

**Parties to the main proceedings**

*Applicants:* Scott SA, Kimberly Clark SNC, now Kimberly Clark SAS

*Defendant:* Ville d'Orléans

**Re:**

Reference for a preliminary ruling — Cour administrative d'appel de Nantes — Interpretation of Article 14(3) of Council Regulation No 659/1999 of 22 March 1999, laying down detailed rules for the application of Article 93 of the EC Treaty (OJ 1999 L 83, p. 1) — Aid granted by the French authorities in favour of Scott SA and Kimberly Clark — Obligation to recover immediately the aid declared incompatible with the common market — Effect on that obligation of possible annulment, on grounds of procedural defect, of the assessments issued by the national authorities for the recovery of that aid

**Operative part of the judgment**

Article 14(3) of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article [88] of the EC Treaty is to be interpreted as not precluding, in circumstances in which amounts corresponding to the aid in question have already been recovered, annulment by the national court of assessments issued in order to recover the unlawful State aid on grounds of there being a procedural defect, where it is possible to rectify that procedural defect under national law. That provision does, however, preclude those amounts being paid once again, even provisionally, to the beneficiary of that aid.

<sup>(1)</sup> OJ C 205, 29.8.2009.

**Judgment of the Court (Third Chamber) of 6 May 2010 — Commission of the European Communities v Republic of Poland**

(Case C-311/09) <sup>(1)</sup>

*(Failure of a Member State to fulfil obligations — Taxation — VAT — International carriage of persons — Flat-rate taxation of transporters domiciled outside the national territory)*

(2010/C 179/22)

Language of the case: Polish

**Parties**

*Applicant:* European Commission (represented by: I. Martínez del Peral Cagigal and M. van Beek, acting as Agents)

*Defendant:* Republic of Poland (represented by: M. Dowgilewicz und M. Szpunar, acting as Agents)

**Re:**

Failure of a Member State to fulfil obligations — Infringement of Articles 73, 168 and 273 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1) — International carriage of persons by road — National rules requiring transporters domiciled abroad to pay VAT under a flat-rate system based only on the number of persons transported to the national territory and which does not allow any right to deduct

**Operative part of the judgment**

*The Court:*

1. Declares that, by charging value added tax in the manner set out in Chapter 13, Paragraph 35(1), (3), (4) and (5), of the Regulation of the Minister for Finance of 27 April 2004 on the implementation of certain provisions of the Law on the taxation of goods and services, the Republic of Poland has failed to fulfil its obligations under Articles 73, 168 and 273 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax;
2. Orders the Republic of Poland to pay the costs.

<sup>(1)</sup> OJ C 256 of 24.10.2009.

**Order of the Court (Seventh Chamber) of 18 March 2010 (reference for a preliminary ruling from the Arios Pagos — Greece) — Organismos Sillogikis Diakhrisis Dimiourgou Theatrikon kai Optikoakoustikon Ergon v Divani Acropolis Hotel and Tourism AE**

(Case C-136/09) <sup>(1)</sup>

*(Article 104(3) of the Rules of Procedure — Copyright and related rights in the information society — Directive 2001/29/EC — Article 3 — Concept of 'communication to the public' — Works communicated by means of television sets installed in hotel rooms)*

(2010/C 179/23)

Language of the case: Greek

**Referring court**

Arios Pagos

**Parties to the main proceedings**

**Applicant:** Organismos Sillogikis Diakhrisis Dimiourgon Theatrikon kai Optikoakoustikon Ergon

**Defendant:** Divani Acropolis Hotel and Tourism AE

**Intervener in support of the defendant:** Hellenic Chamber of Hotels

**Re:**

Reference for a preliminary ruling — Arios Pagos — Interpretation of Article 3(1) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ 2001 L 167, p. 10) — Concept of ‘communication to the public’ — Works transmitted by means of television sets installed in hotel rooms and connected to the central antenna of the hotel with no other action by the hotel to ensure reception of a signal by hotel customers

**Operative part of the order**

*The hotelier, by installing televisions in his hotel rooms and by connecting them to the central antenna of the hotel, thereby, and without more, carries out an act of communication to the public within the meaning of Article 3(1) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society.*

<sup>(1)</sup> OJ C 141, of 20.06.2009.

**Reference for a preliminary ruling from the Hoge Raad der Nederlanden lodged on 1 April 2010 — Sony Logistics Europe B.V. v Staatssecretaris van Financiën**

(Case C-153/10)

(2010/C 179/24)

*Language of the case: Dutch*

**Referring court**

Hoge Raad der Nederlanden

**Parties to the main proceedings**

**Applicant:** Sony Logistics Europe B.V.

**Defendant:** Staatssecretaris van Financiën

**Questions referred**

1. Must Community law, and in particular Article 12(2) and (5) and Article 217(1) of the CCC <sup>(1)</sup>, and Article 11 of the CCIR <sup>(2)</sup> in conjunction with Article 243 of the CCC, be interpreted to mean that a person involved in proceedings concerning customs duties which have been imposed may challenge their imposition by producing binding tariff information issued in another Member State for the same goods, which information was still the subject of a legal dispute at that time, but was eventually revised?
2. If the answer to Question 1 is in the affirmative, can the person declaring the goods to customs in his own name and for his own account successfully rely in a case such as this, when making customs declarations for release for free circulation, on binding tariff information whose holder is not that person, but an associated firm on whose instructions that person made the customs declarations?
3. If the answer to Question 2 is in the negative, does Community law preclude a person in a case such as this from successfully relying on a national policy decision in which the national authorities raise the expectation that, in respect of the tariff classification of the goods declared, it can rely on tariff information issued to a third party for the same goods?

<sup>(1)</sup> Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ 1992 L 302, p. 1)

<sup>(2)</sup> Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ 1993 L 253, p. 1)

**Appeal brought on 1 April 2010 by Nokia Oyj against the judgment of the General Court (Eighth Chamber) delivered on 20 January 2010 in Case T-460/07 Nokia Oyj v Office for Harmonisation in the Internal Market (Trade Marks and Designs)**

(Case C-154/10 P)

(2010/C 179/25)

*Language of the case: Finnish*

**Parties**

**Appellant:** Nokia Oyj (represented by C. Rehaag, asianajaja)