Questions referred

1. Can Article 81(1) EC [Article 101(1) TFEU] be interpreted as meaning that the same conduct can infringe this provision both because the object of the conduct is anti-competitive and also because its effect is anti-competitive, with the two cases being treated as separate grounds in law?

2. Can Article 81(1) EC [Article 101(1) TFEU] be interpreted as meaning that the agreement at issue in the proceedings, which was entered into by Hungarian banks and which establishes, in respect of the two bank card companies, MasterCard and Visa, a unitary amount for the interchange fee payable to the issuing banks for the use of the cards of those two companies, constitutes a restriction of competition by object?

3. Can Article 81(1) EC [Article 101(1) TFEU] be interpreted as meaning that the credit card companies can also be considered to be parties to an interbank agreement where they were not directly involved in defining the content of the agreement but facilitated its adoption and accepted and implemented it; or are these companies to be considered to have acted in concert with the banks that entered into the agreement?

4. Can Article 81(1) EC [Article 101(1) TFEU] be interpreted as meaning that, in view of the subject matter of the proceedings, for the purpose of finding an infringement of competition law, it is not necessary to differentiate between participation in the agreement and acting in concert with the banks that participated in the agreement?

Request for a preliminary ruling from the Naczelny Sąd Administracyjny (Poland) lodged on 28 March 2018 — Vega International Car Transport and Logistic — Trading GmbH

(Case C-235/18)

(2018/C 231/17)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Appellant: Vega International Car Transport and Logistic — Trading GmbH

Other party to the proceedings: Dyrektor Izby Skarbowej w Warszawie (now the Dyrektor Izby Administracji Skarbowej w Warszawie)

Question referred

Does the concept referred to in Article 135(1)(b) of Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ([1]) include transactions consisting in the provision of fuel cards and in negotiating, financing and accounting for the purchase of fuel using those cards, or can such complex transactions be considered to be chain transactions the primary purpose of which is the supply of fuel?

([1]) OJ 2006 L 347, p. 1.

Appeal brought on 16 April 2018 by the European Commission against the judgment of the General Court (Second Chamber) delivered on 5 February 2018 in Case T-216/15: Dôvera zdravotná poisťovňa, a.s. v European Commission

(Case C-262/18 P)

(2018/C 231/18)

Language of the case: English

Parties

Appellant: European Commission (represented by: P.J. Loewenthal, F. Tomat, Agents)

Other parties to the proceedings: Dôvera zdravotná poisťovňa a.s., Slovak Republic, Union zdravotná poisťovňa a.s.

Form of order sought

The appellant claims that the Court should:

— set aside the judgment of the General Court (Second Chamber) of 5 February 2018 in Case T-216/15, Dôvera v Commission;

— refer the case back to the General Court for consideration;

— alternatively, make use of its power under the second sentence of the first paragraph of Article 61 of the Statute of the Court of Justice of the European Union to give final judgment in the matter; and

— reserve the costs of the present proceedings, if it refers the case back to the General Court, or order Dôvera zdravotná poisťovňa a.s. and Union zdravotná poisťovňa a.s. to pay the costs of the proceedings, if it gives final judgment in the matter.

Pleas in law and main arguments

By the contested judgment, the General Court annulled Commission Decision (EU) 2015/248 of 15 October 2014 on the measures SA.23008 (2013/C) (ex2013/NN) granted by the Slovak Republic to Spoločná zdravotná poisťovňa a.s. (SZP) and Všeobecná zdravotná poisťovňa a.s. (VZP) (OJ 2015, L 41, p. 25).

The Commission puts forward three grounds in support of its appeal of the contested judgment.

First, the Commission considers the General Court to have failed to fulfil its duty to state reasons under Article 36 and 53, paragraph 1, of the Statute of the Court of Justice. In the contested judgment, the General Court claims to annul the contested decision by upholding the applicant's second plea at first instance, namely that the Commission was wrong to conclude that the Slovak compulsory health insurance scheme is predominantly solidarity-based. However, the legal standard it in fact applied to annul that decision is the one that the applicant proposed under its first plea at first instance, namely that the mere presence of any economic features transforms the provision of health insurance into an economic activity. Since the legal standard under the applicant's first and second pleas were mutually exclusive, the Commission is not in a position to understand on what basis the contested decision was annulled.

Second, the Commission considers the General Court to have committed an error of law by misinterpreting the notion of undertaking within the meaning of Article 107(1) TFEU. In the contested judgment, the General Court upheld the Commission's conclusion that the Slovak compulsory health insurance scheme was predominantly solidarity-based, as well as its explanation that its economic features were introduced to ensure that its social and solidarity objectives were attained. It nevertheless found that the Commission committed an error of assessment by concluding that the activity carried out by health insurers under the Slovak compulsory health insurance scheme is not economic in nature. It arrived at this conclusion by noting insurers' ability to make, use and distribute part of their profits and the competition between insurers for customers and on quality of services. It then found that the mere presence of for-profit insurers in Slovakia transform SZP and VZP by contagion into undertakings within the meaning of Article 107(1) TFEU. In so concluding, the General Court disregarded the case-law according to which a health insurance scheme that is predominantly solidarity-based and whose economic features were introduced to ensure the continuity of the scheme and the attainment of the social and solidarity objectives underpinning it is non-economic in nature, so that the health insurance providers operating under that scheme are not undertakings.

Third, the Commission considers the General Court to have distorted the evidence submitted to it at first instance in concluding that there was 'intense and complex competition' between health insurance providers in Slovakia, when the case file only pointed to a very limited amount of competition for the provision of non-mandatory benefits free of charge.

Request for a preliminary ruling from the Symvoulio tis Epikrateias (Greece) lodged on 24 April 2018 — Alain Flausch, Andrea Bosco, Estienne Roger Jean Pierre Albrespy, Association registered as Syndesmos Iiton, Association registered as Elliniko Diktyo — Filoi tis Fysis, Association registered as Syllogos Prostasias kai Perithalpsis Agias Zois (SPPAZ) v Ypourgos Perivallontos kai Energeias, Ypourgos Oikonomikon, Ypourgos Tourismou, Ypourgos Naftilias kai Nisiotikis Politikis

(Case C-280/18)

(2018/C 231/19)

Language of the case: Greek

Referring court

Symvoulio tis Epikrateias

Parties to the main proceedings

Applicants:

Alain Flausch,

Andrea Bosco,

Estienne Roger Jean Pierre Albrespy,

Association registered as Syndesmos Iiton,

Association registered as Elliniko Diktyo — Filoi tis Fysis,

Association registered as Syllogos Prostasias kai Perithalpsis Agias Zois (SPPAZ)

Defendants:

Ypourgos Perivallontos kai Energeias,

Ypourgos Oikonomikon,

Ypourgos Tourismou,

Ypourgos Naftilias kai Nisiotikis Politikis

Intervening party:

105 Anonymi Touristiki kai Techniki Etaireia Ekmetallefsis Akiniton

Questions referred

1. Can Articles 6 and 11 of Directive 2011/92/EU, ([1]) read in combination with the provisions of Article 47 of the Charter of Fundamental Rights of the European Union, be interpreted as meaning that provisions of national law as set out in paragraphs 8, 9 and 10 [of the order for reference], in which it is laid down that procedures preceding the adoption of decisions approving environmental conditions for projects and activities with a significant environmental impact (publication of environmental impact studies, public information and participation in the consultation process) are to be initiated and conducted primarily by the wider administrative unit (region) and not by the municipality concerned, are compatible with those articles?