

### Operative part of the judgment

The term 'specified criteria', referred to in Article 1(1)(f) of Commission Regulation (EC) No 1400/2002 of 31 July 2002 on the application of Article 81(3) of the Treaty to categories of vertical agreements and concerted practices in the motor vehicle sector, means, with respect to a quantitative selective distribution system within the meaning of that regulation, criteria the precise content of which may be verified. In order to benefit from the exemption provided for by that regulation, it is not necessary for such a system to be based on criteria that are objectively justified and applied in a uniform and non-differentiated manner in respect of all applicants for authorisation.

(<sup>1</sup>) OJ C 179, 18.6.2011.

**Judgment of the Court (Sixth Chamber) of 14 June 2012**  
(reference for a preliminary ruling from the *College van Beroep voor het Bedrijfsleven* — Netherlands) — *G. Brouwer v Staatssecretaris van Economische Zaken, Landbouw en Innovatie*

(Case C-355/11) (<sup>1</sup>)

*(Directive 91/629/EEC — Minimum standards for the protection of calves — Regulation (EC) No 1782/2003 — Common rules for direct support schemes under the common agricultural policy — National legislation transposing Directive 91/629/EEC and declaring the management requirements provided for by that directive to be applicable to, inter alia, calves which are kept confined in the context of a dairy farming operation)*

(2012/C 227/08)

Language of the case: Dutch

### Referring court

College van Beroep voor het Bedrijfsleven

### Parties to the main proceedings

Appellant: G. Brouwer

Respondent: Staatssecretaris van Economische Zaken, Landbouw en Innovatie

### Re:

Reference for a preliminary ruling — *College van Beroep voor het Bedrijfsleven* — Interpretation of Council Directive 91/629/EEC of 19 November 1991 laying down minimum standards for the protection of calves (OJ 1991 L 340, p. 28) and of Articles 4 and 6 of Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) No 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC)

No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001 (OJ 2003 L 270, p. 1) — National legislation transposing the Directive by stating that the management requirements apply not only to calves confined for rearing and fattening, but also to calves confined for dairy farming

### Operative part of the judgment

Council Directive 91/629/EEC of 19 November 1991 laying down minimum standards for the protection of calves, as amended by Council Regulation (EC) No 806/2003 of 14 April 2003, must be interpreted as meaning that the requirement, referred to in Article 4 of that directive, according to which the conditions relating to the rearing of calves must comply with the general provisions set out in the annex to that directive, including point 8 of that annex, which prohibits, subject to exceptions, the tethering of calves, applied to calves kept confined by a farmer in the context of a dairy farming operation for agricultural purposes.

(<sup>1</sup>) OJ C 282, 24.09.2011.

**Appeal brought on 19 September 2011 by Smanor SA against the order of the General Court (Fifth Chamber) delivered on 15 July 2011 in Case T-185/11 Smanor SA v European Commission, European Ombudsman**

(Case C-474/11 P)

(2012/C 227/09)

Language of the case: French

### Parties

Appellant: Smanor SA (represented by: J.-P. Ekeu, lawyer)

Other parties to the proceedings: European Commission, European Ombudsman

By order of 1 March 2012, the Court (Eighth Chamber) dismissed the appeal and ordered Smanor to bear its own costs.

**Appeal brought on 5 March 2012 by Enviro Tech Europe Ltd against the judgment of the General Court (First Chamber) delivered on 16 December 2011 in Case T-291/04: Enviro Tech Europe Ltd, Enviro Tech International, Inc. v European Commission**

(Case C-118/12 P)

(2012/C 227/10)

Language of the case: English

### Parties

Appellant: Enviro Tech Europe Ltd (represented by: C. Mereu, K. Van Maldegem, avocats)

*Other parties to the proceedings:* European Commission, Enviro Tech International, Inc.

### Form of order sought

The appellant claims that the Court should:

- set aside the judgment of the General Court in Case T-291/04 as regards the Appellant's claim for damages; and
- declare the Respondent liable for damages suffered by the Appellant; or
- alternatively, refer the case back to the General Court to rule on the Appellant's claim for damages; and
- order the Respondent to pay all the costs of these proceedings (including the costs before the General Court).

### Pleas in law and main arguments

The Appellant submits that, in dismissing its application for damages on the grounds that the Appellant had failed to establish the existence of unlawful action on the part of the Commission, the General Court breached European Union law. In particular, the Appellant contends that the General Court committed an error in its interpretation of the Judgment of the Court in Case C-425/08 and, as a consequence, it made an error in law in failing to assess the third part of the Appellant's first plea of illegality in relation to 'normal handling or use' and concluding that the application for damages should be dismissed.

For these reasons the Appellant claims that the judgment of the General Court in Case T-291/04 should be set aside as regards the Appellant's claim for damages and the Respondent should be declared liable for damages suffered by the Appellant.

**Reference for a preliminary ruling from the Juzgado de lo Social No 1 de Benidorm (Spain) lodged on 26 April 2012**  
— **Concepción Maestre García v Centros Comerciales CARREFOUR SA**

(Case C-194/12)

(2012/C 227/11)

*Language of the case: Spanish*

### Referring court

Juzgado de lo Social No 1 de Benidorm

### Parties to the main proceedings

*Applicant:* Concepción Maestre García

*Defendant:* Centros Comerciales Carrefour SA

### Questions referred

1. Does Article 7(1) of Directive 2003/88<sup>(1)</sup> of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time preclude an interpretation of the national legislation that does not allow interruption of a leave period, so that, at a later time, the entire period — or what remains of it — can be taken, where a temporary incapacity takes effect before the period in which leave is taken and there are reasons connected with production or organisation which preclude the leave from being taken in another later period?
2. Does Article 7(1) of Directive 2003/88 of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time preclude an interpretation of the national legislation that permits an undertaking unilaterally to schedule a leave period which coincides with a period of temporary incapacity, where the worker has not expressed in advance a preference to take another period and where there is an agreement between the representatives of the undertaking's workers and the undertaking which so permits?
3. Does Article 7(1) of Directive 2003/88 of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time preclude an interpretation of the national legislation that permits payment in lieu of leave not taken as a result of temporary incapacity if there are reasons connected with production or organisation which preclude the leave from actually being taken, even though the employment contract has not been terminated?

<sup>(1)</sup> OJ 2003 L 299, p. 9

**Reference for a preliminary ruling from the Rechtbank van eerste aanleg te Brussel (Belgium) lodged on 30 April 2012**  
— **Essent Belgium NV v Vlaamse Reguleringsinstantie voor de Elektriciteits- en Gasmarkt (VREG)**

(Case C-204/12)

(2012/C 227/12)

*Language of the case: Dutch*

### Referring court

Rechtbank van eerste aanleg te Brussel