2. Where such a vehicle has been subject in a Member State to a similar tax, that is a pollution tax (having the same conceptual content and the same scope, namely relating to respect for the environment in accordance with the principles and objectives laid down in Articles 174 TEC et seq), upon first registration in another Member State, is it possible to introduce such a pollution tax with the same objectives as those laid down in Articles 174 TEC et seq, even if the vehicle has already previously been subject to a pollution tax in another Member State?

3. Finally, where, in the contrary case, such a vehicle has not been subject to a pollution tax in another Member State (either because such a tax does not exist or for other reasons) but, upon subsequent registration in a different Member State, such as Romania, where a tax of that kind is levied, the pollution tax is levied upon first registration of the vehicle in that State, can the principles of customs union and [the rules prohibiting] indirect domestic protection measures laid down in Articles 23 TEC, 25 TEC and 90 TEC be regarded as having been infringed?

Reference for a preliminary ruling from the Hof van Cassatie van België (Belgium) lodged on 17 March 2010 — Greenstar-Kanzi Europe NV v Jean Hustin and Jo Goossens

(Case C-140/10)

(2010/C 161/27)

Language of the case: Dutch

Referring court

Hof van Cassatie van België

Parties to the main proceedings

Applicants: Greenstar-Kanzi Europe NV

Defendants: Jean Hustin

Jo Goossens

Questions referred

1. Should Article 94 of Council Regulation (EC) No 2100/94 ([1]) of 27 July 1994 on Community plant variety rights, as amended by Council Regulation (EC) No 873/2004 ([2]) of 29 April 2004, read in conjunction with Articles 11(1), 13(1) to 13(3), 16, 27 and 104 of the aforementioned Regulation (EC) No 2100/94, be interpreted in such a way that the holder or the person enjoying the right of exploitation may bring an action for infringement against anyone who effects acts in respect of material which was sold or disposed of to him by a licensee of the right of exploitation if the limitations in the licensing contract between the licensee and the holder of the Community plant variety right that were stipulated to apply in the event of the sale of that material were not respected?

2. If so, is it of significance for the assessment of the infringement that the person effecting the aforementioned act is aware or is deemed to be aware of the limitations thus imposed in the said licensing contract?

([1]) OJ 1994 L 227, p. 1.
([2]) OJ 2004 L 162, p. 38.

Action brought on 16 March 2010 — European Commission v Kingdom of the Netherlands

(Case C-141/10)

(2010/C 161/28)

Language of the case: Dutch

Parties

Applicant: European Commission (represented by: V. Kreuschitz and M. van Beek, Agents)

Defendant: Kingdom of the Netherlands

Form of order sought

— Declare that, by failing to adopt all the measures necessary to set aside the provision under which certain social security benefits are not paid to nationals of other Member States of the European Union who are employed on drilling platforms in the Netherlands, the Kingdom of the Netherlands has failed to fulfil its obligations under Articles 13(2)(a) and 3(1) of Regulation (EEC) No 1408/71 ([1]) and Articles 45 TFEU to 48 TFEU;

— Order the Kingdom of the Netherlands to pay the costs.

Pleas in law and main arguments

1. The European Parliament has recently repeatedly requested information from the Commission about Portuguese nationals who work on drilling platforms on the Netherlands' continental shelf and live in Portugal but do not enjoy the same conditions of employment or social security as employed persons living in the Netherlands.

2. Consequently, in accordance with Article 226 EC (now Article 258 TFEU), the Commission sent the Netherlands a letter of formal notice and a reasoned opinion in which it stated that, in its view, Netherlands social security legislation should also apply to nationals of other Member States of the European Union who work on drilling platforms in the Netherlands. The refusal of the Netherlands authorities to award social security benefits to such persons is incompatible with Title II of Regulation (EEC) No 1408/71, in particular with Articles 13(2)(a) and 3(1) thereof, and with Articles 39 EC to 42 EC (now Articles 45 TFEU to 48 TFEU).

3. The Netherlands has, to date, failed to adopt all the measures necessary to set aside the provision of national legislation under which certain social security benefits are not paid to nationals of other Member States of the European Union who are employed on drilling platforms in the Netherlands.

4. On those grounds, the Commission has to conclude that, by refusing to pay certain social security benefits to nationals of other Member States of the European Union who are employed on drilling platforms in the Netherlands, the Kingdom of the Netherlands has failed to fulfil its obligations under Articles 13(2)(a) and 3(1) of Regulation (EEC) No 1408/71 and Articles 45 TFEU to 48 TFEU.

([1]) Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community (OJ 1971 L 149, p. 2).

Reference for a preliminary ruling from the Hof van Beroep te Brussel, lodged on 29 March 2010 — Express Line NV v Belgisch Instituut voor Postdiensten en Telecommunicatie

(Case C-148/10)

(2010/C 161/29)

Language of the case: Dutch

Referring court

Hof van Beroep te Brussel

Parties to the main proceedings

Appellant: Express Line NV

Respondent: Belgisch Instituut voor Postdiensten en Telecommunicatie

Questions referred

1. Must the provisions of Directive 97/67/EC ([1]) of [15] December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service, as amended by Directive 2002/39/EC, ([2]) and in particular, but not exclusively, Article 19 thereof, in view of the amendments introduced by Directive 2008/6/EC ([3]) and which must be transposed into national law by 31 December 2010 at the latest, be understood and interpreted as precluding Member States from imposing a mandatory external complaints scheme on providers of non-universal postal services on the ground that:

   (i) as regards the applicable complaints procedures for the protection of the users of postal services, the Directive provides for full harmonisation; or on the ground that:

   (ii) that obligation was imposed by Directive 2002/39/EC only on the universal service provider and, since Directive 2008/6/EC, on all universal service providers, even though, according to the wording of the [third] subparagraph of Article 19(1) of [Directive 97/67/EC, as amended by] Directive 2008/6/EC, Member States may only encourage, but may not impose, the development of independent schemes for the resolution of disputes between the providers of postal services, other than universal postal services, and end-users?

2. If the answer to the first question is that the Postal Directive does not, as such, preclude Member States from imposing on the providers of non-universal postal services a mandatory external complaints scheme as envisaged by the first subparagraph of Article 19(2) for the providers of universal postal services, must the principles relating to the free movement of services (Article 49 et seq. EC; now Article 56 et seq. TFEU) be interpreted in such a way that restrictions on the free movement of services, introduced by a Member State on grounds of compelling reasons in the general interest relating to consumer protection, whereby the providers of non-universal postal services are made subject to a mandatory external complaints scheme as envisaged by the first subparagraph of Article 19(2) for the providers of universal postal services, can be considered compatible with the TFEU even if, in the application of the complaints scheme concerned, no distinction is made