— dismiss Odile Jacob's action brought before the General Court against that decision;

— order Odile Jacob to pay all the costs of these proceedings, both at first instance and in this appeal.

Pleas in law and main arguments

The appellant puts forward two grounds in support of its appeal.

By its first ground of appeal, Lagardère alleges that the General Court erred in law by relying on the unlawfulness of the decision approving the trustee as a basis for annulling the approval decision.

By its second ground of appeal, which contains four parts, the appellant submits that the General Court erred in law in holding that the presence of the trustee's representative on the executive board of Editis as an independent third party could justify the annulment of the approval decision. That flows from the misinterpretation of certain facts, manifest failures to state reasons and several errors of law: the General Court thus erred in law by interpreting incorrectly the concept of independence (first part); the General Court failed to show in its statement of reasons how the links between the trustee's representative and Editis could have vitiated the content of the report submitted by the trustee to the Commission (second part); the General Court misinterpreted the facts and vitiated the judgment under appeal by a manifest failure to state reasons in finding that the trustee's report had exercised a 'decisive influence' on the approval decision (third part) and, lastly, the General Court erred in annulling the approval decision without showing how that decision would have differed in content in the absence of the alleged irregularities (fourth part).

Reference for a preliminary ruling from the Tribunal de Grande Instance de Chartres (France) lodged on 29 November 2010 — Michel Bourges-Maunoury, Marie-Louise Bourges-Maunoury (née Heintz) v Direction des Services Fiscaux d'Eure et Loir

(Case C-558/10)

(2011/C 46/09)

Language of the case: French

Referring court

Tribunal de Grande Instance de Chartres

Parties to the main proceedings

Applicants: Michel Bourges-Maunoury, Marie-Louise Bourges-Maunoury (née Heintz)

Defendant: Direction des Services Fiscaux d'Eure et Loir

Question referred

Is it contrary to the second paragraph of Article 13 of Chapter V of the Protocol on the Privileges and Immunities of the European Communities, [1] annexed to the Treaty establishing a Single Council and a Single Commission of the European Communities, for the entirety of a taxpayer's income, including Community income, to be taken into account in calculating the cap on wealth tax ('impôt de solidarité sur la fortune')?

[1] OJ 1967 L 152, p. 13, now Article 12 of Chapter V of the Protocol on the Privileges and Immunities of the European Union (OJ 2010 C 83, p. 266).

Action brought on 3 December 2010 — European Commission v Republic of Poland

(Case C-569/10)

(2011/C 46/10)

Language of the case: Polish

Parties

Applicant: European Commission (represented by: K. Herrmann, Agent)

Defendant: Republic of Poland

Form of order sought

— declare that, by not adopting the measures necessary to ensure that access to activities relating to the prospection, exploration and production of hydrocarbons should be free of all discrimination as between interested undertakings and that the authorisations to carry out those activities should be allocated in accordance with a procedure under which all interested undertakings are able to submit applications and in accordance with criteria which are published in the *Official Journal of the European Union* prior to the beginning of the period in which applications must be submitted, the Republic of Poland has failed to comply with its obligations under Articles 2(2), 3(1) and 5(1) and (2) of Directive 94/22/EC of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorisations for the prospection, exploration and production of hydrocarbons; [1]

— order the Republic of Poland to pay the costs of the proceedings.

Pleas in law and main arguments

The Commission raises three heads of complaint alleging failure on the part of the Republic of Poland to comply with the provisions of Directive 94/22/EC.

First, in the view of the Commission, the Polish legislation on 'Geological Work and Mining' (Prawo geologiczne i górnicze) and the implementing regulations giving effect to that legislation set out requirements with which any interested undertaking must comply at the time when it applies for an authorisation for the prospection, exploration and production of hydrocarbons and which place a number of undertakings already operating within Polish territory in a more favourable position than other undertakings, thereby infringing the principle of equal access to those activities.

