Defendants: Groupe Danone, Société Kro beer brands SA (BKSA), Société Evian eaux minérales d'Evian SA (SAEME)

Re:

Reference for a preliminary ruling — Cour de cassation — Interpretation of Article 7(2) of Council Directive 86/653/EEC of 18 December 1986 on the coordination of the laws of the Member States relating to self-employed commercial agents (OJ 1986 L 382, p. 17) — Termination of the agency contract — Commission owed to a commercial agent entrusted with a specific geographical area or group of persons — Whether there is a right to that commission in the absence of any control, direct or indirect, by the principal over transactions between a third party and a customer belonging to the geographical area entrusted to the agent

Operative part of the judgment

The first indent of Article 7(2) of Directive 86/653/EEC of 18 December 1986 on the coordination of the laws of the Member States relating to self-employed commercial agents must be interpreted as meaning that a commercial agent entrusted with a specific geographical area does not have the right to a commission for transactions concluded by customers belonging to that area without any action, direct or indirect, on the part of the principal.

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[1] OJ C 69, 24.3.2007.

Judgment of the Court (Fourth Chamber) of 17 January 2008 (reference for a preliminary ruling from the Rechtbank van eerste aanleg te Antwerpen, Belgium) — NV Lammers & Van Cleeff v Belgische Staat

(Case C-105/07) [1]

(Freedom of establishment — Free movement of capital — Tax legislation — Corporation tax — Interest paid by a subsidiary on funds lent by the parent company established in another Member State — Reclassification of the interest as taxable dividends — No such reclassification where interest payments are made to a resident company)

(2008/C 64/17)

Language of the case: Dutch

Referring court

Rechtbank van eerste aanleg te Antwerpen

Parties to the main proceedings

Applicant: NV Lammers & Van Cleeff

Defendant: Belgische Staat

Re:

Reference for a preliminary ruling — Rechtbank van eerste aanleg te Antwerpen — Interpretation of Articles 12 EC, 43 EC, 46 EC, 48 EC, 56 EC and 58 EC — National fiscal legislation reclassifying as taxable dividends interest paid by a subsidiary by way of remuneration in respect of loans provided by the parent company established in another Member State, but not reclassifying such interest as taxable dividends when paid to a company established in Belgium

Operative part of the judgment

Articles 43 EC and 48 EC preclude national legislation, such as that at issue in the main proceedings, under which interest payments made by a company resident in a Member State to a director which is a company established in another Member State are reclassified as dividends and are, on that basis, taxable, where, at the beginning of the taxable period, the total of the interest-bearing loans is higher than the paid-up capital plus taxed reserves, whereas, in the same circumstances, where those interest payments are made to a director which is a company established in the same Member State, those payments are not reclassified as dividends and are, on that basis, not taxable.

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[1] OJ C 95, 28.4.2007.

Judgment of the Court (Sixth Chamber) of 17 January 2008 — Commission of the European Communities v Hellenic Republic

(Case C-342/07) [1]

(Failure of a Member State to fulfil its obligations — Directive 2002/91/EC — Energy policy — Energy saving — Failure to transpose within the prescribed period)

(2008/C 64/18)

Language of the case: Greek

Parties

Applicant: Commission of the European Communities (represented by: M. Patakia and M.B. Schima, acting as Agents)

Defendant: Hellenic Republic (represented by: N. Dafniou, Agent)

Re:

Failure of a Member State to fulfil obligations — Failure to adopt, within the prescribed period, the measures necessary to comply with Directive 2002/91/EC of the European Parliament and of the Council of 16 December 2002 on the energy performance of buildings (OJ 2003 L 1, p. 65)

Operative part of the judgment

The Court:

1. *Declares that by not having adopted, within the prescribed period, the legislative, regulatory and administrative measures necessary to comply with Directive 2002/91/EC of the European Parliament and of the Council of 16 December 2002 on the energy performance of buildings, the Hellenic Republic has failed to fulfil its obligations under that directive;*

2. *Orders the Hellenic Republic to pay the costs.*

[1] OJ C 211, 8.9.2007.

Order of the Court (Third Chamber) of 8 November 2007 (reference for a preliminary ruling from the Consiglio di Stato — Italy) — Fratelli Martini & C. SpA, Cargill Srl v Ministero delle Politiche Agricole e Forestali, Ministero della Salute, Ministero delle Attività Produttive

(Case C-421/06) [1]

(First subparagraph of Article 104(3) of the Rules of Procedure — Judgment of the Court declaring a Community provision invalid — Obligations of the institutions — Animal health and public health requirements — Compound feedingstuffs for animals — Indication, on the label, of the percentages in weight of the raw materials present in the feedingstuff, with a tolerance of ± 15 % of the declared value — Prohibition on misleading the consumer)

(2008/C 64/19)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties

Applicants: Fratelli Martini & C. SpA, Cargill Srl

Defendants: Ministero delle Politiche Agricole e Forestali, Ministero della Salute, Ministero delle Attività Produttive

Re:

Reference for a preliminary ruling — Consiglio di Stato — Effects of the judgment of the Court of Justice in Joined Cases C-453/03, C-11/04, C 12/04 and C-194/04 (*ABNA and Others*) by which Directive 2002/2/EC of the European Parliament and of the Council of 28 January 2002 amending Council Directive 79/373/EEC on the circulation of compound feedingstuffs and repealing Commission Directive 91/357/EEC (OJ 2002 L 63, p. 23) was declared partially invalid — Obligation for the institutions to adopt a new act

Operative part of the order

1. *Article 1(4) of Directive 2002/2/EC of the European Parliament and of the Council of 28 January 2002 amending Council Directive 79/373/EEC on the circulation of compound feedingstuffs and repealing Commission Directive 91/357/EEC, which lays down an obligation to indicate, on the labels of compound feedingstuffs for animals, the percentages in weight of the raw materials of which the feedingstuff is composed with a tolerance of ± 15 % of the declared value as regards those percentages, must be interpreted as meaning that it does not contradict Articles 8 and 16 of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety, which are intended, inter alia, to prevent the labelling and presentation of feedingstuffs for animals from misleading the consumer.*

2. *Since Article 1(1)(b) of Directive 2002/2 laid down an independent obligation bearing no relation to the obligations laid down by the other provisions of that directive, the Court's declaration, in its judgment of 6 December 2005 in Joined Cases C-453/03, C-11/04, C-12/04 and C-194/04 ABNA and Others, that that provision was invalid did not create a legal vacuum or a situation of inconsistency requiring the Community institutions to adopt the substantive amendments of Directive 2002/2.*

   In any event, the invalidity of a Community provision results directly from the judgment of the Court declaring that invalidity and it is for the national authorities and courts of the Member States to draw the consequences from that declaration in their national legal order.

[1] OJ C 326, 30.12.2006.