

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Grand Chamber) of 21 December 2011 — French Republic v People's Mojahedin Organization of Iran, Council of the European Union, European Commission

(Case C-27/09 P) ⁽¹⁾

(Appeal — Common foreign and security policy — Restrictive measures directed against certain persons and entities with a view to combating terrorism — Common Position 2001/931/CFSC — Regulation (EC) No 2580/2001 — Freezing of funds applicable to a group included in a list drawn up, revised and amended by the Council of the European Union — Rights of the defence)

(2012/C 49/02)

Language of the case: English

Parties

Appellant: French Republic (represented by: E. Belliard and by G. de Bergues and A. Adam, Agents)

Other parties to the proceedings: People's Mojahedin Organization of Iran (represented by: J.-P. Spitzer, avocat, D. Vaughan QC and M.-E. Demetriou, Barrister), Council of the European Union, European Commission (represented by: S. Boelaert and P. Aalto, Agents)

Re:

Appeal against the judgment of 4 December 2008 of the Court of First Instance (Seventh Chamber) in Case T-284/08 People's Mojahedin Organization of Iran v Council of the European Union annulling, so far as the People's Mojahedin Organization of Iran is concerned, Council Decision 2008/583/EC of 15 July 2007 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Decision 2007/868/EC (OJ 2008 L 188, p. 21)

Operative part of the judgment*The Court:*

1. Dismisses the appeal;
2. Orders the French Republic to pay the costs.

⁽¹⁾ OJ C 82, 4.4.2009.

Judgment of the Court (Grand Chamber) of 21 December 2011 — European Commission v Republic of Austria

(Case C-28/09) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Articles 28 EC and 29 EC — Free movement of goods — Measures having equivalent effect to quantitative restrictions on imports and exports — Transport — Directives 96/62/EC and 1999/30/EC — Sectoral traffic prohibition for lorries of over 7,5 tonnes carrying certain goods — Air quality — Protection of health and the environment — Principle of proportionality — Consistency)

(2012/C 49/03)

Language of the case: German

Parties

Applicant: European Commission (represented by: P. Oliver, A. Alcover San Pedro and B. Schima, acting as Agents)

Defendant: Republic of Austria (represented by: E. Riedl, G. Eberhard and C. Ranacher, acting as Agents, and L. Schmutzhard and J. Thudium)

Intervening parties in support of the applicant: Italian Republic (represented initially by I. Bruni and subsequently by G. Palmieri, acting as Agents, and G. De Bellis, avvocato dello Stato), Kingdom of the Netherlands (represented by: C. Wissels, Y. de Vries and M. Noort, acting as Agents)

Re:

Failure of a Member State to fulfil obligations — Infringement of Articles 28 EC and 29 EC — Prohibition against driving lorries with a total weight of more than 7.5 tonnes, loaded with certain goods, on a section of the A12 'Inntalautobahn' motorway — Justification of that prohibition under Article 30 EC and the Community legislation relating to ambient air quality

Operative part of the judgment*The Court:*

1. Declares that, by prohibiting lorries of over 7.5 tonnes carrying certain goods from using a section of the A 12 motorway in the Inn valley (Austria), the Republic of Austria has failed to fulfil its obligations under Articles 28 EC and 29 EC;

2. Orders the Republic of Austria to pay the costs;
3. Orders the Italian Republic and the Kingdom of the Netherlands to bear their own costs.

(¹) OJ C 69, 21.3.2009.

Judgment of the Court (Third Chamber) of 21 December 2011 — European Commission v Republic of Poland

(Case C-271/09) (¹)

(Failure of a Member State to fulfil obligations — Free movement of capital — Scope — Open pension funds — Limitation on the investment of capital assets outside the Member State concerned — Proportionality)

(2012/C 49/04)

Language of the case: Polish

Parties

Applicant: European Commission (represented by: E. Montaguti and K. Herrmann, Agents)

Defendant: Republic of Poland (represented by: M. Dowgiewlecz, M. Szpunar, M. Jarosz and P. Kucharski, Agents)

Re:

Failure of a Member State to fulfil obligations — Breach of Article 56 EC — Pension funds forming part of a national system of compulsory affiliation and based on the capitalisation system — National rules limiting and discouraging the investment by such funds of capital assets outside Poland

Operative part of the judgment

The Court (Third Chamber):

1. Declares that, by maintaining in force Articles 143, 136(3) and 136a(2) of the Law of 28 August 1997 on the organisation and operation of pension funds (*Ustawa o organizacji i funkcjonowaniu funduszy emerytalnych*), as amended, in that they limit investments by Polish open pension funds in the other Member States, the Republic of Poland has failed to fulfil its obligations under Article 56 EC;
2. Orders the Republic of Poland to pay the costs.

(¹) OJ C 233, 26.9.2009.

Judgment of the Court (Sixth Chamber) of 21 December 2011 — A2A SpA, formerly ASM Brescia SpA v European Commission

(Case C-318/09 P) (¹)

(Appeals — State aid — Aid granted to public utilities — Tax exemptions — Decision declaring the aid scheme incompatible with the common market — Action for annulment — Admissibility — Standing — Legal interest — Article 87 EC — Concept of ‘aid’ — Article 88 EC — Concept of ‘new aid’ — Article 10 EC — Duty of loyal cooperation — Regulation (EC) No 659/1999 — Articles 1 and 14 — Lawfulness of a recovery order — Principle of legal certainty — Duty to state reasons)

(2012/C 49/05)

Language of the case: Italian

Parties

Appellant: A2A SpA, formerly ASM Brescia SpA (represented by: A. Santa Maria, A. Giardina, C. Croff and G. Pizzonia, avvocati)

Other party to the proceedings: European Commission (represented by: E. Righini, V. Di Bucci and D. Grespan, Agents)

Re:

Appeal brought against the judgment of the Court of First Instance (now the General Court) (Eighth Chamber, Extended Composition) of 11 June 2009 in Case T-189/03 *ASM Brescia SpA v Commission* by which the General Court dismissed the action brought for annulment of Articles 2 and 3 of Commission Decision 2003/193/EC of 5 June 2002 on State aid granted by Italy in the form of tax exemptions and subsidised loans to public utilities with a majority public capital holding (OJ 2003 L 77, p. 21).

Operative part of the judgment

The Court:

1. Dismisses the main appeal and the cross-appeal.
2. Orders A2A SpA to pay the costs of the main appeal.
3. Orders the European Commission to pay the costs of the cross-appeal.

(¹) OJ C 267, 7.11.2009.