

Judgment of the Court (Grand Chamber) of 16 July 2009 — Der Grüne Punkt — Duales System Deutschland GmbH v Commission of the European Communities, Interseroh Dienstleistungs GmbH, Vfw GmbH, Landbell AG für Rückhol-Systeme, BellandVision GmbH

(Case C-385/07 P) ⁽¹⁾

(Appeal — Competition — Article 82 EC — System for the collection and recovery of used packaging in Germany — ‘Der Grüne Punkt’ logo — Fee payable under a trade mark agreement — Abuse of dominant position — Exclusive right of the proprietor of a trade mark — Excessive duration of the proceedings before the Court of First Instance — Reasonable time — Principle of effective legal protection — Articles 58 and 61 of the Statute of the Court of Justice)

(2009/C 220/03)

Language of the case: German

Parties

Appellant: Der Grüne Punkt — Duales System Deutschland GmbH (represented by: W. Deselaers, E. Wagner and B. Meyring, Rechtsanwälte)

Other parties to the proceedings: Commission of the European Communities (represented by: W. Mölls and R. Sauer, acting as Agents), Vfw GmbH (represented by: H. Wissel, Rechtsanwalt), Landbell AG für Rückhol-Systeme (represented by: A. Rinne and M. Westrup, Rechtsanwälte), Belland Vision GmbH (represented by: A. Rinne and M. Westrup, Rechtsanwälte)

Intervener in support of the Commission: Interseroh Dienstleistungs GmbH (represented by: W. Pauly, A. Oexle and J. Kempkes, Rechtsanwälte)

Re:

Appeal against the judgment of the Court of First Instance (First Chamber) of 24 May 2007 in Case T-151/01 *Duales System Deutschland v Commission*, by which that Court dismissed the action seeking annulment of Commission Decision 2001/463/EC of 20 April 2001 relating to a proceeding pursuant to Article 82 EC (Case COMP D3/34493 — DSD) (OJ 2001 L 166, p. 1) — Abuse of a dominant position — Collection and recovery system for packaging put into circulation in Germany and carrying the Der Grüne Punkt logo

Operative part of the judgment

The Court:

1. Dismisses the appeal;
2. Orders Der Grüne Punkt — Duales System Deutschland GmbH to bear its own costs, together with the costs of these proceedings incurred by the Commission of the European Communities,

Interseroh Dienstleistungs GmbH, Vfw GmbH, Landbell AG für Rückhol-Systeme and BellandVision GmbH.

⁽¹⁾ OJ C 269, 10.11.2009.

Judgment of the Court (Second Chamber) of 16 July 2009 — Commission of the European Communities v Ireland

(Case C-427/07) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Assessment of the effects of projects on the environment — Directive 85/337/EEC — Access to justice — Directive 2003/35/EC)

(2009/C 220/04)

Language of the case: English

Parties

Applicant: Commission of the European Communities (represented by: D. Recchia, P. Oliver and J.-B. Laignelot, Agents)

Defendant: Ireland (represented by: D. O'Hagan, Agent, M. Collins SC, and D. McGrath BL)

Re:

Failure of a Member State to fulfil obligations — Infringement of Article 2(1) and Article 4(2), (3) and (4) of Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (OJ 1985 L 175, p. 40) — Failure to adopt the provisions necessary to comply with Articles 3 and 4 of Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC (OJ 2003 L 156, p. 17)

Operative part of the judgment

The Court:

1. Declares that

— by failing to adopt, in conformity with Article 2(1) and Article 4(2) to (4) of Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, as amended by Council Directive 97/11/EC of 3 March 1997, all measures to ensure that, before consent is given, projects likely to have significant effects on the environment in the road construction category, covered by point 10(e) of Annex II to Directive 85/337, as amended by Directive 97/11, are made subject to a requirement for development consent and to an assessment with regard to their effects in accordance with Articles 5 to 10 of that directive, and

— by failing to adopt the laws, regulations and administrative provisions necessary to comply with Article 3(3) to (7) and Article 4(2) to (4) of Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC, and by failing to adequately notify such provisions to the Commission of the European Communities,

Ireland has failed to fulfil its obligations under Directive 85/337, as amended by Directive 97/11, and Article 6 of Directive 2003/35;

2. Dismisses the action as to the remainder;
3. Orders the Commission of the European Communities and Ireland to bear their own costs.

(¹) OJ C 269, 10.11.2007.

Judgment of the Court (Grand Chamber) of 16 July 2009 (reference for a preliminary ruling from the High Court of Justice of England and Wales, Queen's Bench Division (Administrative Court) (United Kingdom)) — Mark Horvath v Secretary of State for Environment, Food and Rural Affairs

(Case C-428/07) (¹)

(Common agricultural policy — Direct support schemes — Regulation (EC) No 1782/2003 — Article 5 and Annex IV — Minimum requirements for good agricultural and environmental condition — Maintenance of rights of way — Implementation by a Member State — Transfer of powers to regional authorities of a Member State — Discrimination contrary to Community law)

(2009/C 220/05)

Language of the case: English

Referring court

High Court of Justice of England and Wales, Queen's Bench Division (Administrative Court)

Parties to the main proceedings

Applicant: Mark Horvath

Defendant: Secretary of State for Environment, Food and Rural Affairs

Re:

Reference for a preliminary ruling — High Court of Justice of England and Wales, Queen's Bench Division (Administrative Court) — Interpretation of Article 5 and of Annex IV to Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC)

No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001 (OJ 2003 L 270, p. 1) — Criteria for good agricultural and environmental condition defined in Article 5 of the regulation and in Annex IV thereto — Possibility of including requirements relating to the maintenance of visible public rights of way — Member State's internal arrangements which provide that devolved administrations are to have legislative competence in relation to the various constituent parts of that Member State with the consequence that those various parts have different standards of good agricultural and environmental condition

Operative part of the judgment

1. A Member State may include requirements relating to the maintenance of visible public rights of way in its standards for good agricultural and environmental condition under Article 5 of and Annex IV to Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001, inasmuch as those requirements contribute to the retention of those rights of way as landscape features or, as the case may be, to the avoidance of the deterioration of habitats.
2. Where the constitutional system of a Member State provides that devolved administrations are to have legislative competence, the mere adoption by those administrations of different standards for good agricultural and environmental condition under Article 5 of and Annex IV to Regulation No 1782/2003 does not constitute discrimination contrary to Community law.

(¹) OJ C 297, 8.12.2007.

Judgment of the Court (Grand Chamber) of 16 July 2009 — Commission of the European Communities, Federal Republic of Germany v Schneider Electric SA, French Republic

(Case C-440/07 P) (¹)

(Appeal — Concentrations — Regulation (EEC) No 4064/89 — Commission decision declaring a concentration incompatible with the common market — Annulment — Non-contractual liability of the Community on account of the illegality found — Conditions)

(2009/C 220/06)

Language of the case: French

Parties

Appellant: Commission of the European Communities (represented by: M. Petite, F. Arbault, T. Christoforou, R. Lyal and C.-F. Durand, Agents)