

Re:

Appeal against the judgment of the Court of First Instance (Fifth Chamber (Extended Composition)) of 14 April 2005 in Case T-88/01 Sniace SA v Commission declaring inadmissible the appellant's action for annulment of Commission Decision 2001/102/EC of 19 July 2000 on State aid granted by Austria to Lenzing Lyocell GmbH & Co. KG (OJ 2001 L 38, p. 33)

Operative part of the judgment

1. Dismisses the appeal;
2. Orders Sniace SA to pay the costs;
3. Orders the Republic of Austria to bear its own costs.

(¹) OJ C 193, 6.8.2005.

Judgment of the Court (First Chamber) of 15 November 2007 — Commission of the European Communities v Federal Republic of Germany

(Case C-319/05) (¹)

(Failure of a Member State to fulfil obligations — Articles 28 and 30 EC — Directive 2001/83/EC — Garlic preparation in capsule form — Preparation legally marketed as a food supplement in a number of Member States — Preparation classified as a medicinal product in the Member State of importation — Definition of 'medicinal product' — Obstacle — Jurisdiction — Public health — Proportionality)

(2008/C 8/04)

Language of the case: German

Parties

Applicant: Commission of the European Communities (represented by: B. Stromsky and B. Schima, Agents)

Defendant: Federal Republic of Germany (represented by: M. Lumma and C. Schulze-Bahr, Agents)

Re:

Failure of a Member State to fulfil obligations — Infringement of Articles 28 and 30 EC — National administrative practice classifying a garlic preparation in capsule form as a medicinal product — Concept of medicinal product under Community rules

Operative part of the judgment

- 1) By classifying as a medicinal product a garlic preparation in capsule form not satisfying the definition of a medicinal product within the

meaning of Article 1(2) of Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use, the Federal Republic of Germany has failed to fulfil its obligations under Article 28 EC and Article 30 EC;

- 2) The Federal Republic of Germany is ordered to pay the costs.

(¹) OJ C 257, 15.10.2005.

Judgment of the Court (First Chamber) of 15 November 2007 (reference for a preliminary ruling from the Hovrätten för Övre Norrland (Sweden)) — Criminal proceedings against Fredrik Granberg

(Case C-330/05) (¹)

(Excise duties — Mineral oils — Atypical transport)

(2008/C 8/05)

Language of the case: Swedish

Referring court

Hovrätten för Övre Norrland

Party in the main proceedings

Fredrik Granberg

Re:

Reference for a preliminary ruling — Hovrätten för Övre Norrland — Interpretation of Article 9(3) of Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products (OJ 1992 L 76, p. 1) — Import by private individuals of mineral oils already released for consumption in another Member State — Atypical means of transport

Operative part of the judgment

The Court rules:

1. Article 9(3) of the Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products, as amended by Council Directive 92/108/EEC of 14 December 1992, does not allow Member States generally to impose excise duty in the Member State of consumption on heating oil acquired in another Member State by a private individual for own use and transported by him to the Member State of consumption, irrespective of the means of transport used.