

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Grand Chamber) of 25 January 2011 (reference for a preliminary ruling from the Unabhängiger Verwaltungssenat des Landes Oberösterreich (Austria)) — Michael Neukirchinger v Bezirkshauptmannschaft Grieskirchen

(Case C-382/08) ⁽¹⁾

(Air transport — Licence for the organisation of commercial balloon flights — Article 12 EC — Condition of residence or company seat — Administrative sanctions)

(2011/C 80/02)

Language of the case: German

Referring court

Unabhängiger Verwaltungssenat des Landes Oberösterreich

Parties to the main proceedings

Applicant: Michael Neukirchinger

Defendant: Bezirkshauptmannschaft Grieskirchen

Re:

Reference for a preliminary ruling — Unabhängiger Verwaltungssenat des Landes Oberösterreich — Interpretation of Article 49 et seq. of the EC Treaty — National legislation prohibiting, on pain of administrative criminal penalties, the organisation of commercial balloon flights without a national licence, the issue of which is subject to the condition that the applicant for the licence has a place of residence or registered office within the country

Operative part of the judgment

Article 12 EC precludes legislation of a Member State, such as that at issue in the main proceedings, which, for the organisation of balloon flights in that Member State and subject to administrative sanctions in the event of failure to comply with that legislation,

requires a person resident or established in another Member State, who is licensed in that second Member State to operate commercial balloon flights, to have a place of residence or company seat in the first Member State, and

obliges that person to obtain a new licence, without due account being taken of the fact that the conditions of issue are, essentially, the same as those which apply to the licence already issued to that person in the second Member State.

⁽¹⁾ OJ C 285, 8.11.2008.

Judgment of the Court (First Chamber) of 20 January 2011 — General Química SA, Repsol Química SA, Repsol YPF SA v European Commission

(Case C-90/09 P) ⁽¹⁾

(Appeal — Competition — Agreements, decisions and concerted practices — Rubber chemicals sector — Decision finding an infringement of Article 81 EC — Group of undertakings — Joint and several liability of a parent company for infringements of the competition rules committed by its subsidiaries — Attribution of liability to the parent company at the head of a group)

(2011/C 80/03)

Language of the case: Spanish

Parties

Appellants: General Química SA, Repsol Química SA, Repsol YPF SA (represented by: J.M. Jiménez-Laiglesia Oñate and J. Jiménez-Laiglesia Oñate, abogados)

Other party to the proceedings: European Commission (represented by: F. Castillo de la Torre and E. Grippini Fournier, Agents)

Re:

Appeal against the judgment of the Court of First Instance (Sixth Chamber) of 18 December 2008 in Case T-85/06 *General Química and Others v Commission*, by which the Court of First Instance dismissed the application for the partial annulment of Commission Decision 2006/902/CE of 21 December 2005 relating to a proceeding under Article 81 [EC] and Article 53 of the EEA Agreement against Flexsys

NV, Bayer AG, Crompton Manufacturing Company Inc. (former Uniroyal Chemical Company Inc.), Crompton Europe Ltd, Chemtura Corporation (former Crompton Corporation), General Química SA, Repsol Química SA and Repsol YPF SA (Case No COMP/F/C.38.443 — Rubber chemicals) (OJ 2006 L 353, p. 50) and, in the lesser alternative, seeking a reduction of the fine imposed on the applicants

Operative part of the judgment

The Court:

1. Sets aside the judgment of the Court of First Instance of the European Communities of 18 December 2008 in Case T-85/06 *General Química and Others v Commission*, in so far as it dismisses the action brought by General Química SA, Repsol Química SA and Repsol YPF SA seeking annulment of Commission Decision 2006/902/EC of 21 December 2005 relating to a proceeding under Article 81 of the EC Treaty and Article 53 of the EEA Agreement against Flexsys NV, Bayer AG, Crompton Manufacturing Company Inc. (formerly Uniroyal Chemical Company Inc.), Crompton Europe Ltd, Chemtura Corporation (formerly Crompton Corporation), General Química SA, Repsol Química SA and Repsol YPF SA (Case No COMP/F/C.38.443 — Rubber chemicals), in so far as, first, the Court of First Instance did not set out the reasons behind its conclusion that the order given by Repsol Química SA to General Química SA to cease any practice which might constitute an infringement of the competition rules was sufficient, in itself, to prove that Repsol Química SA exercised a decisive influence over General Química SA's policy not only on the market but also as regards the unlawful conduct at issue in Decision 2006/902 and, second, the Court of First Instance failed to conduct a concrete examination of the evidence submitted by General Química SA, Repsol Química SA and Repsol YPF SA to demonstrate General Química SA's independence in determining and implementing its commercial policy;
2. Dismisses the appeal as to the remainder;
3. Dismisses the action brought by General Química SA, Repsol Química SA and Repsol YPF SA before the Court of First Instance of the European Communities;
4. Orders each party to bear its own costs relating to the appeal and orders General Química SA, Repsol Química SA and Repsol YPF SA to pay all of the costs at first instance.

(¹) OJ C 90, 18.4.2009.

Judgment of the Court (First Chamber) of 20 January 2011 — European Commission v Hellenic Republic

(Case C-155/09) (¹)

(Failure of a Member State to fulfil obligations — Articles 12 EC, 18 EC, 39 EC and 43 EC — Articles 4, 28 and 31 of the Agreement on the European Economic Area — Tax legislation — Conditions for exemption from transfer tax on the first purchase of immovable property — Exemption granted solely to persons residing in Greece and to persons of Greek origin not residing in Greece at the date of purchase)

(2011/C 80/04)

Language of the case: Greek

Parties

Applicant: European Commission (represented by: R. Lyal and D. Triantafyllou, acting as Agents)

Defendant: Hellenic Republic (represented by: P. Mylonopoulos and V. Karra, acting as Agents)

Re:

Failure of a Member State to fulfil obligations — Infringement of Arts 18, 39 and 43 EC — Exemption from transfer tax on the purchase of a first property — Exemption solely for persons already resident in the country and for Greek citizens who do not reside there when the property is purchased

Operative part of the judgment

The Court:

1. Declares that,
 - by granting exemption from the tax on the transfer of immovable property, under Article 1(1) and (3), first subparagraph, of Law 1078/1980, solely to persons permanently resident in Greece, whilst non-residents who intend to settle in Greece in the future are not granted exemption from the tax, and
 - by granting, on certain conditions, exemption from the tax solely to Greek nationals or persons of Greek origin on the purchase of a first residence in Greece,

the Hellenic Republic has failed to fulfil its obligations under Articles 12 EC, 18 EC, 39 EC and 43 EC and under Articles 4, 28 and 31 of the Agreement on the European Economic Area of 2 May 1992.

2. Orders the Hellenic Republic to pay the costs.

(¹) OJ C 167, 18.7.2009.