Judgment of the Court (Third Chamber) of 5 October 2010 (reference for a preliminary ruling from the Supreme Court (Ireland)) — J. McB. v L. E.

(Case C-400/10 PPU) [1]

(Judicial cooperation in civil matters — Matrimonial matters and matters of parental responsibility — The Hague Convention of 25 October 1980 on the civil aspects of international child abduction — Regulation (EC) No 2201/2003 — Children whose parents are not married — Father's rights of custody — Interpretation of 'rights of custody' — General principles of law and Charter of Fundamental Rights of the European Union)

(2010/C 328/15)

Language of the case: English

Referring court

Supreme Court

Parties to the main proceedings

Applicant: J. McB.

Defendant: L. E.

Re:

Reference for a preliminary ruling — Supreme Court — Interpretation of Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 (OJ 2003 L 338, p. 1) — Child whose parents are not married — Father's rights of custody — National legislation requiring the father to obtain an order from the court with jurisdiction in order to have rights of custody in respect of the child which render wrongful the child's removal or retention outside the child's country of habitual residence.

Operative part of the judgment

Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000, must be interpreted as not precluding a Member State from providing by its law that the acquisition of rights of custody by a child's father, where he is not married to the child's mother, is dependent on the father's obtaining a judgment from a national court with jurisdiction awarding such rights to him, on the basis of which the removal of the child by its mother or the retention of that child may be considered wrongful, within the meaning of Article 2(11) of that regulation

[1] OJ C 260, 25.9.2010.

Appeal brought on 17 March 2010 by Francisco Pérez Guerra against the order of the General Court (Fourth Chamber) delivered on 11 February 2010 in Case T-3/10 Pérez Guerra v BNP Paribas and Spain

(Case C-142/10 P)

(2010/C 328/16)

Language of the case: Spanish

Parties

Appellant: Francisco Pérez Guerra (represented by: G. Soriano Bel, abogado)

Other parties to the proceedings: BNP Paribas and Kingdom of Spain

By order of 24 September 2010, the Court of Justice (Eighth Chamber) dismissed the appeal.

Appeal brought on 10 June 2010 by Franssons Verkstäder AB against the order of the General Court (Eighth Chamber) delivered on 10 May 2010 in Case T-98/10: Franssons Verkstäder v OHIM and Lindner Recyclingtech (Chaff Cutters)

(Case C-290/10 P)

(2010/C 328/17)

Language of the case: English

Parties

Appellant: Franssons Verkstäder AB (represented by: O. Öhlén, advokat)

Other party to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

By order of 09 September 2010 the Court of Justice (Eighth Chamber) held that the appeal was inadmissible.

Action brought on 22 July 2010 — European Commission v Kingdom of the Netherlands

(Case C-368/10)

(2010/C 328/18)

Language of the case: Dutch

Parties

Applicant: European Commission (represented by: C. Zadra and F. Wilman)

Defendant: Kingdom of the Netherlands

Form of order sought

— Declare that, by virtue of the fact that in the course of the award of a public contract for the supply and management of automatic coffee machines, published under No 2004/S 158-213630, the contracting authority

— inserted in the technical specification a requirement for the Max Havelaar and EKO-keurmerk, or in any event marks with a similar or the same basis, thus contrary to Article 23(6) and (8) of Directive 2004/18/EC, ([1])

— included, for appraising the ability of operators, criteria and evidence concerning sustainable purchasing and socially responsible undertakings, thus contrary to Article 48(1) and (2), Article 44(2), and in any event Article 2, of that directive,

— included, when formulating the award criteria, a reference to the Max Havelaar and/or EKO-keurmerk, or in any event marks with the same basis, thus contrary to Article 53(1) of that directive,

the Kingdom of the Netherlands has failed to fulfil its obligations under Directive 2004/18/EC;

— order Kingdom of the Netherlands to pay the costs.

Pleas in law and main arguments

The Commission submits that, in the context of a public procurement procedure published by a Province for the supply and management of automatic coffee machines, the Netherlands has failed to fulfil its obligations under European Union law in regard to public contracts, in particular Directive 2004/18/EC. The infringements of that directive relate to Article 23(6) and (8) with regard to technical specifications, Article 48(1) and (2), Article 44(2), or in any event Article 2, with regard to appraisal of the abilities of operators, and Article 53(1) with regard to the award criteria.

([1]) Directive of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJ 2004 L 134, p. 114).

Reference for a preliminary ruling from the Gerechtshof Amsterdam (Netherlands) lodged on 26 July 2010 — National Grid Indus BV v Inspecteur van de Belastingdienst Rijnmond (kantoor Rotterdam)

(Case C-371/10)

(2010/C 328/19)

Language of the case: Dutch

Referring court

Gerechtshof Amsterdam

Parties to the main proceedings

Applicant: National Grid Indus BV

Defendant: Inspecteur van de Belastingdienst Rijnmond (kantoor Rotterdam)

Question referred

1. If a Member State imposes on a company incorporated under the law of that Member State, which transfers its real company seat from that Member State to another Member State, a final settlement tax in respect of that transfer, can that company, in the present state of Community law, invoke Article 43 EC (now Article 49 TFEU) against that Member State?

2. If the first question must be answered in the affirmative: is a final settlement tax such as the one at issue, which is applied, without deferment and without the possibility of taking subsequent decreases in value into consideration, to the capital gains relating to the assets of the company which were transferred from the exit Member State to the host Member State, as assessed at the time of the transfer of the company seat, contrary to Article 43 EC (now Article 49 TFEU), in the sense that such a final settlement tax cannot be justified by the necessity of allocating the power to impose taxes between the Member States?

3. Does the answer to the previous question also depend on the circumstance that the final settlement tax in question relates to a (currency) profit which accrued under the tax jurisdiction of the Netherlands, whereas that profit cannot be reflected in the host Member State under the tax regime applicable there?