— or give final judgment by granting the form of order sought by Centre de Coordination Carrefour SNC at first instance and annulling the contested decision; ([1])

— order the European Commission to pay all the costs.

Pleas in law and main arguments

The appellant puts forward five pleas in law in support of its appeal.

By its first ground of appeal, the appellant submits that the General Court breached its obligation to state reasons in finding, first, that the appellant had no legal interest in bringing proceedings against the contested decision due to the lack of a valid authorisation under Belgian law and, second, that the admissibility of the action did not depend on its having valid authorisation. Such a statement of reasons is contradictory, since the General Court was not entitled to find at the same time that the appellant had no interest in bringing proceedings due to the lack of valid authorisation and that such authorisation was not material in assessing whether the action was admissible.

By its second ground of appeal, the appellant submits that the General Court distorted the facts submitted to it, by misconstruing the broad logic of the Belgian legislation on coordination centres, misinterpreting Royal Decree No 187 of 30 December 1982 concerning the establishment of coordination centres, ([2]) distorting its scope, and failing to apply the hierarchy of sources of Belgian law. The royal decree at issue is a special powers decree which, under Belgian law, has the same legal force as a law and is still applicable to the appellant, which therefore benefits from an authorisation for a period of 10 years.

By its third ground of appeal, the appellant submits that the General Court disregarded the principle of *res judicata* attaching to the judgment of the Court of Justice in Joined Cases C-182/03 and C-217/03 *Belgium and Forum 187* v *Commission* [2006] ECR I-5479, in so far as the General Court held that if it annulled the contested decision, the effect would be to prohibit renewal of the authorisations of the coordination centres as from the date of notification of the contested decision. However, the judgment of the Court of Justice annulled the contested decision in that case precisely because of the lack of adequate transitional periods for the coordination centres whose applications for renewal of authorisation were pending on the date of notification of the contested decision or whose authorisations expired on that date or shortly thereafter.

By its fourth ground of appeal, the appellant complains that the General Court misconstrued the notion of 'interest in bringing proceedings', in that it held that the action brought by the appellant was not likely, if successful, to procure an advantage for it, on the ground that it is not certain that the Belgian authorities would maintain the status of the appellant's coordination centre beyond 31 December 2005 if the contested decision were annulled. First, the Belgian authorities did not have any discretion in the present case, since the authorisation had to be granted for 10 years if the criteria laid down by Royal Decree No 187 were satisfied. Second, the General Court itself observed, in the judgment under appeal, that the Belgian authorities had not ruled out allowing the appellant to benefit from the scheme at issue after 31 December 2005 and had decided not to apply any penalty to it as long as no definitive ruling has been given on its action.

By its fifth and final ground of appeal, the appellant submits, lastly, that the General Court erred in law by finding that a transitional measure may not take effect retroactively. It is not unusual for a transitional period to start to run from an earlier point, in particular in tax matters.

([1]) Commission Decision 2008/283/EC of 13 November 2007 amending Decision 2003/757/EC on the aid scheme implemented by Belgium for coordination centres established in Belgium (OJ 2008 L 90, p. 7).

([2]) *Moniteur belge*, 13 January 1983, p. 502.

Reference for a preliminary ruling from the Bundesfinanzhof (Germany) lodged on 27 May 2010 — Döhler Neuenkirchen GmbH v Hauptzollamt Oldenburg

(Case C-262/10)

(2010/C 246/29)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Applicant: Döhler Neuenkirchen GmbH

Defendant: Hauptzollamt Oldenburg

Question referred

Is Article 204(1)(a) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ([1]) to be interpreted as meaning that it also applies to non-fulfilment of those obligations which are to be fulfilled only after discharge of the relevant customs procedure which has been used, so that where goods imported under an inward processing procedure in the form of a system of suspension have been partly re-exported within the time-limit the failure to fulfil the obligation to supply the bill of discharge to the supervising office within 30 days of the expiry of the time-limit for discharging the procedure gives rise to a customs debt in respect of the entire quantity of the imported goods covered by the bill of discharge if the requirements of Article 859(9) of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 ([2]) establishing the Community Customs Code, as amended by Article 1(30)(b) of Commission Regulation (EC) No 993/2001 of 4 May 2001 ([3]) are not fulfilled?

([1]) OJ 1992 L 302, p. 1.
([2]) Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code; OJ 1993 L 253, p. 1.
([3]) Commission Regulation (EC) No 993/2001 of 4 May 2001 amending Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code; OJ 2001 L 141, p. 1.

Reference for a preliminary ruling from the Hoge Raad der Nederlanden lodged on 2 June 2010 — Residex Capital IV CV v Gemeente Rotterdam

(Case C-275/10)

(2010/C 246/30)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Applicant: Residex Capital IV CV

Defendant: Gemeente Rotterdam

Question referred

Does the provision in the last sentence of Article 88(3) EC, now Article 108(3) TFEU, mean that, in a case such as the present, where the unlawful aid measure was implemented by granting the lender a guarantee which enabled the borrower to obtain a loan from the lender which would not have been available to it under normal market conditions, the national courts, within the framework of their obligation to remedy the consequences of the unlawful aid measure, are obliged, or at any rate authorised to cancel the guarantee, even if that does not result in the cancellation of the loan granted under the guarantee?

Reference for a preliminary ruling from the Handelsgericht Vienna (Austria) lodged on 3 June 2010 — Martin Luksan v Petrus van der Let

(Case C-277/10)

(2010/C 246/31)

Language of the case: German

Referring court

Handelsgericht Vienna

Parties to the main proceedings

Applicant: Martin Luksan

Defendant: Petrus van der Let

Questions referred

1. Must the provisions of European Union law concerning copyright and related rights, and in particular Article 2(2), (5) and (6) of Directive 92/100, ([1]) Article 1(5) of Directive 93/83/EEC ([2]) and Article 2(1) of Directive 2006/116, ([3]) in conjunction with Article 4 of Directive 92/100, Article 2 of Directive 93/83 and Articles 2 and 3 and Article 5(2)(b) of Directive 2001/29, ([4]) be interpreted as meaning that the principal director of a cinematographic or audiovisual work *or other authors of films designated by the legislatures of the Member States* are directly (primarily) entitled in all events, by law, to the exploitation rights in respect of reproduction, satellite broadcasting and other communication to the public through the making available to the public and that the film-maker is not entitled thereto directly (primarily) and exclusively;

   Are laws of the Member States which assign the exploitation rights by law directly (primarily) and exclusively to the film-maker inconsistent with European Union law?