

**Judgment of the Court (First Chamber) of 15 March 2012
(reference for a preliminary ruling from the Landgericht
Regensburg — Germany) — G v Cornelius de Visser**

(Case C-292/10) ⁽¹⁾

(Jurisdiction and the enforcement of judgments in civil and commercial matters — Public notification of legal documents — Lack of known domicile or place of abode of the defendant in the territory of a Member State — Jurisdiction ‘in matters relating to tort, delict or quasi-delict’ — Infringement of the right to protection of personality liable to have been committed by the publication of photographs on the internet — Place where the harmful event occurred or may occur)

(2012/C 133/07)

Language of the case: German

Referring court

Landgericht Regensburg

Parties to the main proceedings

Applicant: G

Defendant: Cornelius de Visser

Re:

Reference for a preliminary ruling — Landgericht Regensburg — Interpretation of the first paragraph of Article 6 TEU in conjunction with the second paragraph of Article 47 of the Charter of Fundamental Rights of the European Union (OJ 2007 C 303, p. 1), of Articles 4(1), 5, point 3, and 26(2) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1) and of Article 3(1) and (2) of Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ 2000 L 178, p. 1) — National legislation allowing in certain circumstances for public notification of legal documents to the defendant and allowing a default decision to be taken on the basis of a writ notified in that manner — Applicability of the rules on jurisdiction in Regulation (EC) No 44/2001 in the absence of a known domicile or place of residence of the defendant in the territory of a Member State — Determination of the jurisdiction of the courts and of the law applicable to an action brought in respect of an infringement of personality rights which may have been committed by the publication of photographs on an internet site edited by a person whose domicile is unknown

Operative part of the judgment

1. In circumstances such as those in the main proceedings, Article 4(1) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters must be interpreted

as meaning that it does not preclude the application of Article 5(3) of that regulation to an action for liability arising from the operation of an Internet site against a defendant who is probably a European Union citizen but whose whereabouts are unknown if the court seized of the case does not hold firm evidence to support the conclusion that the defendant is in fact domiciled outside the European Union;

2. European Union law must be interpreted as meaning that it does not preclude the issue of judgment by default against a defendant on whom, given that it is impossible to locate him, the document instituting proceedings has been served by public notice under national law, provided that the court seized of the matter has first satisfied itself that all investigations required by the principles of diligence and good faith have been undertaken to trace the defendant;
3. European Union law must be interpreted as precluding certification as a European Enforcement Order, within the meaning of Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims, of a judgment by default issued against a defendant whose address is unknown;
4. Article 3(1) and (2) of Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market does not apply to a situation where the place of establishment of the information society services provider is unknown, since application of that provision is subject to identification of the Member State in whose territory the service provider in question is actually established.

⁽¹⁾ OJ C 346, 18.12.2010.

**Judgment of the Court (Third Chamber) of 22 March 2012
(reference for a preliminary ruling from the Finanzgericht
Hamburg — Germany) — Grünwald Logistik Service
GmbH (GLS) v Hauptzollamt Hamburg-Stadt**

(Case C-338/10) ⁽¹⁾

(Dumping — Anti-dumping duty imposed on imports of certain prepared or preserved citrus fruits originating in China — Regulation (EC) No 1355/2008 — Validity — Regulation (EC) No 384/96 — Article 2(7)(a) — Determination of normal value — Non-market economy country — Commission’s obligation to take due care to determine normal value on the basis of the price or constructed value in a market economy third country)

(2012/C 133/08)

Language of the case: German

Referring court

Finanzgericht Hamburg

Parties to the main proceedings

Applicant: Grünwald Logistik Service GmbH (GLS)

Defendant: Hauptzollamt Hamburg-Stadt

Re:

Reference for a preliminary ruling — Finanzgericht Hamburg — Validity, in the light of Article 2(7)(a) of Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community (OJ 1996 L 56, p. 1), of Commission Regulation (EC) No 642/2008 of 4 July 2008 imposing a provisional anti-dumping duty on imports of certain prepared or preserved citrus fruits (namely mandarins, etc.) originating in the People's Republic of China (OJ 2008 L 178, p. 19) and of Council Regulation (EC) No 1355/2008 of 18 December 2008 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain prepared or preserved citrus fruits (namely mandarins, etc.) originating in the People's Republic of China (OJ 2008 L 350, p. 35) — Determination of normal value for a country which does not have a market economy — Determination of normal value on the basis of the price actually paid or payable for like products in the European Union — Obligation imposed on the Commission by Article 2(7)(a) of Regulation (EC) No 384/96 to take the measures necessary to determine normal value on the basis of the price or constructed value in a market-economy third country.

Operative part of the judgment

Council Regulation (EC) No 1355/2008 of 18 December 2008 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain prepared or preserved citrus fruits (namely mandarins, etc.) originating in the People's Republic of China is invalid.

⁽¹⁾ OJ C 260, 25.9.2010.

Judgment of the Court (Fourth Chamber) of 15 March 2012
— European Commission v Republic of Cyprus

(Case C-340/10) ⁽¹⁾

*(Failure of a Member State to fulfil obligations — Directive 92/43/EEC — Articles 4(1) and 12(1) — Failure to include Paralimni Lake as a site of Community importance within the time-limit laid down — System of protection for the species *Natrix natrix cypriaca* (Cypriot grass snake))*

(2012/C 133/09)

Language of the case: Greek

Parties

Applicant: European Commission (represented by: G. Zavvos and D. Recchia, acting as Agents)

Defendant: Republic of Cyprus (represented by: K. Lykourgos and M. Chatzigeorgiou, acting as Agents)

Re:

Failure of a Member State to fulfil obligations — Infringement of Articles 4(1) and 12(1) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ 1992 L 206, p. 7) — Failure to include Paralimni Lake in the national list of sites eligible for identification as sites of Community importance — Failure to establish a system of protection for the species *Natrix natrix cypriaca* (Cypriot grass snake)

Operative part of the judgment

The Court:

1. Declares that the Republic of Cyprus,

- by not having included the site of Paralimni Lake in the national list of proposed sites of Community importance,
- by tolerating activities which seriously compromise the ecological characteristics of Paralimni Lake and by not having taken the protective measures necessary to maintain the population of *Natrix natrix cypriaca* (Cypriot grass snake), the species which constitutes the ecological interest of the lake and Xyliatos Dam, and
- by not having taken the requisite measures to establish and apply a system of strict protection for that species,

has failed to fulfil its obligations under Article 4(1) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, as amended by Council Directive 2006/105/EC of 20 November 2006, under Directive 92/43, as amended, and under Article 12(1) of Directive 92/43, as amended, respectively;

2. Orders the Republic of Cyprus to pay the costs.

⁽¹⁾ OJ C 246, 11.9.2010.

Judgment of the Court (Grand Chamber) of 13 March 2012
— Pye Phyo Tay Za v Council of the European Union,
United Kingdom of Great Britain and Northern Ireland,
European Commission

(Case C-376/10 P) ⁽¹⁾

(Appeal — Common foreign and security policy — Restrictive measures against the Republic of the Union of Myanmar — Freezing of funds applicable to persons, entities and bodies — Legal basis)

(2012/C 133/10)

Language of the case: English

Parties

Appellant: Pye Phyo Tay Za (represented by: D. Anderson QC, S. Kentridge QC, M. Lester, Barrister, and G. Martin, Solicitor)