

Re:

Failure of a Member State to fulfil obligations — Failure to adopt, within the prescribed period, the measures necessary to comply with Commission Decision 2007/254/EC of 7 June 2006 [notified under number C(2006) 2082], which found that aid granted by the Slovak Republic in favour of Frucona Košice in the form of a write-off of a tax debt by the tax office under an arrangement with creditors was incompatible with the common market and ordered its recovery (State Aid No C-25/2005 (ex NN 21/2005) (OJ 2007 L 112, p. 14).

Operative part of the judgment

The Court:

1. Declares that, by failing to take within the prescribed period all the measures necessary to recover from the beneficiary the aid referred to in Commission Decision 2007/254/EC of 7 June 2006 on State aid C 25/2005 (ex NN 21/2005) implemented by the Slovak Republic for Frucona Košice a.s., the Slovak Republic has failed to fulfil its obligations under the fourth paragraph of Article 249 EC and Article 2 of that decision;
2. Orders the Slovak Republic to pay the costs.

⁽¹⁾ OJ C 102, 01.05.2009.

Judgment of the Court (Second Chamber) of 22 December 2010 (reference for a preliminary ruling from the Tribunale amministrativo regionale del Lazio (Italy)) — Gowan Comércio Internacional e Serviços Lda v Ministero della Salute

(Case C-77/09) ⁽¹⁾

(Plant protection products — Directive 2006/134/EC — Validity — Restrictions on the use of fenarimol as an active substance)

(2011/C 63/04)

Language of the case: Italian

Referring court

Tribunale amministrativo regionale del Lazio

Parties to the main proceedings

Applicant: Gowan Comércio Internacional e Serviços Lda

Defendant: Ministero della Salute

Re:

Reference for a preliminary ruling — Tribunale Amministrativo Regionale del Lazio — Validity, as regards the limitations on the

use of fenarimol as an active substance, of Annex I to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market (OJ 1991 L 230, p. 1)

Operative part of the judgment

Consideration of the question referred for a preliminary ruling has disclosed nothing to affect the validity of Commission Directive 2006/134/EC of 11 December 2006 amending Council Directive 91/414/EEC to include fenarimol as active substance.

⁽¹⁾ OJ C 102, 1.5.2009.

Judgment of the Court (Fourth Chamber) of 22 December 2010 (reference for a preliminary ruling from the Oberste Berufungs- und Disziplinarkommission — Austria) — proceedings brought by Robert Koller

(Case C-118/09) ⁽¹⁾

(‘Court or tribunal’ within the meaning of Article 234 EC — Recognition of diplomas — Directive 89/48/EEC — Lawyer — Entry on the professional roll of a Member State other than that in which the diploma was recognised as equivalent)

(2011/C 63/05)

Language of the case: German

Referring court

Oberste Berufungs- und Disziplinarkommission

Party to the main proceedings

Robert Koller

Re:

Preliminary ruling — Oberste Berufungs- und Disziplinarkommission — Interpretation of Council Directive 89/48/EEC of 21 December 1988 on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years’ duration (OJ 1989 L 19, p. 16) — Applicability of the directive in the case of an Austrian national who, on the basis of the confirmation of his Austrian degree as equivalent and of additional study at a Spanish university for less than three years, was registered with a chamber of lawyers in Spain and, after exercising his profession in Spain for three weeks, applies to be admitted to the aptitude test in order to qualify as a lawyer in Austria on the basis of the authorisation to exercise his profession in Spain

Operative part of the judgment

1. With a view to gaining access, subject to passing an aptitude test, to the regulated profession of lawyer in a Member State, the provisions of Council Directive 89/48/EEC of 21 December 1988 on a general system for the recognition of higher education diplomas awarded on completion of professional education and training of at least three years' duration, as amended by Directive 2001/19/EC of the European Parliament and of the Council of 14 May 2001 may be relied upon by a person who holds a degree issued in that Member State on completion of a cycle of post-secondary studies lasting more than three years, and who also holds an equivalent degree issued in another Member State after additional training of less than three years and enabling him, in that latter State, to have access to the regulated profession of lawyer, which he was actually practising in the latter State on the date on which he applied for admission to the aptitude test;
2. Directive 89/48, as amended by Directive 2001/19, must be interpreted as precluding the competent authorities of the host Member State from denying to a person in a situation such as that of the applicant in the main proceedings authorisation to take the aptitude test for the profession of lawyer without proof of completion of the period of practical experience required by the legislation of that Member State.

(¹) OJ C 141, 20.6.2009.

Judgment of the Court (Second Chamber) of 22 December 2010 (reference for a preliminary ruling from the Verwaltungsgerichtshof — Austria) — Ilonka Sayn-Wittgenstein v Landeshauptmann von Wien

(Case C-208/09) (¹)

(European citizenship — Freedom to move and reside in the Member States — Law of a Member State with constitutional status abolishing the nobility in that State — Surname of an adult, a national of that State, obtained by adoption in another Member State, in which that adult resides — Title of nobility and nobiliary particle forming part of the surname — Registration by the authorities of the first Member State in the register of civil status — Correction of the entry by the authorities on their own initiative — Removal of the title of nobility and nobiliary particle)

(2011/C 63/06)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Applicant: Ilonka Sayn-Wittgenstein

Defendant: Landeshauptmann von Wien

Re:

Reference for a preliminary ruling — Verwaltungsgerichtshof — Interpretation of Art. 18 EC — Constitutional law of a Member State aimed at abolishing the nobility in that State and prohibiting its nationals from bearing foreign noble titles — Refusal of the authorities of that Member State to enter in the register of births a noble title and a noble particle forming part of a surname which an adult person, being a national of that State, acquired in another Member State, in which she resides, following her adoption by a national of that latter State

Operative part of the judgment

Article 21 TFEU must be interpreted as not precluding the authorities of a Member State, in circumstances such as those in the main proceedings, from refusing to recognise all the elements of the surname of a national of that State, as determined in another Member State — in which that national resides — at the time of his or her adoption as an adult by a national of that other Member State, where that surname includes a title of nobility which is not permitted in the first Member State under its constitutional law, provided that the measures adopted by those authorities in that context are justified on public policy grounds, that is to say, they are necessary for the protection of the interests which they are intended to secure and are proportionate to the legitimate aim pursued.

(¹) OJ C 193, 15.08.2009.

Judgment of the Court (Third Chamber) of 22 December 2010 (reference for a preliminary ruling from the Markkinaoikeus — Finland) — Mehiläinen Oy, Terveystalo Healthcare Oy, formerly Suomen Terveystalo Oyj v Oulun kaupunki

(Case C-215/09) (¹)

(Public service contracts — Directive 2004/18/EC — Mixed contract — Contract concluded between a contracting authority and a private company independent of it — Establishment, on an equal basis, of a joint venture to provide health care services — Undertaking by the partners to purchase health care services for their staff from the joint venture for a transitional period of four years)

(2011/C 63/07)

Language of the case: Finnish

Referring court

Markkinaoikeus

Parties to the main proceedings

Applicants: Mehiläinen Oy, Terveystalo Healthcare Oy, formerly Suomen Terveystalo Oyj

Defendant: Oulun kaupunki