**Question referred**

Is Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment ([1]), as amended by the Amending Directive, Council Directive 97/11/EC of 3 March 1997 amending Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment ([2]) and the Public Participation Directive, 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 ([3]), to be interpreted as meaning that a Member State must provide for an obligation to carry out an assessment in the case of types of projects listed in Annex I to the directive, in particular in point 20 (construction of overhead electrical power lines with a voltage of 220 kV or more and a length of more than 15 km), where the proposed scheme is to extend over the territory of two or more Member States, even if the threshold giving rise to the obligation to carry out an assessment (here, a length of 15 kilometres) is not reached or exceeded by the part of the scheme situated on its national territory but is reached or exceeded by adding the parts of the scheme proposed to be situated in a neighbouring State or States?

([1]) OJ 1985 L 175, p. 40.
([2]) OJ 1997 L 73, p. 5.
([3]) OJ 2003 L 156, p. 17.

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**Reference for a preliminary ruling from the Panevėžio apygardos teismas lodged on 20 May 2008 — Criminal proceedings against Edgar Babanov**

**(Case C-207/08)**

(2008/C 209/31)

*Language of the case: Lithuanian*

**Referring court**

Panevėžio apygardos teismas

**Party to the main proceedings**

Edgar Babanov

**Questions referred**

1. Is Article 265 of the Criminal Code of the Republic of Lithuania, in so far as it imposes criminal liability unconditionally for the cultivation of any type of hemp without exception, irrespective of the amount of active substance in it, contrary to provisions of the European Union and, specifically, which ones?

2. If it is contrary to those provisions, may a court of the Republic of Lithuania adopt a decision applying national law (Article 265 of the Criminal Code), if the active substance in the hemp cultivated does not exceed 0,2 %?

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**Appeal brought on 20 May 2008 by the Office for Harmonisation in the Internal Market (Trade Marks and Designs) against the judgment delivered on 28 February 2008 by the Court of First Instance (Fifth Chamber) in Case T-215/06, American Clothing Associates v OHIM**

**(Case C-208/08 P)**

(2008/C 209/32)

*Language of the case: French*

**Parties**

*Appellant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Folliard-Monguiral, Agent)

*Other party to the proceedings:* American Clothing Associates SA

**Form of order sought**

— set aside the judgment of the Court of First Instance of 28 February 2008 in Case T-215/06 in so far as it held that Article 7(1)(h) of the Community Trade Mark Regulation ([1]) does not apply to marks designating services;

— order American Clothing Associates SA to pay the costs.

**Pleas in law and main arguments**

The appellant raises a single plea in support of its appeal, alleging infringement of Article 7(1)(h) of the Community Trade Mark Regulation, read in conjunction with Article 6 ter of the Paris Convention for the Protection of Industrial Property of 20 March 1883, as revised and amended ([2]). Contrary to what the Court of First Instance held, that Article 6 ter, to which Article 7(1)(h) of the Community Trade Mark Regulation refers, applies without distinction to marks designating goods and marks designating services.

In this respect, the appellant states, first, that the Court of First Instance erred in law in interpreting Article 6 ter of the Paris Convention literally and out of context, without taking account of the spirit of that provision and of the Convention in general, which, since its review carried out by the Lisbon Act of 31 October 1958, requires extending all the provisions relating to trade marks to service marks, with the exception of certain provisions which are not applicable in the present case.

The appellant claims, second, that the Community legislature itself contests that it is necessary to draw a distinction between trade marks for goods and trade marks for services since Article 29 of the Community Trade Mark Regulation, which transposes Article 4 A of the Paris Convention, relating to rights of priority, mentions explicitly the services covered by a trade mark application.

The appellant observes third that, contrary to what the Court of First Instance held in the judgment under appeal, Article 16 of the Trademark Law Treaty, adopted at Geneva on 27 October 1994, must be interpreted as meaning that it clarifies the field of application of the Paris Convention, without however extending its field of application to situations that that convention excludes in its current wording.

Lastly, the appellant states that, in a recent judgment, the Court of Justice itself admitted, at least implicitly, that the Paris Convention requires equal treatment as between trade marks for goods and trade marks for services.

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([1]) Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ 1994 L 11, p. 1).
([2]) United Nations Treaty Series, Vol. 828, No 11847, p. 108.

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**Reference for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 22 May 2008 — E. Friz GmbH v Carsten von der Heyden**

**(Case C-215/08)**

(2008/C 209/33)

*Language of the case: German*

**Referring court**

Bundesgerichtshof

**Parties to the main proceedings**

*Applicant:* E. Friz GmbH

*Defendant:* Carsten von der Heyden

**Questions referred**

1. Must the first sentence of Article 1(1) of Council Directive 85/577/EEC of 20 December 1985 to protect the consumer in respect of contracts negotiated away from business premises ([1]) be interpreted as meaning that it applies to a consumer's entry into a partnership, commercial partnership, association or cooperative if the principal purpose of joining is not to become a member of the partnership, association or cooperative but — as frequently applies in particular in relation to participation in a closed-end real estate fund — participation as a member is simply another means of capital investment or of obtaining services which are typically the object of reciprocal contracts?

2. Must Article 5(2) of Council Directive 85/577/EEC of 20 December 1985 to protect the consumer in respect of contracts negotiated away from business premises be interpreted as meaning that it precludes a legal effect under national (judge-made) law within the meaning of Article 7 of the directive which states that, where a consumer becomes a member in a doorstep-selling situation, the consequence is that, in the event that the membership is cancelled, the consumer cancelling the membership has a claim against the partnership, association or cooperative, calculated at the time that the cancellation takes effect, to his severance balance, that is, a sum corresponding to the value of his interest in the partnership, association or cooperative at the time of retirement from membership, with the (possible) effect that, as a result of the economic development of the partnership, association or cooperative, he either gets back less than the value of his capital contribution or even finds himself exposed to payment obligations which, because the severance balance is negative, go beyond the loss of the capital contribution paid?

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([1]) OJ L 372, 31.12.1985, p. 31.

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**Action brought on 22 May 2008 — Commission of the European Communities v Ireland**

**(Case C-221/08)**

(2008/C 209/34)

*Language of the case: English*

**Parties**

*Applicant:* Commission of the European Communities (represented by: R. Lyal, W. Mölls, Agents)

*Defendant:* Ireland