4. Do the 'polluter pays' principle in Article 191(2) of the Treaty on the Functioning of the European Union, the principles of equality and non-discrimination in Articles 20 and 21 of the European Charter of Fundamental Rights, and Articles 3 and 5 of Directive 2005/89/EC, ([2]) insofar as they seek to ensure 'the proper functioning of the internal market for electricity' and call on Member States to ensure 'that any measures adopted in accordance with this Directive are non-discriminatory and do not place an unreasonable burden on the market actors', preclude a provision in national legislation that requires all electricity companies (other than generators of hydroelectricity, which is classified as renewable energy) to fund the tariff deficit, but which imposes a particularly heavy tax burden on nuclear generators, which are required to contribute more than other actors in the energy market, some of which are more polluting, but that do not have to pay these charges, the reasons given being grounds of environmental protection in view of the risks and uncertainties inherent in nuclear activities, without specifying the costs involved or stipulating that the revenue raised is to be used for environmental protection purposes (and given that waste management and storage are already covered by other levies, and nuclear generation companies assume civil liability), and that distorts the free competition required by the liberalised internal market by favouring other electricity generators that do not have to pay environmental taxes even when their sources of production are more highly polluting?

5. Is a tax on the production of spent nuclear fuel and radioactive waste from nuclear power generation imposed on the nuclear generation industry alone and not applicable to any other sector that may generate such waste, which means that other firms that could use nuclear material or nuclear sources in their activities are not taxed, even though they affect the environment that is to be protected, contrary to the 'polluter pays' principle in Article 191(2) of the Treaty on the Functioning of the European Union?

([1]) Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (OJ 2009 L 211, p. 55).

([2]) Directive 2005/89/EC of the European Parliament and of the Council of 18 January 2006 concerning measures to safeguard security of electricity supply and infrastructure investment (OJ 2006 L 33, p. 22).

Request for a preliminary ruling from the Rechtbank Noord-Nederland (Netherlands) lodged on 12 February 2018 — Openbaar Ministerie v ET

(Case C-97/18)

(2018/C 182/06)

Language of the case: Dutch

Referring court

Rechtbank Noord-Nederland, sitting in Leeuwarden

Parties to the main proceedings

Applicant: Openbaar Ministerie

Defendant: ET

Questions referred

1. Can Article 12(1) of Framework Decision 2006/783/JHA ([1]) be interpreted as meaning that, when a confiscation order transferred by an issuing State is executed in the Netherlands, a term of imprisonment pending payment as referred to in Article 577c of the Netherlands Code of Criminal Procedure may be applied, having regard to, inter alia, the decision of the Hoge Raad of 20 December 2011 ([2]) to the effect that a term of imprisonment pending payment must be deemed to be a penalty within the meaning of Article 7(1) of the ECHR?

2. Does it make any difference to the possibility of applying a term of imprisonment pending payment whether the law of the issuing State also makes provision for the possibility of applying a term of imprisonment pending payment?

(1) Council Framework Decision of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders (OJ 2006 L 328, p. 59).
(2) NL:HR:2011:BP9449.

Appeal brought on 12 February 2018 by FTI Touristik GmbH against the judgment of the General Court (Eighth Chamber) of 30 November 2017 in Case T-475/16, FTI Touristik GmbH v European Union Intellectual Property Office

(Case C-99/18 P)

(2018/C 182/07)

Language of the case: German

Parties

Appellant: FTI Touristik GmbH (represented by: A. Parr, Rechtsanwältin)

Other parties to the proceedings: European Union Intellectual Property Office, Harald Prantner and Daniel Giersch

Form of order sought

The appellant claims that the Court should:

— set aside the judgment of the Eighth Chamber of the General Court of 30 November 2017 (T-475/16);

— order EUIPO to pay the costs of the proceedings.

Grounds of appeal and main arguments

The appellant claims that the judgment of the General Court is based on an infringement of Article 8(1)(b) of Regulation No 207/2009. (1) The judgment is inadequately reasoned. Not all of the factual circumstances, the interplay of which is essential to the assessment of the likelihood of confusion, were taken into account. This constitutes an error of law.

(1) Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1), as amended (replaced by Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark (OJ 2017 L 154, p. 1)).

Request for a preliminary ruling from the Amtsgericht Düsseldorf (Germany) lodged on 19 February 2018 — flightright GmbH v Eurowings GmbH

(Case C-130/18)

(2018/C 182/08)

Language of the case: German

Referring court

Amtsgericht Düsseldorf

Parties to the main proceedings

Applicant: flightright GmbH

Defendant: Eurowings GmbH