— Procedures for consultation and consent to ensure the effective protection of the child — Requirement that the decision to place the child in secure care be recognised and/or declared enforceable prior to placement?

Operative part of the judgment

1. *A judgment of a court of a Member State which orders the placement of child in a secure institution providing therapeutic and educational care situated in another Member State and which entails that, for her own protection, the child is deprived of her liberty for a specified period, falls within the material scope of Council Regulation No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000.*

2. *The consent referred to in Article 56(2) of Regulation No 2201/2003 must be given, prior to the making of the judgment on placement of a child, by a competent authority, governed by public law. The fact that the institution where the child is to be placed gives its consent is not sufficient. In circumstances such as those of the main proceedings, where a court of a Member State which made the judgment on placement is uncertain whether a consent was validly given in the requested Member State, because it was not possible to identify with certainty the competent authority in the latter State, an irregularity may be corrected in order to ensure that the requirement of consent imposed by Article 56 of Regulation No 2201/2003 has been fully complied with.*

3. *Regulation No 2201/2003 must be interpreted as meaning that a judgment of a court of a Member State which orders the compulsory placement of a child in a secure care institution situated in another Member State must, before its enforcement in the requested Member State, be declared to be enforceable in that Member State. In order not to deprive that regulation of its effectiveness, the decision of the court of the requested Member State on the application for a declaration of enforceability must be made with particular expedition and appeals brought against such a decision of the court of the requested Member State must not have a suspensive effect.*

4. *Where a consent to placement under Article 56(2) of Regulation No 2201/2003 has been given for a specified period of time, that consent does not apply to orders which are intended to extend the duration of the placement. In such circumstances, an application for a new consent must be made. A judgment on placement made in a Member State, declared to be enforceable in another Member State, can be enforced in that other Member State only for the period stated in the judgment on placement.*

(1) OJ C 133, 5.5.2012.

Order of the Court (Eighth Chamber) of 29 March 2012 (reference for a preliminary ruling from the Corte Suprema di Cassazione — Italy) — Ministero dell'Economia e delle Finanze, Agenzia delle Entrate v Safilo Spa

(Case C-529/10) (1)

(Article 104(3), first subparagraph, of the Rules of Procedure — Direct taxation — Conclusion of proceedings pending before the court giving judgment at final instance in tax matters — Abuse of rights — Article 4(3) TEU — Freedoms guaranteed by the Treaty — Principle of non-discrimination — State aid — Obligation to ensure the effective application of European Union law)

(2012/C 194/09)

Language of the case: Italian

Referring court

Corte Suprema di Cassazione

Parties to the main proceedings

Applicants: Ministero dell'Economia e delle Finanze, Agenzia delle Entrate

Defendant: Safilo Spa

Re:

Reference for a preliminary ruling — Corte Suprema di Cassazione — Taxation of companies — National legislation under which the tax rate applied to company dividends varies according to the location of the company seat — Commercial transaction involving companies with their seat in Italy and companies resident elsewhere — Decision by the tax authorities treating as applicable the tax due in the case of the companies resident outside Italy — Notion of abuse of rights, as defined in Case C-255/02 *Halifax and Others* [2006] ECR I-1609 — Whether that doctrine applies in the context of non-harmonised domestic taxes such as direct taxes

Operative part of the order

European Union law, in particular the principle of the prohibition of abuse of rights, Article 4(3) TEU, the freedoms guaranteed by the FEU Treaty, the principle of non-discrimination, the rules on State aid and the obligation to ensure the effective application of European Union law, must be interpreted as not precluding the application, in a case such as that in the main proceedings relating to direct taxation, of a provision of national law which provides for proceedings pending before the court giving judgment at final instance in tax matters to be concluded in return for payment of a sum equivalent to 5 % of the value of the claim, where those proceedings originate in an application

made at first instance more than 10 years before the date of entry into force of that provision and the tax authorities have been unsuccessful at first and second instance.

(1) OJ C 30, 29.1.2011.

Order of the Court of 22 March 2012 — Cantiere navale De Poli SpA v European Commission

(Case C-167/11 P) (1)

(Appeal — Article 119 of the Rules of Procedure — State aid — Incompatibility with the common market — Commission Decision — Alteration to existing aid — Regulation (EC) No 794/2004 — Regulation (EC) No 1177/2002 — Temporary defensive mechanism for shipbuilding)

(2012/C 194/10)

Language of the case: Italian

Parties

Appellant: Cantiere navale De Poli SpA (represented by: A. Abate and A. Franchi, avvocati)

Other party to the proceedings: European Commission (represented by: V. Di Bucci and C. Urraca Caviedes, Agents)

Intervener in support of the applicant: Italian Republic (represented by: G. Palmieri, Agent, P. Gentili, avvocato dello Stato)

Re:

Appeal brought against the judgment of the General Court (Eighth Chamber) of 3 February 2011 in Case T-584/08 *Cantieri Navale De Poli* v *Commission*, by which the Court dismissed the action for annulment of Commission Decision 2010/38/EC of 21 October 2008 on State aid C-20/08 (ex N 62/08) which Italy is planning to implement through a modification of scheme N 59/04 concerning a temporary defensive mechanism for shipbuilding (OJ 2010 L 17, p. 50)

Operative part of the order

1. *The appeal is dismissed.*

2. *Cantiere navale De Poli SpA is ordered to pay the costs.*

3. *The Italian Republic is to bear its own costs.*

(1) OJ C 173, 11.6.2011.

Order of the Court of 22 March 2012 — Italian Republic v European Commission

(Case C-200/11 P) (1)

(Appeal — Article 119 of the Rules of Procedure — State aid — Incompatibility with the common market — Commission decision — Action for annulment — Regulation (EC) No 659/1999 — Article 1(c) — Alteration of existing aid — Regulation (EC) No 794/2004 — Article 4(1) — Temporary defensive mechanism for shipbuilding)

(2012/C 194/11)

Language of the case: Italian

Parties

Appellant: Italian Republic (represented by: G. Palmieri, agent, P. Gentili, avvocato dello Stato)

Other party to the proceedings: European Commission (represented by: V. Di Bucci and C. Urraca Caviedes, agents)

Re:

Appeal against the judgment of the General Court (Eighth Chamber) of 3 February 2011 in Case T-3/09 *Italy* v *Commission*, by which the General Court dismissed an application for annulment of Commission Decision 2010/38/EC of 21 October 2008 on State aid C 20/08 (ex N 62/08) which Italy is planning to implement through a modification of scheme N 59/04 concerning a temporary defensive mechanism for shipbuilding (OJ 2010 L 17, p. 50)

Operative part of the order

1. *The appeal is dismissed.*

2. *The Italian Republic is ordered to pay the costs.*

(1) OJ C 204, 9.7.2011.

Order of the Court (Sixth Chamber) of 8 March 2012 (reference for a preliminary ruling from the Hof van Cassatie van België, Belgium) — Koninklijke Federatie van Belgische Transporteurs en Logistiek Dienstverleners (Febetra) v Belgische Staat

(Case C-333/11) (1)

(Article 104(3), first subparagraph, of the Rules of Procedure — TIR Convention — Community Customs Code — Excise duties — Transport carried out under cover of a TIR carnet — Unlawful unloading — Determination of the place of the offence — Recovery of customs and excise duties — Jurisdiction)

(2012/C 194/12)

Language of the case: Netherlands

Referring court

Hof van Cassatie van België