminary ruling from the Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD) — Portugal) — Ascendi Beiras Litoral e Alta, Auto Estradas das Beiras Litoral e Alta, SA v Autoridade Tributária e Aduaneira

(Case C-377/13) ⁽¹⁾

(Request for a preliminary ruling — Concept of ‘court or tribunal of a Member State’ — Tribunal Arbitral Tributário — Directive 69/335/EEC — Articles 4 and 7 — Increase of the share capital of a capital company — Stamp duty in force on 1 July 1984 — That stamp duty subsequently abolished, and then re-introduced)

(2014/C 282/21)

Language of the case: Portuguese

Referring court

Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD)

Parties to the main proceedings

Applicant: Ascendi Beiras Litoral e Alta, Auto Estradas das Beiras Litoral e Alta, SA

Defendant: Autoridade Tributária e Aduaneira

Operative part of the judgment

Articles 4(1)(c) and 7(1) and (2) of Council Directive 69/335/EEC of 17 July 1969 concerning indirect taxes on the raising of capital, as amended by Council Directive 85/303/EEC of 10 June 1985, must be interpreted as precluding the reintroduction by a Member State of capital duty on increases of share capital of a company falling under the first of those provisions, which were subject to such duty on 1 July 1984, but which were later exempted from that duty.

⁽¹⁾ OJ C 274, 21.9.2013.

Request for a preliminary ruling from the Verwaltungsgerichtshof (Austria) lodged on 7 April 2014 — MedEval — Qualitäts-, Leistungs- und Struktur-Evaluierung im Gesundheitswesen GmbH v Bundesvergabeamt

(Case C-166/14)

(2014/C 282/22)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Applicant: MedEval — Qualitäts-, Leistungs- und Struktur-Evaluierung im Gesundheitswesen GmbH

Defendant: Bundesvergabeamt

Other parties: Bundesminister für Wissenschaft, Forschung und Wirtschaft; Hauptverband der österreichischen Sozialversicherungsträger; Pharmazeutische Gehaltskasse für Österreich

Question referred

Is EU law — in particular the general principles of equivalence and effectiveness and Council Directive 89/665/EEC ⁽¹⁾ of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts, as amended by Directive 2007/66/EC ⁽²⁾ of the European Parliament and of the Council of 11 December 2007 amending Council Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts — to be interpreted as precluding a national legal situation in which an application for a declaration of an infringement of public procurement law must be made within six months of the conclusion of the contract, if the declaration of an infringement of public procurement law is a precondition not only of annulling the contract but also of bringing a claim for damages?

⁽¹⁾ OJ 1989 L 395, p. 33.

⁽²⁾ OJ 2007 L 335, p. 31.

Appeal brought on 7 May 2014 by Lidl Stiftung & Co. KG against the judgment of the General Court (Ninth Chamber) delivered on 27 February 2014 in Case T-226/12: Lidl Stiftung & Co. KG v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-224/14 P)

(2014/C 282/23)

Language of the case: English

Parties

Appellant: Lidl Stiftung & Co. KG (represented by: M. Wolter, M. Kefferpütz, A. K. Marx, Rechtsanwälte)

Other party to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Form of order sought

The appellant claims that the Court should:

- annul the Judgement of the General Court of 27 February 2014 (Case T-226/12);
- in the event that the appeal is declared well founded, annul the decision of the First Board of Appeal of 21 March 2012 (R 2380/2010-1) as sought in the proceedings before the General Court;
- order the OHIM as defendant in the proceedings before the General Court to pay the costs of the proceedings before the General Court and of the appeal proceedings.

Pleas in law and main arguments

With the Application for Appeal, Lidl Stiftung & Co. KG raises three pleas in law against the contested judgement:

- 1) infringement of Art. 42 (2) and (3) CTMR ⁽¹⁾ ⁽²⁾ and Rule 22 (3) and (4) of CTMR ⁽³⁾ ⁽⁴⁾ in conjunction with Art. 15 (1) CTMR as the General Court misinterpreted the requirements for proof of genuine use of the opposition mark within the meaning of these provisions;
- 2) infringement of Art. 15 (1) (a) CTMR in conjunction with Art. 42 (2) and (3) CTMR as the General Court misinterpreted the requirements for considering the use of the opposition mark in a different form than the registered to constitute genuine use within the meaning of Art. 15 (1) CTMR;
- 3) infringement of Art. 8 (1) (b) CTMR as the General Court misinterpreted the requirements on the assessment of the likelihood of confusion.