

The Court also erred by failing to enquire into whether the Commission's refusal to act violated the EAEC Treaty's objectives of establishing and ensuring the application of Uniform Health Safety Standards to protect workers and the public from the long term effects of ionizing radiation. In doing so it overlooked the Commission's preemptory duty under the EAEC Treaty to ensure that the provisions of the Treaty are properly applied, including its embodied precautionary principle.

(<sup>1</sup>) Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation  
OJ L 159, p. 1

**Reference for a preliminary ruling from the Hajdú-Bihar Megyei Bíróság (Hungary) lodged on 3 May 2010 — Márton Urbán v Vám- és Pénzügyőrség Észak-alföldi regionális Parancsnoksága**

(Case C-210/10)

(2010/C 195/11)

*Language of the case: Hungarian*

**Referring court**

Hajdú-Bihar Megyei Bíróság

**Parties to the main proceedings**

*Applicant:* Márton Urbán

*Defendant:* Vám- és Pénzügyőrség Észak-alföldi regionális Parancsnoksága

**Questions referred**

1. Is a system of penalties under which it is mandatory to impose identical financial penalties of up to HUF 100 000 for any breach of the requirements laid down in Articles 13 to 16 of Council Regulation No 3821/85/EEC (<sup>1</sup>) concerning the use of record sheets for recording equipment in road transport consistent with the requirement of proportionality laid down by Article 19(1) and (4) of Regulation (EC) No 561/2006 (<sup>2</sup>) of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council

Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85?

2. Is a system of penalties which does not adjust the amount of the penalty according to the gravity of the breach of the rules consistent with the requirement of proportionality?
3. Is a system of penalties which does not allow of any possible defence to a breach of the rules consistent with the requirement of proportionality?
4. Is a system of penalties which makes no distinction according to the personal circumstances of the offenders consistent with the requirement of proportionality?

(<sup>1</sup>) Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport; OJ 1985 L 370, p. 8, Special edition in Hungarian, Chapter 7, Volume 1, p. 227.

(<sup>2</sup>) Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85 (Text with EEA relevance) — Declaration; OJ 1998 L 102, p. 1.

**Reference for a preliminary ruling from the Lietuvos Aukščiausiasis Teismas (Republic of Lithuania) lodged on 4 May 2010 — F-Tex SIA v Lietuvos-Anglijos UAB 'Jadecloud-Vilma'**

(Case C-213/10)

(2010/C 195/12)

*Language of the case: Lithuanian*

**Referring court**

Lietuvos Aukščiausiasis Teismas

**Parties to the main proceedings**

*Applicant:* F-Tex SIA

*Defendant:* Lietuvos-Anglijos UAB 'Jadecloud-Vilma'

**Questions referred**

1. Having regard to the judgments of the Court of Justice in *Gourdain* and *Seagon*, do Article 3(1) of Regulation No 1346/2000 (<sup>1</sup>) and Article 1(2)(b) of Regulation No 44/2001 (<sup>2</sup>) have to be interpreted in such a way that:

(a) a national court hearing insolvency proceedings has exclusive jurisdiction to hear an *actio Pauliana* which derives directly from the insolvency proceedings or is closely connected with them, and exceptions to such jurisdiction can be founded only on other provisions of Regulation No 1346/2000;

(b) an *actio Pauliana* by the sole creditor of an undertaking in respect of which insolvency proceedings have been initiated in one Member State, that:

- is brought in another Member State,
- arises from a right of claim against third parties assigned to him by the liquidator on the basis of an agreement for consideration, restricting in that way the extent of the liquidator's claims in the first Member State, and
- does not give rise to a danger for other possible creditors,

is to be classified as a civil and commercial matter under Article 1(1) of Regulation No 44/2001?

2. Does an applicant's right to judicial protection, which is recognised by the Court of Justice as a general principle of European Union law and which is guaranteed by Article 47 of the Charter of Fundamental Rights of the European Union, have to be understood and interpreted in such a way that:

(a) the national courts having jurisdiction to hear an *actio Pauliana* (depending upon its connection with the insolvency proceedings) either under Article 3(1) of Regulation No 1346/2000 or under Article 2(1) of Regulation No 44/2001 cannot both decline jurisdiction;

(b) where a court of one Member State has decided to leave an *actio Pauliana* unheard for want of jurisdiction, a court of another Member State, seeking to safeguard the applicant's right to a court, has the right to find of its own motion that it itself has jurisdiction, regardless of the fact that according to the provisions of European Union law concerning the determination of international jurisdiction it cannot so decide?

<sup>(1)</sup> Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings (OJ 2000 L 160, p. 1).

<sup>(2)</sup> Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2004 L 12, p. 1).

**Appeal brought on 5 May 2010 by Bent Hansen against the order of the General Court (Fourth Chamber) delivered on 24 March 2010 in Case T-6/09: Bent Hansen v European Commission**

(Case C-217/10 P)

(2010/C 195/13)

*Language of the case: English*

**Parties**

*Appellant:* Bent Hansen (represented by: I. Anderson, Advocate)

*Other party to the proceedings:* European Commission

**Form of order sought**

The applicant claims that the Court should:

— Annul in its entirety the General Court's decision and order of March 24<sup>th</sup> 2010 dismissing Appellant's Application as manifestly inadmissible with costs.

— Retain jurisdiction over Appellant's Appeal and order the Commission to pay Appellant;

(a) the sum of EUR 800 000 or such other sum as the Court may consider just and equitable for past, present and future pain and suffering and diminution of enjoyment of life, from serious injury to his health as a result of the Commission's capricious and unlawful refusal to enforce implementation of Directive 96/29's <sup>(1)</sup> provisions for precautionary medical monitoring for radiation illnesses in the case of the Thule special intervention teams.

(b) Payment to Appellant or his medical treating facilities or his care givers, of the future costs of medical treatments and medications to alleviate and or treat his impaired health, referred to in Para. a) above, which are not available to him through the socialized medical system of his member state.

(c) Reasonable legal costs and disbursements incurred by Appellant in the General Court and in the present proceedings.