

seriously affected by reason of agri-environmental commitments to which they have been subject, for all or part of the reference period, on a comparison between the amounts of the direct payments received during the years affected by such commitments and those received during years which were not affected by such commitments?

2. Do paragraphs 2 and 5 of Article 40 of Council Regulation (EC) No 1782/2003 of 29 September 2003 authorise Member States to base the right to revalorisation of the reference amount for farmers whose production has been seriously affected by reason of agri-environmental commitments to which they have been subject, during the entire reference period, on a comparison between the amount of direct payments received during the last year not affected by an agri-environmental commitment, including cases in which that year is eight years prior to the reference period, and the annual average amount of direct payments received during the reference period?

(¹) 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).

Reference for a preliminary ruling from the Nejvyšší správní soud (Czech Republic) lodged on 18 June 2012 — GREEN — SWAN PHARMACEUTICALS CR, a.s. v Státní zemědělská a potravinářská inspekce

(Case C-299/12)

(2012/C 273/09)

Language of the case: Czech

Referring court

Nejvyšší správní soud

Parties to the main proceedings

Applicant: GREEN — SWAN PHARMACEUTICALS CR, a. s.

Defendant: Státní zemědělská a potravinářská inspekce (The Czech Agricultural and Food Inspection Authority)

Questions referred

1. Is the following health claim: 'The preparation also contains calcium and Vitamin D3, which help to reduce a risk factor in the development of osteoporosis and fractures', a reduction of disease risk claim within the meaning of Article 2(2)(6) of Regulation (EC) No 1924/2006 (¹) of 20 December 2006 on

nutrition and health claims made on foods, as amended by Commission Regulation (EU) No 116/2010 (²) of 9 February 2010, even though it is not expressly implied in this claim that the consumption of that preparation would significantly reduce a risk factor in the development of disease mentioned?

2. Does the concept of a trade mark or brand name within the meaning of Article 28(2) of Regulation (EC) No 1924/2006 of 20 December 2006 on nutrition and health claims made on foods, as amended by Commission Regulation (EU) No 116/2010 of 9 February 2010, also include a commercial communication on the packaging of the product?
3. Should the transitional provision in Article 28(2) of Regulation (EC) No 1924/2006 of 20 December 2006 on nutrition and health claims made on foods, as amended by Commission Regulation (EU) No 116/2010 of 9 February 2010, be interpreted to refer to (any) foods which existed prior to 1 January 2005, or to refer to foods to which a trade mark or brand name was affixed and which existed in that form before that date?

(¹) Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods; OJ 2006 L 404, p. 9.

(²) Commission Regulation (EU) No 116/2010 of 9 February 2010 amending Regulation (EC) No 1924/2006 of the European Parliament and of the Council with regard to the list of nutrition claims (Text with EEA relevance); OJ 2010 L 37, p. 16.

Action brought on 26 June 2012 — European Commission v Slovak Republic

(Case C-305/12)

(2012/C 273/10)

Language of the case: Slovak

Parties

Applicant: European Commission (represented by P. Hetsch, D. Düsterhaus and A. Tokár, acting as Agents)

Defendant: Slovak Republic

Forms of order sought

- declare that, by failing to adopt the legislative, regulatory and administrative provisions necessary to bring its domestic law into conformity with Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives, (¹) or in any event by failing to notify the Commission of such measures, the Slovak Republic has failed to fulfil its obligations under Article 40 of that directive;

- impose upon the Slovak Republic, under Article 260(3) TFEU, a penalty payment for failure to notify such measures of EUR 17 136 per day as from the delivery date of the judgment in this case;
- order the Slovak Republic to pay the costs.

Pleas in law and main arguments

The prescribed period for transposition of the directive expired on 12 December 2010.

(¹) OJ L 312, 22.11.2008, p. 3.

Action brought on 26 June 2012 — European Commission v Republic of Poland

(Case C-308/12)

(2012/C 273/11)

Language of the case: Polish

Parties

Applicant: European Commission (represented by: P. Hetsch, D. Düsterhaus and K. Herrmann, acting as Agents)

Defendant: Republic of Poland

Form of order sought

- declare that, by not bringing into force all of the laws, regulations and administrative provisions necessary to transpose Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives, (¹) and in any event by not notifying the Commission of those provisions, the Republic of Poland has failed to fulfil its obligations under Article 40(1) of that directive;
- impose on the Republic of Poland, in accordance with Article 260(3) TFEU, a periodic penalty payment for failure to comply with its obligation to notify the Commission of the measures for transposing Directive 2008/98/EC, at a daily rate of EUR 67 314,24 calculated from the date on which judgment is delivered in the present case;
- order the Republic of Poland to pay the costs of the proceedings.

Pleas in law and main arguments

The period within which Directive 2008/98/EC had to be transposed expired on 12 December 2010.

(¹) OJ 2008 L 312, p. 3.