

Operative part of the judgment

The Court:

1. Dismisses the action as inadmissible;
2. Orders the European Commission to pay the costs;
3. Orders the Portuguese Republic to bear its own costs.

(¹) OJ C 161, 19.6.2010.

Judgment of the Court (First Chamber) of 19 April 2012
(reference for a preliminary ruling from the Lietuvos Aukščiausiasis Teismas (Lithuania)) — F-Tex SIA v Lietuvos-Anglijos UAB ‘Jadecloud-Vilma’

(Case C-213/10) (¹)

(Judicial cooperation in civil matters — Regulation (EC) No 1346/2000 — Article 3(1) — Concept of an action related to insolvency proceedings and closely connected with those proceedings — Regulation (EC) No 44/2001 — Article 1(1) and (2)(b) — Concepts of civil and commercial matters and of bankruptcy or winding-up — Action brought on the basis of an assignment, by a liquidator, of his right to have a transaction set aside)

(2012/C 165/04)

Language of the case: Lithuanian

Referring court

Lietuvos Aukščiausiasis Teismas

Parties to the main proceedings

Applicant: F-Tex SIA

Defendant: Lietuvos-Anglijos UAB ‘Jadecloud-Vilma’

Re:

Reference for a preliminary ruling — Lietuvos Aukščiausiasis Teismas — Interpretation of Article 3(1) of Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings (OJ 2000 L 160, p. 1) and of Articles 1(2)(b) and 2(1) 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 (OJ 2001 L 12, p. 1) — International jurisdiction to decide an *actio Pauliana* directly and closely connected with insolvency proceedings — Conflict of jurisdiction between the court in which the insolvency proceedings are taking place and the court of the defendant’s domicile — *Actio Pauliana* brought after the opening of insolvency proceedings, by the sole creditor of the company in liquidation, in a Member State other than that in which the insolvency proceedings are taking place, following the assignment by the liquidator to the creditor of the company’s claims against third parties

Operative part of the judgment

Article 1(1) 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 must be interpreted as meaning that an action brought against a third party by an applicant acting on the basis of an assignment of claims which has been granted by a liquidator appointed in insolvency proceedings and the subject-matter of which is the right to have a transaction set aside that the liquidator derives from the national law applicable to those proceedings is covered by the concept of civil and commercial matters within the meaning of that provision.

(¹) OJ C 195, 17.7.2010.

Judgment of the Court (Third Chamber) of 19 April 2012
— Artegodan GmbH v European Commission, Federal Republic of Germany

(Case C-221/10 P) (¹)

(Appeals — Second paragraph of Article 288 EC — Non-contractual liability of the Union — Conditions — Sufficiently serious breach of a rule of law conferring rights on individuals — Decision withdrawing marketing authorisations for medicinal products for human use containing amfepramone)

(2012/C 165/05)

Language of the case: German

Parties

Appellant: Artegodan GmbH (represented by: U. Reese, Rechtsanwalt)

Other parties to the proceedings: European Commission (represented by: B. Stromsky and M. Heller, acting as Agents), Federal Republic of Germany

Re:

Appeal against the judgment of the General Court (Sixth Chamber) of 3 March 2010 in Case T-429/05 *Artegodan v Commission*, in which the General Court dismissed an action for compensation under Article 235 EC and the second paragraph of Article 288 EC, seeking compensation for the damage allegedly suffered by the applicant on account of the adoption of Commission Decision C(2000) 453 of 9 March 2000, concerning the withdrawal of marketing authorisations for medicinal products for human use containing amfepramone — Infringement of the second paragraph of Article 288 EC — Erroneous assessment of the criteria as to the existence of a sufficiently serious breach of EU law

Operative part of the judgment

The Court:

1. Dismisses the appeal;

2. Orders *Artegodan GmbH* to pay the costs.

(¹) OJ C 195, 17.7.2010.

**Judgment of the Court (Second Chamber) of 19 April 2012
(reference for a preliminary ruling from the
Bundesarbeitsgericht (Germany)) — Galina Meister v
Speech Design Carrier Systems GmbH**

(Case C-415/10) (¹)

**(Directives 2000/43/EC, 2000/78/EC and 2006/54/EC —
Equal treatment in employment and occupation — Worker
showing that he meets the requirements listed in a job adver-
tisement — Right of that worker to have access to
information indicating whether the employer has recruited
another applicant)**

(2012/C 165/06)

Language of the case: German

Referring court

Bundesarbeitsgericht

Parties to the main proceedings

Applicant: Galina Meister

Defendant: Speech Design Carrier Systems GmbH

Re:

Reference for a preliminary ruling — Bundesarbeitsgericht — Interpretation of Article 19(1) of Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (OJ 2006 L 204, p. 23), Article 8(1) of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (OJ 2000 L 180, p. 22) and Article 10(1) of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ 2000 L 303, p. 16) — Equal treatment in the area of employment and work — Burden of proof — Right of a person whose application for a job in a private company was unsuccessful to receive full information concerning the selection procedure in order to be able to prove discrimination

Operative part of the judgment

Article 8(1) of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Article 10(1) of Council Directive 2000/78/EC of 27 November 2000 establishing a general

framework for equal treatment in employment and occupation and Article 19(1) of Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation must be interpreted as not entitling a worker who claims plausibly that he meets the requirements listed in a job advertisement and whose application was rejected to have access to information indicating whether the employer engaged another applicant at the end of the recruitment process.

Nevertheless, it cannot be ruled out that a defendant's refusal to grant any access to information may be one of the factors to take into account in the context of establishing facts from which it may be presumed that there has been direct or indirect discrimination. It is for the referring court to determine whether that is the case in the main proceedings, taking into account all the circumstances of the case before it.

(¹) OJ C 301, 6.11.2010.

**Judgment of the Court (Third Chamber) of 19 April 2012
(reference for a preliminary ruling from the Högsta
domstolen — Sweden) — Bonnier Audio AB, Earbooks
AB, Norstedts Förlagsgrupp AB, Piratförlaget AB,
Storyside AB v Perfect Communication Sweden AB**

(Case C-461/10) (¹)

**(Copyright and related rights — Processing of data by
internet — Infringement of an exclusive right — Audio
books made available via an FTP server via internet by an
IP address supplied by an internet service provider —
Injunction issued against the internet service provider
ordering it to provide the name and address of the user of
the IP address)**

(2012/C 165/07)

Language of the case: Swedish

Referring court

Högsta domstolen

Parties to the main proceedings

Applicants: Bonnier Audio AB, Earbooks AB, Norstedts Förlagsgrupp AB, Piratförlaget AB, Storyside AB

Defendant: Perfect Communication Sweden AB