

Request for a preliminary ruling from the Landesgericht Salzburg (Austria) lodged on 31 May 2018 — Bettina Plackner v Nürnberger Versicherung Aktiengesellschaft Österreich

(Case C-357/18)

(2018/C 294/30)

Language of the case: German

Referring court

Landesgericht Salzburg

Parties to the main proceedings

Applicant: Bettina Plackner

Defendant: Nürnberger Versicherung Aktiengesellschaft Österreich

Question referred

Must Article 15(1) of Directive 90/619/EEC (Second Life Assurance Directive),⁽¹⁾ as amended by Directive 92/96/EEC (Third Life Assurance Directive),⁽²⁾ in conjunction with Article 31 of Directive 92/96/EEC, be interpreted as meaning that information regarding the right of cancellation must also contain the notice that the cancellation does not have to be communicated in any specific form?

⁽¹⁾ Second Council Directive 90/619/EEC of 8 November 1990 on the coordination of laws, regulations and administrative provisions relating to direct life assurance, laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive 79/267/EEC (OJ 1990 L 330, p. 50).

⁽²⁾ Council Directive 92/96/EEC of 10 November 1992 on the coordination of laws, regulations and administrative provisions relating to direct life assurance and amending Directives 79/267/EEC and 90/619/EEC (third life assurance Directive) (OJ 1992 L 360, p. 1).

Appeal brought on 1 June 2018 by European Medicines Agency against the judgment of the General Court (Seventh Chamber) delivered on 22 March 2018 in Case T-80/16: Shire Pharmaceuticals Ireland v EMA

(Case C-359/18 P)

(2018/C 294/31)

Language of the case: English

Parties

Appellant: European Medicines Agency (represented by: S. Marino, A. Spina, S. Drosos, T. Jabłoński, Agents)

Other part to the proceedings: Shire Pharmaceuticals Ireland Ltd,

European Commission

Form of order sought

The appellant claims that the Court should:

- grant EMA's appeal and set aside the judgment of the General Court in Case T-80/16;
- reject the application of annulment as unfounded; and
- order the applicant at first instance to pay all the costs of these proceedings (including the costs before the General Court).

Pleas in law and main arguments

EMA submits two grounds of appeal.

- 1) The first ground of appeal comprises two limbs. Under the first limb of this first ground of appeal, EMA submits that the General Court erred in law when holding, at paragraph 50 of the judgment under appeal, that Article 5(1) of the Orphan Regulation ⁽¹⁾ should be read separately from Article 5(2). Such interpretation stands in violation of Article 5(1), as it undermines the effectiveness of the provision.

Under the second limb of the first ground of appeal, EMA submits that the General Court erred in law when holding, at paragraph 64 of the judgment under appeal, that the notion of medicinal product should be relied upon by the EMA when it establishes for the purpose of Article 5(1) whether an application for orphan designation and a previously submitted application for marketing authorisation overlap.

- 2) Under the second ground of appeal, EMA submits that the General Court relied on an incorrect reading of the notion of medicinal products as set out in Article 1(2) of Directive ⁽²⁾ 2001/83/EC, insofar as it held that a difference in excipients and routes of administration between two products would render them different for the purpose of Article 5(1) of the Orphan Regulation.

⁽¹⁾ Regulation (EC) No 141/2000 of the European Parliament and of the Council of 16 December 1999 on orphan medicinal products (OJ 2000, L 18, p. 1)

⁽²⁾ Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (OJ 2001, L 311, p. 67)

Request for a preliminary ruling from the Tribunale Amministrativo Regionale per la Lombardia (Italy) lodged on 4 June 2018 — *Eni SpA v Ministero dello Sviluppo Economico, Ministero dell'Economia e delle Finanze*

(Case C-364/18)

(2018/C 294/32)

Language of the case: Italian

Referring court

Tribunale Amministrativo Regionale per la Lombardia

Parties to the main proceedings

Applicant: Eni SpA

Defendants: Ministero dello Sviluppo Economico, Ministero dell'Economia e delle Finanze

Question referred

Do Article 6(1) and the sixth recital of Directive 94/22/EC ⁽¹⁾ preclude national legislation, in particular Article 19(5-bis) of Legislative Decree No 625 of 1996, which, by reason of the interpretation provided by the Consiglio di Stato in judgment No 290/2018, allows the imposition, in the context of the payment of royalties, of the QE (energy share) parameter, based on the listed prices of oil and other fuels, rather than on the basis of the PFOR index, which is pegged to the price of gas on the short-term market?

⁽¹⁾ Directive 94/22/EC of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorisations for the prospection, exploration and production of hydrocarbons (OJ 1994 L 164, p. 3).