

2. Dismisses the cross-appeal;
3. Dismisses the action brought before the General Court of the European Union seeking annulment of Commission Decision D(2005) 3286 of 7 April 2005, dismissing the application of *Éditions Odile Jacob SAS* for access to documents relating to merger control procedure COMP/M.2978 — *Lagardère/Natexis/VUP*;
4. Orders *Éditions Odile Jacob SAS* to bear its own costs and pay those incurred by the Commission and *Lagardère* both at first instance and on appeal;
5. Orders the Czech Republic, the Kingdom of Denmark, the French Republic and the Kingdom of Sweden to bear their own costs.

(¹) OJ C 274, 9.10.2010.

Judgment of the Court (Third Chamber) of 28 June 2012 — European Commission v Agrofert Holding a.s., Polski Koncern Naftowy Orlen SA, Kingdom of Denmark, Republic of Finland, Kingdom of Sweden

(Case C-477/10 P) (¹)

(Appeal — Access to documents of the institutions — Regulation (EC) No 1049/2001 — Documents relating to merger control proceedings — Regulation (EC) No 139/2004 — Refusal of access — Exceptions relating to the protection of the purpose of investigations, commercial interests, legal advice and the decision-making process of the institutions)

(2012/C 258/05)

Language of the case: English

Parties

Appellant: European Commission (represented by: B. Smulders, P. Costa de Oliveira and V. Bottka, acting as Agents)

Other parties to the proceedings: *Agrofert Holding a.s.* (represented by: R. Pokorný and D. Šalek, *advokáti*), *Polski Koncern Naftowy Orlen SA* (represented by: S. Sołtysiński, K. Michałowska and A. Krasowska Skowrońska, lawyers), Kingdom of Denmark (represented by: S. Juul Jørgensen, Agent), Republic of Finland, Kingdom of Sweden (represented by: K. Petkovska and S. Johansson, Agents)

Re:

Appeal against the judgment of the General Court (First Chamber) of 7 July 2010 in Case T-111/07 *Agrofert Holding a.s. v Commission*, by which that Court annulled Commission Decision D(2007) 1360 of 13 February 2007, refusing to grant the applicant access to certain unpublished documents relating to a procedure concerning a merger between undertakings (Case COMP/M.3543 — *PKN Orlen v Unipetrol*)

Operative part of the judgment

The Court:

1. Annuls paragraph 2 of the operative part of the judgment of the General Court of the European Union of 7 July 2010 in Case T-111/07 *Agrofert Holding v Commission* in so far as it annuls Commission Decision D(2007) 1360 of 13 February 2007 refusing access to the documents of Case COMP/M.3543 concerning the merger between *Polski Koncern Naftowy Orlen SA* and *Unipetrol*, exchanged between the Commission and the notifying parties and between the Commission and third parties;
2. Annuls paragraph 3 of the operative part of that judgment;
3. Dismisses the appeal as to the remainder;
4. Dismisses the action brought by *Agrofert Holding a.s.* before the General Court of the European Union seeking the annulment of Commission Decision D(2007) 1360 of 13 February 2007 refusing access to the documents in Case COMP/M.3543 concerning the merger between *Polski Koncern Naftowy Orlen SA* and *Unipetrol*, exchanged between the Commission and the notifying parties and between the Commission and the third parties;
5. Orders the European Commission and *Agrofert Holding a.s.* to bear their own costs both at first instance and in this appeal;
6. Orders *Polski Koncern Naftowy Orlen SA* and the Kingdom of Sweden to bear their own costs.

(¹) OJ C 328 4.12.2010.

Judgment of the Court (Sixth Chamber) of 28 June 2012 — European Commission v Hellenic Republic

(Case C-485/10) (¹)

(Failure of a Member State to fulfil obligations — State aid — Aid granted to *Ellinika Nafpigeia AE* — Incompatibility with the common market — Recovery — Non-execution)

(2012/C 258/06)

Language of the case: Greek

Parties

Applicant: European Commission (represented by: B. Stromsky and M. Konstantinidis, acting as Agents)

Defendant: Hellenic Republic (represented by: P. Milonopoulos and K. Boskovits, acting as Agents, V. Christianos, lawyer)

Re:

Failure of a Member State to fulfil obligations — Failure to have taken, within the period prescribed, the measures necessary to comply with Commission Decision 2009/610/EC of 2 July 2008 on aid C 16/04 (ex NN 29/04, CP 71/02 and CP 133/05) granted by Greece to Hellenic Shipyards SA (notified under number C(2008) 3118) (OJ 2008 L 225, p. 104)

Operative part of the judgment

The Court:

1. Declares that, by failing to take, within the period prescribed, all the measures necessary in order to implement Commission Decision 2009/610/EC of 2 July 2008 on aid C 16/04 (ex NN 29/04, CP 71/02 and CP 133/05) granted by Greece to Hellenic Shipyards SA, and by failing to provide the information listed in Article 19 of that decision to the European Commission, the Hellenic Republic failed to fulfil its obligations under Articles 2, 3, 5, 6, 8, 9 and 11 to 19 of that decision;
2. Orders the Hellenic Republic to pay the costs.

(¹) OJ C 328, 4.12.2010.

Judgment of the Court (Second Chamber) of 28 June 2012 (reference for a preliminary ruling from the Tribunale di Palermo — Italy) — Criminal proceedings against Fabio Caronna

(Case C-7/11) (¹)

(Medicinal products for human use — Directive 2001/83/EC — Article 77 — Wholesale distribution of medicinal products — Mandatory special authorisation for pharmacists — Conditions for granting)

(2012/C 258/07)

Language of the case: Italian

Referring court

Tribunale di Palermo

Party in the main proceedings

Fabio Caronna

Re:

Reference for a preliminary ruling — Tribunale di Palermo — Interpretation of recital 36 and Articles 76 to 84 of Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (OJ 2001 L 311, p. 67) — Wholesale distribution of medicinal products — Conditions

under which authorisation may be granted for the wholesale distribution of medicinal products — National legislation which makes the wholesale distribution of medicinal products by pharmacists and persons authorised or entitled to supply medicinal products to the public subject to the requirement to obtain an authorisation imposed on wholesale distributors — Whether permissible

Operative part of the judgment

1. Article 77(2) of Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use, as amended by Commission Directive 2009/120/EC of 14 September 2009, must be interpreted as meaning that the requirement to obtain authorisation for the wholesale distribution of medicinal products is applicable to a pharmacist who, as a natural person, is also authorised under domestic law to operate as a wholesaler in medicinal products.
2. A pharmacist who is also authorised under domestic law to operate as a wholesaler in medicinal products must satisfy all the requirements imposed on applicants for and holders of authorisation for the wholesale distribution of medicinal products in Articles 79 to 82 of the Directive.
3. That interpretation cannot, of itself and independently of a law adopted by a Member State, give rise to or aggravate liability in criminal law on the part of a pharmacist who has engaged in activity as a wholesale distributor in medicinal products without the requisite authorisation.

(¹) OJ C 80, 12.3.2011.

Judgment of the Court (Second Chamber) of 28 June 2012 (reference for a preliminary ruling from the Bundesgerichtshof — Germany) — Markus Geltl v Daimler AG

(Case C-19/11) (¹)

(Directives 2003/6/EC and 2003/124/EC — Inside information — Notion of ‘precise information’ — Intermediate steps in a protracted process — Reference to circumstances or an event which may reasonably be expected to come into existence or occur — Interpretation of the wording ‘may reasonably be expected’ — Public disclosure of information relating to change of a manager of a company)

(2012/C 258/08)

Language of the case: German

Referring court

Bundesgerichtshof