Second, the Polish legislation does not subject the whole of the procedure governing the granting of authorisation for the prospection, exploration and production of hydrocarbons to the adjudication procedure required pursuant to Article 3(2) of Directive 94/22/EC. Polish law makes the prospection, exploration and production of hydrocarbons subject to the acquisition of a mining permit and a concession. The acquisition of a mining permit alone is, as a rule, preceded by a prior adjudication procedure, subject, however, to the reservation of a two-year right of priority for an undertaking which has identified and documented a deposit of hydrocarbons and has prepared geological documentation with the precision required for the purpose of obtaining a concession to extract such hydrocarbons.

Third, in the view of the Commission, the adjudication of applications submitted for the purpose of acquiring an authorisation for the prospection, exploration and production of hydrocarbons is not conducted exclusively on the basis of the criteria set out in Article 5(1) of Directive 94/22/EC. Furthermore, not all of the criteria governing the appraisal of an application are generally accessible, that is to say, published in the *Official Journal of the European Union*.

([1]) OJ 1994 L 164, p. 3.

Reference for a preliminary ruling from the Tribunale di Bolzano (Italy) lodged on 7 December 2010 — Kamberaj Servet v Istituto Per l'Edilizia Sociale della Provincia autonoma di Bolzano (IPES), Giunta della Provincia Autonoma di Bolzano, Provincia Autonoma di Bolzano

(Case C-571/10)

(2011/C 46/11)

Language of the case: Italian

Referring court

Tribunale di Bolzano

Parties to the main proceedings

Applicant: Servet Kamberaj

Defendants: Istituto Per l'Edilizia Sociale della Provincia autonoma di Bolzano (IPES), Giunta della Provincia Autonoma di Bolzano, Provincia Autonoma di Bolzano

Questions referred

1. Does the principle of the primacy [*principe de primauté*] of European Union law oblige a national court to give full and immediate effect to provisions of European Union law having direct effect, by disapplying provisions of domestic law in conflict with European Union law even if they were adopted in accordance with fundamental principles of the Member State's constitutional system?

2. When there is a conflict between the provision of domestic law and the European Convention on Human Rights ('the ECHR'), does the reference to the latter in Article 6 TEU oblige the national court to apply directly Articles 14 [ECHR] and 1 of Additional Protocol No 12 [to the ECHR], disapplying the incompatible source of domestic law, without having first to raise the issue of constitutionality before the national constitutional court?

3. Does European Union law, in particular, Articles 2 and 6 TEU, Articles 21 and 34 of the Charter [of Fundamental Rights of the European Union] and Directives 2000/43/EC and 2003/109/EC preclude a provision of national [more correctly: regional] law, such as that contained in Article 15(3) [more correctly: 15(2)] of Presidential Decree No 670/1972 in conjunction with Articles 1 and 5 of Provincial Law No 13 of 1998 and Decision No 1865 of the Giunta Provinciale of 20 July 2009, inasmuch as that provision, with regard to the allowances concerned, in particular, so-called 'housing benefit', attaches importance to nationality by affording to long-term resident workers not belonging to the Union or to stateless persons treatment worse than that afforded to resident Community nationals (whether or not Italian)?

If those questions [1 to 3] should be answered in the affirmative:

4. In the case of an infringement of general principles of the Union, such as the prohibition of discrimination and the requirement of legal certainty, when there exists national implementing legislation permitting the court to 'order the cessation of the damaging conduct and adopt any other suitable measure, according to the circumstances and the effects of the discrimination', requiring the court to 'order the discriminatory conduct, behaviour or action, if still subsisting, to cease and its effects to be eliminated' and permitting the court to order 'a plan for the suppression of the discrimination found to exist, in order to prevent its repetition, within the period fixed in the measure', must Article 15 of Directive 2000/43/EC, in so far as it provides that sanctions must be effective, proportionate and dissuasive, be interpreted as including, in discrimination found to exist and effects to be eliminated, and in order to avoid unjustified reverse discrimination, all infringements affecting the persons discriminated against, even if they do not form part of the dispute?