

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders the United Kingdom of Great Britain and Northern Ireland to pay the costs;
3. Orders Ireland and the European Commission to bear their own respective costs.

(¹) OJ C 311, 22.10.2011.

Judgment of the Court (First Chamber) of 19 September 2013 (request for a preliminary ruling from the Oberster Gerichtshof — Austria) — CHS Tour Services GmbH v Team4 Travel GmbH

(Case C-435/11) (¹)

(Directive 2005/29/EC — Unfair commercial practices — Sales brochure containing false information — Treated as ‘misleading commercial practice’ — Case in which the trader cannot be criticised for any breach of the duty of diligence)

(2013/C 344/16)

Language of the case: German

Referring court

Oberster Gerichtshof

Parties to the main proceedings

Appellant: CHS Tour Services GmbH

Respondent: Team4 Travel GmbH

Re:

Request for a preliminary ruling — Oberster Gerichtshof — Interpretation of Article 5 of Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council (OJ 2005 L 149, p. 22) — Brochure containing false information — Whether or not possible for a trader to show that the requirements of professional diligence have been complied with in order to prevent a commercial practice from being categorised as ‘unfair’

Operative part of the judgment

Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial

practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council (‘Unfair Commercial Practices Directive’), must be interpreted as meaning that, if a commercial practice satisfies all the criteria specified in Article 6(1) of that directive for being categorised as a misleading practice in relation to the consumer, it is not necessary to determine whether such a practice is also contrary to the requirements of professional diligence as referred to in Article 5(2)(a) of the directive in order for it legitimately to be regarded as unfair and, therefore, prohibited in accordance with Article 5(1) of the directive.

(¹) OJ C 340, 19.11.2011.

Judgment of the Court (Third Chamber) of 26 September 2013 — European Commission v Portuguese Republic

(Case C-450/11) (¹)

(Failure of a Member State to fulfil obligations — Taxation — VAT — Directive 2006/112/EC — Articles 306 to 310 — Special scheme for travel agents — Discrepancies between language versions — National legislation providing for the application of the special scheme to persons other than travellers — Concepts of ‘traveller’ and ‘customer’)

(2013/C 344/17)

Language of the case: Portuguese

Parties

Applicant: European Commission (represented by: M. Afonso and L. Lozano Palacios, acting as Agents)

Defendant: Portuguese Republic (represented by: L. Inez Fernandes and R. Laires, acting as Agents)

Interveners in support of the defendant: Czech Republic (represented by: M. Smolek, T. Müller and J. Očková, acting as Agents), Kingdom of Spain (represented by: S. Centeno Huerta, acting as Agent), French Republic (represented by: G. de Bergues and J.-S. Pilczer, acting as Agents), Republic of Poland (represented by: M. Szpunar and B. Majczyna, acting as Agents), Republic of Finland (represented by: J. Heliskoski, acting as Agent)

Re:

Failure of a Member State to fulfil obligations — Infringement of Articles 306 to 310 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1) — National legislation providing for the application of the special travel agency taxation scheme to transactions that travel agencies make in favour of recipients other than travellers