

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Designation of the Chamber responsible for cases of the kind referred to in Article 104b of the Rules of Procedure of the Court of Justice

(2008/C 116/02)

At its meeting of 12 February 2008, the Court of Justice of the European Communities, designated, for the period from 1 March to 6 October 2008, the Third Chamber of the Court as being the Chamber which, in accordance with Article 9(1) of the Rules of Procedure of the Court of Justice, is to be responsible for cases of the kind referred to in Article 104b of the Rules.

Judgment of the Court (Second Chamber) of 13 March 2008 (reference for a preliminary ruling from the Tribunal de Première Instance de Bruxelles (Belgium)) — Criminal proceedings against Ioannis Doulamis(Case C-446/05) ⁽¹⁾

(Article 81 EC, read in conjunction with Article 10 EC — National legislation prohibiting advertising of dental care services)

(2008/C 116/03)

Language of the case: French

Referring court

Tribunal de Première Instance de Bruxelles

Party in the main criminal proceedings

Ioannis Doulamis

Intervening parties: Union des Dentistes et Stomatologistes de Belgique (UPR), Jean Totolidis

Re:

Reference for a preliminary ruling — Tribunal de Première Instance de Bruxelles — Interpretation of Article 81 EC, the

second paragraph of Article 10 EC and Article 3(1)(g) EC — National legislation prohibiting all advertising in the dental care sector

Operative part of the judgment

Article 81 EC, read in conjunction with Article 3(1)(g) EC and the second paragraph of Article 10 EC, does not preclude a national law, such as the Law of 15 April 1958, which prohibits any person or dental care providers, in the context of professional services or a dental surgery, from engaging in advertising of any kind in the dental care sector.

⁽¹⁾ OJ C 48, 25.2.2006.**Judgment of the Court (Grand Chamber) of 1 April 2008 — European Parliament (C-14/06), Kingdom of Denmark (C-295/06) v Commission of the European Communities**(Joined Cases C-14/06 and C-295/06) ⁽¹⁾

(Directive 2002/95/EC — Electrical and electronic equipment — Restriction of use of certain hazardous substances — Decabromodiphenyl ether ('DecaBDE') — Commission Decision 2005/717/EC — Exemption of DecaBDE from the prohibition on use — Actions for annulment — Commission's implementing powers — Infringement of the enabling provision)

(2008/C 116/04)

Languages of the case: English and Danish

Parties

Applicants: European Parliament, (represented by: K. Bradley, A. Neergaard and I. Klavina, Agents) (C-14/06), Kingdom of Denmark (represented by: J. Molde, B. Weis Fogh and J. Bering Liisberg, Agents) (C-295/06)

Interveners in support of the applicant: Kingdom of Denmark (Case C-14/06), (represented by: J. Molde, B. Weis Fogh and J. Bering Liisberg, Agents), Portuguese Republic, (represented by: L. Fernandes and M.J. Lois, Agents), Republic of Finland, (represented by: A. Guimaraes-Purokoski, Agent), Kingdom of Sweden, (represented by: A. Kruse, Agent), Kingdom of Norway, (represented by: I. Djupvik, K. Waage and K.B. Moen, Agent, and by E. Holmedal, advokat)

Defendant: Commission of the European Communities (represented by X. Lewis, M. Konstantinidis and H. Støvlbæk, Agents)

Intervener in support of the defendant: United Kingdom of Great Britain and Northern Ireland (represented by V. Jackson, Agent, and by J. Maurici, Barrister)

Re:

Annulment of the Commission Decision of 13 October 2005 amending for the purposes of adapting to the technical progress the Annex to Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003, on the restriction of the use of certain hazardous substances in electrical and electronic equipment (notified under document number C(2005) 3754) (Text with EEA relevance) (OJ 2005 L 271, p. 48) — Exemption of decabromodiphenyl ether ('DecaBDE') from the marketing prohibition imposed by Article 4(1) of Directive 2002/95/EC without respecting the conditions laid down by Article 5(1) of that directive

Operative part of the judgment

The Court:

1. Annuls Point 2 of the Annex to Commission Decision 2005/717/EC of 13 October 2005 amending for the purposes of adapting to technical progress the Annex to Directive 2002/95/EC of the European Parliament and of the Council on the restriction of the use of certain hazardous substances in electrical and electronic equipment;
2. Declares that the effects of point 2 of the Annex to Decision 2005/717 are maintained until 30 June 2008 inclusive;
3. Orders the Commission of the European Communities to pay the costs of the European Parliament and those of the Kingdom of Denmark in Case C-295/06;
4. Orders the Kingdom of Denmark, in Case C-14/06, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland and the Kingdom of Norway to bear their own costs.

(¹) OJ C 86, 8.4.2006.

Judgment of the Court (Third Chamber) of 13 March 2008 (reference for a preliminary ruling from the Finanzgericht Hamburg (Germany)) — Viamex Agrar Handels GmbH v Hauptzollamt Hamburg-Jonas

(Case C-96/06) (¹)

(Regulation (EC) No 615/98 — Directive 91/628/EEC — Export refunds — Refusal — Non-compliance with Directive 91/628/EEC — Adverse effect on animal welfare — Burden of proof — Lack of evidence)

(2008/C 116/05)

Language of the case: German

Referring court

Finanzgericht Hamburg

Parties to the main proceedings

Applicant: Viamex Agrar Handels GmbH

Defendant: Hauptzollamt Hamburg-Jonas

Re:

Reference for a preliminary ruling — Finanzgericht Hamburg — Interpretation of Article 5(3) of Commission Regulation (EC) No 615/98 of 18 March 1998 laying down specific detailed rules of application for the export refund arrangements as regards the welfare of live bovine animals during transport (OJ 1998 L 82, p. 19) — Possibility for competent authority to refuse to grant export refunds where it considers, 'in the light of ... all other elements at its disposal', that the provisions of Council Directive 91/628/EEC of 19 November 1991 on the protection of animals during transport and amending Directives 90/425/EEC and 91/496/EEC (OJ 1991 L 340, p. 17) have not been complied with — Burden of proof — Refusal of refunds because of the use of a ship included in a list of ships not complying with the requirements of Directive 91/628/EEC ('negative list') in the absence of indications that the wellbeing of the animals was actually affected

Operative part of the judgment

1. Despite the documents produced by the exporter in accordance with Article 5(2) of Commission Regulation (EC) No 615/98 of 18 March 1998 laying down specific detailed rules of application for the export refund arrangements as regards the welfare of live bovine animals during transport, the competent authority may consider, pursuant to Article 5(3) of that regulation, that Council Directive 91/628/EEC of 19 November 1991 on the protection of animals during transport and amending Directives 90/425/EEC and 91/496/EEC, as amended by Council Directive 95/29/EC of 29 June 1995, has not been complied with. However, the competent authority can arrive at that conclusion only if it bases itself on the documents referred to in Article 5 of Regulation No 615/98,