

In its third ground of appeal, the appellant claims that the Court of First Instance incorrectly applied the rules relating to the limitation period of proceedings and failed to observe the principle of *res judicata*, in that the Court of First Instance, in its judgment, found that the appellant had committed acts which interrupted the limitation period, when it was very clear from the Commission's original decision, adopted in 1994, that the appellant was expressly identified as having not taken part in the offence.

In its fourth ground of appeal, the appellant claims lastly that the judgment of the Court of First Instance failed to have regard to its rights of defence since the judgment is vitiated by a failure to state reasons in relation to the particularly lengthy duration of the procedure, which meant that it was no longer possible for the appellant to produce the evidence required to displace the presumption that it was responsible. In addition, the judgment of the Court of First Instance failed to have regard to the force of *res judicata* attaching to the judgment of 2 October 2003 in Case C-176/99 P *ARBED v Commission* which held that the Commission's decision should be annulled to the extent that it related to the applicant.

⁽¹⁾ Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81[EC] and 82 [EC], OJ 2003 L 1, p. 1.

Reference for a preliminary ruling from the Szombathelyi Városi Bíróság (Republic of Hungary) lodged on 8 June 2009 — Criminal proceedings against Emil Eredics and Another

(Case C-205/09)

(2009/C 205/34)

Language of the case: Hungarian

Referring court

Szombathelyi Városi Bíróság

Parties to the main proceedings

Emil Eredics and Another

Questions referred

1. The Szombathelyi Városi Bíróság wishes to know, in connection with the criminal proceedings pending before it, whether 'a person other than a natural person' falls within the definition of 'victim' in Article 1(a) of Council Framework Decision 2001/220/JHA, in light of the obligation to promote mediation between the victim and the offender in criminal cases, laid down in Article 10 of the Framework Decision, and asks the Court of Justice to

explain and supplement its judgment in Case C-467/05 *Dell'Orto* [2007] ECR I-5557.

2. The referring court wishes to know, regarding Article 10(1) of Council Framework Decision 2001/220/JHA, which provides that '[e]ach Member State shall seek to promote mediation in criminal cases for offences which it considers appropriate for this sort of measure', whether the meaning of the term 'offences' may be interpreted to refer to all offences the legal classification of which is substantively the same.
3. Is it possible to interpret the words '[e]ach Member State shall seek to promote mediation in criminal cases.' in Article 10(1) of Framework Decision 2001/220/JHA in such a way that the conditions upon which offender and victim can have access to mediation can be satisfied at least until the point when a decision is made at the first stage of proceedings; or [in such a way] that a condition that the offender have admitted the facts during the legal proceedings, after the investigation has been completed — when all other conditions are satisfied — is a condition which is compatible with the obligation to promote mediation?
4. With regard to Article 10(1) of Framework Decision 2001/220/JHA, do the words '[e]ach Member State shall seek to promote mediation in criminal cases for offences which it considers appropriate for this sort of measure' mean that the option of mediation in criminal proceedings must be generally available, provided that all the prerequisite legal conditions are satisfied, and that there is no room for discretion? That is to say, if the reply to the question is in the affirmative, is the existence of a condition worded as follows: '[where] having regard to the nature of the offence, the form of responsibility and the person of the suspect, the legal proceedings may be omitted or there are grounds for believing that the court will take into account active repentance at the time of sentencing' compatible with the provisions (requirements) of Article 10?

Action brought on 9 June 2009 — Commission of the European Communities v Slovak Republic

(Case C-207/09)

(2009/C 205/35)

Language of the case: Slovak

Parties

Applicant: Commission of the European Communities (represented by: K. Simonsson and A. Tokár, Agents, acting as Agents)

Defendant: Slovak Republic