

**Form of order sought**

- uphold the appeal seeking the setting aside of the judgment of the General Court of 3 February 2011 and the related decision of the European Commission of 21 October 2008 and, in so far as is necessary and possible, a direct decision on the substance of the main action;
- in the alternative, set aside that judgment and refer the case back to the General Court;
- order the Commission to pay all costs and expenses relating to the proceedings.

**Pleas in law and main arguments**

By its appeal, the appellant challenges the judgment of the General Court of 3 February 2011 in Case T-584/08 *Cantiere Navale De Poli v Commission*, particularly in the following respects:

- a) Procedural defects on grounds of failure to state adequate reasons in relation to:
  - the teleological interpretation of Council Regulation (EC) No 1177/2002 of 27 June 2002 concerning a temporary defensive mechanism to shipbuilding ('the TDM Regulation')<sup>(1)</sup> in order to identify the objectives pursued by the Council for the protection of the interests of those Community shipyards affected by the unfair conditions of competition applied by Korean shipyards;
  - the relationship (order of precedence of legislative acts) between the TDM Regulation of the Council and Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 88 of the EC Treaty;<sup>(2)</sup>
  - reference to the principle of subsidiarity in order to determine the rules governing the time-limits for notifications of aid to the Commission on the part of the Member States.
- b) Breach of Community law in relation to:
  - the temporal aspects of the exercise of the Member States' power to notify aid to the Commission in the context of the TDM Regulation;
  - the Commission's sphere of competence in the assessment of the 'compatibility with the common market' of the aid envisaged by the TDM Regulation;
  - the governance of the legal relations arising under the TDM Regulation following the expiry of the period in which that regulation remained in force (31 March 2005);
  - the application of the principles of equal treatment and of the protection of legitimate expectations.

<sup>(1)</sup> OJ 2002 L 172, p. 1.

<sup>(2)</sup> OJ 2004 L 140, p. 1.

**Reference for a preliminary ruling from the Tribunale di Frosinone (Italy) lodged on 7 April 2011 — Criminal proceedings against Patrick Conteh**

(Case C-169/11)

(2011/C 173/16)

*Language of the case: Italian*

**Referring court**

Tribunale di Frosinone

**Party to the main proceedings**

Patrick Conteh

**Question referred**

Are Articles 15 and 16 of Directive 2008/115/EC<sup>(1)</sup> to be interpreted as precluding a Member State from applying to an illegally staying third country national who does not cooperate in the administrative return procedure measures involving deprivation of liberty, on the basis of measures which are other than detention measures and as defined by national law, without the pre-conditions and safeguards laid down in Articles 15 and 16 of Directive 2008/115, on grounds of failure to comply with a removal order issued by the competent administrative authority in accordance with Article 8(3) of that directive?

<sup>(1)</sup> OJ 2008 L 348, p. 98.

**Order of the President of the Court of 16 February 2011 (references for a preliminary ruling from the Landgericht Berlin — Germany) — Agrargenossenschaft Münchhof e.G. (C-18/10), Landwirtschaftliches Unternehmen e.G. Sondershausen (C-37/10) v BVVG Bodenverwertungs- und -verwaltungs GmbH**

(Joined Cases C-18/10 and C-37/10)<sup>(1)</sup>

(2011/C 173/17)

*Language of the case: German*

The President of the Court has ordered that the cases be removed from the register.

<sup>(1)</sup> OJ C 80, 27.3.2010.

OJ C 100, 17.4.2010.