## Order of the Court of 21 January 2010 — Iride SpA, Iride Energia SpA v European Commission

**(Case C-150/09 P)** [1]

***(Appeal — State aid — Aid declared compatible with the common market on condition that its recipient repays earlier aid declared unlawful — Compatibility with Article 87(1) EC — Errors of law — Distortion of the appellants' arguments — Failure to state grounds — Appeal in part manifestly inadmissible and in part manifestly unfounded)***

(2010/C 134/21)

*Language of the case: Italian*

**Parties**

*Appellants:* Iride SpA, Iride Energia SpA (represented by: L. Radicati di Brozolo, M. Merola and T. Ubaldi, avvocati)

*Other party to the proceedings:* European Commission (represented by: E. Righini and G. Conte, Agents)

**Re:**

APPEAL against the judgment of 11 February 2009 in Case T-25/07 *Iride SpA and Iride Energia SpA*, by which the Court of First Instance (Second Chamber) dismissed an application for annulment of Commission Decision 2006/941/EC of 8 November 2006 concerning State aid C 11/06 (ex N 127/05) which Italy is planning to implement for AEM Torino (OJ 2006 L 366, p. 62) in the form of subsidies intended to reimburse 'stranded' costs incurred in the energy sector, in so far as, first, the conclusion of that decision is that the aid constitutes State aid and/or, secondly, that decision makes payment of the aid subject to the condition that AEM Torino reimburse unlawful aid previously granted under the regime for undertakings known as 'municipalizzate' (local administrative bodies)

**Operative part of the order**

*The Court:*

1. *Dismisses the appeal;*

2. *Orders Iride SpA and Iride Energia SpA to pay the costs.*

[1] OJ C 153, 04.07.2009.

## Reference for a preliminary ruling from the Município de Barcelos (Portugal) lodged on 23 October 2009 — Município de Barcelos v Portuguese State

**(Case C-408/09)**

(2010/C 134/22)

*Language of the case: Portuguese*

**Referring court**

Município de Barcelos

**Parties to the main proceedings**

*Applicant:* Município de Barcelos

*Defendant:* Portuguese State

By order of 12 February 2010, the Court of Justice (Seventh Chamber) held that it clearly has no jurisdiction to answer the question referred by the Município de Barcelos.

## Reference for a preliminary ruling from the Bundesgerichtshof, Germany lodged on 9 December 2009 — eDate Advertising GmbH v X

**(Case C-509/09)**

(2010/C 134/23)

*Language of the case: German*

**Referring court**

Bundesgerichtshof, Germany

**Parties to the main proceedings**

*Applicant:* eDate Advertising GmbH

*Defendant:* X

**Questions referred**

1. Is the phrase 'the place where the harmful event. may occur' in Article 5(3) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters ('Regulation 44/2001') to be interpreted as meaning, in the event of (possible) infringements of the right to protection of personality by means of content on an Internet website,

that the person concerned may also bring an action for an injunction against the operator of the website, irrespective of the Member State in which the operator is established, in the courts of any Member State in which the website may be accessed,

or

does the jurisdiction of the courts of a Member State in which the operator of the website is not established require that there be a special connection between the contested content or the website and the State of the court seised (domestic connecting factor) going beyond technically possible accessibility?

2. If such a special domestic connecting factor is necessary:

What are the criteria which determine that connection?

Does it depend on whether the intention of the operator is that the contested website is specifically (also) targeted at the Internet users in the State of the court seised or is it sufficient for the information which may be accessed on the website to have an objective connection to the State of the court seised, in the sense that in the circumstances of the individual case, in particular on the basis of the content of the website to which the applicant objects, a collision of conflicting interests — the applicant's interest in respect for his right to protection of personality and the operator's interest in the design of his website and in news reporting — may actually have occurred or may occur in the State of the court seised?

Does the determination of the special domestic connecting factor depend upon the number of times the website to which the applicant objects has been accessed from the State of the court seised?

3. If no special domestic connecting factor is required in order to make a positive finding on jurisdiction, or if it is sufficient for the presumption of such a special domestic connecting factor that the information to which the applicant objects has an objective connection to the State of the court seised, in the sense that in the circumstances of the individual case, in particular on the basis of the content of the website to which the applicant objects, a collision of conflicting interests may actually have occurred or may occur in the State of the court seised and the existence of a special domestic connecting factor may be presumed without requiring a finding as to a minimum number of times the website to which the applicant objects has been accessed from the State of the court seised:

Must Article 3(1) and (2) of Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') be interpreted as meaning:

that those provisions should be attributed with a conflict-of-laws character in the sense that for the field of private law they also require the exclusive application of the law applicable in the country of origin, to the exclusion of national conflict-of-law rules,

or

do those provisions operate as a corrective at a substantive law level, by means of which the substantive law outcome under the law declared to be applicable pursuant to the national conflict-of-law rules is altered and adjusted to the requirements of the country of origin?

In the event that Article 3(1) and (2) of the Directive on electronic commerce have a conflict-of-laws character:

Do those provisions merely require the exclusive application of the substantive law applicable in the country of origin or also the application of the conflict-of-law rules applicable there, with the consequence that a renvoi under the law of the country of origin to the law of the target State remains possible?

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## Reference for a preliminary ruling from the Tribunale di Trani (Italy) lodged on 13 January 2010 — Vino Cosimo Damiano v Poste Italiane SpA

**(Case C-20/10)**

(2010/C 134/24)

*Language of the case: Italian*

### Referring court

Tribunale di Trani

### Parties to the main proceedings

*Applicant:* Vino Cosimo Damiano

*Defendant:* Poste Italiane SpA