By its second ground of appeal, the appellant submits that the General Court misapplied the concept of advantage, in that it refused to carry out a comprehensive analysis of all the provisions laid down by the special tax regime. That regime, which was established by Law No 90-568, provided for two specific methods of taxation: (i) the 'fixed levy', during the period 1991 to 1993, which resulted in the overtaxation of the appellant as compared with the position under the general law, and (ii) the general law, during the period 1994 to 2002, which had a favourable fiscal effect as far as the appellant was concerned. By refusing to compare the effects of the special tax regime as a whole with the general law *in respect of both of the periods at issue*, the General Court made a number of errors of law.

By its third ground of appeal, the appellant alleges a breach of the principle of legitimate expectations, in that the General Court refused to hold that the Commission's silence, in its decision of 8 February 2005 concerning La Poste, as regards the established tax regime, could have given rise to an expectation on the appellant's part as to the conformity of the measures concerned under the rules on State aid. Furthermore, the General Court had failed to take account of certain exceptional circumstances specific to the present case which justified the application of the principle of legitimate expectations.

By its fourth ground of appeal, France Télécom invokes a failure to state reasons for the judgment, in that the General Court substituted its own reasoning for that of the Commission in response to its arguments relating to breach of the limitation principle with regard to State aid. Thus, according to the appellant, the 10-year limitation period laid down under Article 15(1) of Regulation (EC) No 659/1999 [1] should have been calculated from 2 July 1990, the date on which Law No 90-568 established the tax regime at issue, and not from the date on which the aid was actually granted to the beneficiary.

By its fifth and final ground of appeal, the appellant submits, lastly, that the General Court erred in law by holding that the Commission was entitled to quantify the aid on the basis of a 'range' and to order its recovery without committing a breach of the principle of legal certainty, whereas it was impossible to determine the real advantage which it could have enjoyed. Furthermore, the General Court had failed to respond to all of the appellant's arguments alleging breach of the principle of legal certainty.

[1] Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ 1999 L 83, p. 1).

Reference for a preliminary ruling from the Conseil d'Etat (Belgium) lodged on 5 March 2010 — European Air Transport SA v Collège d'Environnement de la Région de Bruxelles-Capitale, Région de Bruxelles-Capitale

(Case C-120/10)

(2010/C 148/20)

Language of the case: French

Referring court

Conseil d'Etat

Parties to the main proceedings

Applicant: European Air Transport SA

Defendants: Collège d'Environnement de la Région de Bruxelles-Capitale, Région de Bruxelles-Capitale

Questions referred

1. Must the concept of 'operating restriction' in Article 2(e) of Directive 2002/30/EC of the European Parliament and of the Council of 26 March 2002 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports [1] be interpreted as including rules imposing limits on noise levels, as measured on the ground, to be complied with by aircraft overflying territories located near the airport and providing that any person responsible for exceeding those limits may incur a penalty, it being understood that aircraft are required to keep to the designated routes and comply with the landing and take-off procedures laid down by other administrative authorities without taking account of the need to comply with those noise limitations?

2. Must Articles 2(e) and 4(4) of Directive 2002/30 be interpreted as meaning that all 'operating restrictions' must be 'performance-based', or do those provisions allow other provisions, relating to environmental protection, to restrict access to the airport on the basis of the noise level, as measured on the ground, to be observed by aircraft overflying territories located near the airport, it being provided that any person responsible for exceeding that level may incur a penalty?

3. Must Article 4(4) of Directive 2002/30 be interpreted as precluding the existence, in addition to performance-based operating restrictions based on the noise emitted by aircraft, of rules on environmental protection which impose limits on noise levels, as measured on the ground, to be complied with by aircraft overflying territories located near the airport?

4. Must Article 6(2) of Directive 2002/30 be interpreted as precluding rules which impose limits on noise levels, as measured on the ground, to be complied with by aircraft overflying territories located near the airport, and which provide that any person exceeding those limits may incur a penalty, where those rules are capable of being infringed by aircraft which comply with the standards in Volume 1, part II, chapter 4 of Annex 16 of the Convention on International Civil Aviation?

(1) OJ 2002 L 85, p. 40.

Reference for a preliminary ruling from the Oberster Gerichtshof (Austria) lodged on 8 March 2010 — Waltraud Brachner v Pensionsversicherungsanstalt

(Case C-123/10)

(2010/C 148/21)

Language of the case: German

Referring court

Oberster Gerichtshof

Parties to the main proceedings

Applicant: Waltraud Brachner

Defendant: Pensionsversicherungsanstalt

Questions referred

1. Is Article 4 of Directive 79/7/EEC (1) to be interpreted as meaning that the annual pension adjustment system (valorisation) provided for in the law on the statutory pension insurance scheme falls within the scope of the prohibition of discrimination in Article 4(1) of that directive?

2. If the answer to the first question is in the affirmative:

   Is Article 4 of Directive 79/7/EEC to be interpreted as precluding a national provision concerning an annual pension adjustment whereby a potentially smaller increase is provided for a particular category of pensioners receiving a small pension than for other pensioners, in so far as the provision in question adversely affects 25 % of male pensioners, but 57 % of female pensioners and there are no objective grounds for discrimination?

3. If the answer to the second question is in the affirmative:

   May a disadvantage for female pensioners arising from the annual increase in their pensions be justified by the earlier age at which they become entitled to a pension and/or the longer period during which they receive a pension and/or by the fact that the standard amount for a minimum income, provided for under social law (balancing supplement standard amount), was disproportionately increased, where the provisions concerning the payment of the minimum income provided for under social law (balancing supplement) require account to be taken of the pensioner's other income and the income of a spouse living in the common household, whereas in the case of other pensioners the pension increase takes place without account being taken of the pensioner's other income or the income of the pensioner's spouse?

(1) Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security (OJ 1979 L 6, p. 24).

Reference for a preliminary ruling from the Tribunal de première instance de Bruxelles (Belgium) lodged on 12 March 2010 — Corman SA v Bureau d'intervention et de restitution belge (BIRB)

(Case C-131/10)

(2010/C 148/22)

Language of the case: French

Referring court

Tribunal de première instance de Bruxelles

Parties to the main proceedings

Applicant: Corman SA

Defendant: Bureau d'intervention et de restitution belge (BIRB)