

found to be not only partially illegal but also partially incompatible with Community law, those individuals are then, by reason of national provisions, subject to a shorter limitation period with regard to the Member State in respect of the recovery of contributions levied in breach of Community law, whereas they have a longer limitation period with regard to recovery of that same amounts from a private intermediary, with the result that such an intermediary might find itself in a situation where the claim against it is not time-barred but the claim against the Member State is, and the intermediary may thus have an action brought against it by other parties and consequently have to seek indemnification from the Member State concerned, but cannot recover from that Member State the contributions which it paid directly to that Member State?

3. Does Community law preclude a Member State from successfully invoking national limitation periods which, in comparison with those applicable under ordinary national law, are particularly favourable to that Member State, as a defence against proceedings instituted against it by a private individual with a view to vindicating that private individual's rights under the EEC Treaty, in a case such as that before the national court, in which the effect of those particularly favourable national limitation periods is to render impossible the recovery of charges which were paid to the Member State under a hybrid system of aid and charges which not only was partially illegal but was also found to be partially incompatible with Community law, where the conflict with Community law was established by the then Court of Justice of the European Communities only after those particularly favourable national limitation periods had expired, even if the illegality had existed earlier?

**Reference for a preliminary ruling from the Tribunal d'Instance de Dax (France) lodged on 22 February 2010 — AG2R Prévoyance v SARL Bourdil — AG2R Prévoyance v SARL Boucalaise de Boulangerie — AG2R Prévoyance v SARL Baba-Pom'**

(Case C-97/10)

(Case C-98/10)

(Case C-99/10)

(2010/C 113/45)

*Language of the case: French*

#### Referring court

Tribunal d'Instance de Dax (Landes)

#### Parties to the main proceedings

*Applicant:* AG2R Prévoyance

*Defendants:* SARL Bourdil, SARL Boucalaise de Boulangerie, SARL Baba-Pom'

#### Question referred

Does an extensive collective agreement granting an exclusive right to the management of a single scheme for the supplementary reimbursement of healthcare costs (in this case, to AG2R Prévoyance) infringe the provisions of Article 82 of the EC Treaty where that agreement does not provide for and even expressly excludes any waiver of affiliation to that scheme (in so far as the Community competition rules do not obstruct the performance of the tasks assigned to AG2R Prévoyance, entrusted with the scheme)?

**Action brought on 23 February 2010 — European Commission v Grand Duchy of Luxembourg**

(Case C-100/10)

(2010/C 113/46)

*Language of the case: French*

#### Parties

*Applicant:* European Commission (represented by: G. Braun and J. Sénéchal, acting as Agents)

*Defendant:* Grand Duchy of Luxembourg

#### Form of order sought

— declare that, by failing to adopt all the laws, regulations and administrative provisions necessary to comply with Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC<sup>(1)</sup> or, in any event, by failing to communicate those measures to the Commission, the Grand Duchy of Luxembourg has failed to fulfil its obligations under Article 53 of that directive;

— order the Grand Duchy of Luxembourg to pay the costs.