

**Re:**

Failure of a Member State to fulfil obligations — Failure to have taken, within the period prescribed, the measures necessary to comply with Commission Decision 2009/610/EC of 2 July 2008 on aid C 16/04 (ex NN 29/04, CP 71/02 and CP 133/05) granted by Greece to Hellenic Shipyards SA (notified under number C(2008) 3118) (OJ 2008 L 225, p. 104)

**Operative part of the judgment**

The Court:

1. Declares that, by failing to take, within the period prescribed, all the measures necessary in order to implement Commission Decision 2009/610/EC of 2 July 2008 on aid C 16/04 (ex NN 29/04, CP 71/02 and CP 133/05) granted by Greece to Hellenic Shipyards SA, and by failing to provide the information listed in Article 19 of that decision to the European Commission, the Hellenic Republic failed to fulfil its obligations under Articles 2, 3, 5, 6, 8, 9 and 11 to 19 of that decision;
2. Orders the Hellenic Republic to pay the costs.

(<sup>1</sup>) OJ C 328, 4.12.2010.

**Judgment of the Court (Second Chamber) of 28 June 2012 (reference for a preliminary ruling from the Tribunale di Palermo — Italy) — Criminal proceedings against Fabio Caronna**

(Case C-7/11) (<sup>1</sup>)

*(Medicinal products for human use — Directive 2001/83/EC — Article 77 — Wholesale distribution of medicinal products — Mandatory special authorisation for pharmacists — Conditions for granting)*

(2012/C 258/07)

Language of the case: Italian

**Referring court**

Tribunale di Palermo

**Party in the main proceedings**

Fabio Caronna

**Re:**

Reference for a preliminary ruling — Tribunale di Palermo — Interpretation of recital 36 and Articles 76 to 84 of Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (OJ 2001 L 311, p. 67) — Wholesale distribution of medicinal products — Conditions

under which authorisation may be granted for the wholesale distribution of medicinal products — National legislation which makes the wholesale distribution of medicinal products by pharmacists and persons authorised or entitled to supply medicinal products to the public subject to the requirement to obtain an authorisation imposed on wholesale distributors — Whether permissible

**Operative part of the judgment**

1. Article 77(2) of Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use, as amended by Commission Directive 2009/120/EC of 14 September 2009, must be interpreted as meaning that the requirement to obtain authorisation for the wholesale distribution of medicinal products is applicable to a pharmacist who, as a natural person, is also authorised under domestic law to operate as a wholesaler in medicinal products.
2. A pharmacist who is also authorised under domestic law to operate as a wholesaler in medicinal products must satisfy all the requirements imposed on applicants for and holders of authorisation for the wholesale distribution of medicinal products in Articles 79 to 82 of the Directive.
3. That interpretation cannot, of itself and independently of a law adopted by a Member State, give rise to or aggravate liability in criminal law on the part of a pharmacist who has engaged in activity as a wholesale distributor in medicinal products without the requisite authorisation.

(<sup>1</sup>) OJ C 80, 12.3.2011.

**Judgment of the Court (Second Chamber) of 28 June 2012 (reference for a preliminary ruling from the Bundesgerichtshof — Germany) — Markus Geltl v Daimler AG**

(Case C-19/11) (<sup>1</sup>)

*(Directives 2003/6/EC and 2003/124/EC — Inside information — Notion of ‘precise information’ — Intermediate steps in a protracted process — Reference to circumstances or an event which may reasonably be expected to come into existence or occur — Interpretation of the wording ‘may reasonably be expected’ — Public disclosure of information relating to change of a manager of a company)*

(2012/C 258/08)

Language of the case: German

**Referring court**

Bundesgerichtshof

**Parties to the main proceedings**

Applicant: Markus Geldl

Defendant: Daimler AG

In the presence of: Lothar Meier and Others

**Re:**

Reference for a preliminary ruling — Bundesgerichtshof — Interpretation of Article 1, point 1 of European Parliament and Council Directive 2003/6/EC of 28 January 2003 on insider dealing and market manipulation (OJ 2003 L 96, p. 16) and Article 1(1) of Commission Directive 2003/124/EC of 22 December 2003 implementing Directive 2003/6/EC (OJ 2003 L 339, p. 70) — Interpretation of the expression ‘privileged information’ — Resignation of the chairman of a limited liability company — Whether various consultations and steps prior to the event in question needing to be taken into account in order to assess the precise nature of such information

**Operative part of the judgment**

1. Point 1 of Article 1 of Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse) and Article 1(1) of Commission Directive 2003/124/EC of 22 December 2003 implementing Directive 2003/6 as regards the definition and public disclosure of inside information and the definition of market manipulation must be interpreted as meaning that, in the case of a protracted process intended to bring about a particular circumstance or to generate a particular event, not only may that future circumstance or future event be regarded as precise information within the meaning of those provisions, but also the intermediate steps of that process which are connected with bringing about that future circumstance or event;
2. Article 1(1) of Directive 2003/124 must be interpreted as meaning that the notion of ‘a set of circumstances which exists or may reasonably be expected to come into existence or an event which has occurred or may reasonably be expected to do so’ refers to future circumstances or events from which it appears, on the basis of an overall assessment of the factors existing at the relevant time, that there is a realistic prospect that they will come into existence or occur. However, that notion should not be interpreted as meaning that the magnitude of the effect of that set of circumstances or that event on the prices of the financial instruments concerned must be taken into consideration.

(<sup>1</sup>) OJ C 113, 9.4.2011.

**Judgment of the Court (Second Chamber) of 28 June 2012 (reference for a preliminary ruling from the Arbeitsgericht Ludwigshafen am Rhein (Germany)) — Georges Erny v Daimler AG — Werk Wörth**

(Case C-172/11) (<sup>1</sup>)

**(Freedom of movement for workers — Article 45 TFEU — Regulation (EEC) No 1612/68 — Article 7(4) — Principle of non-discrimination — Top-up amount on wages paid to workers placed on a scheme of part-time work prior to retirement — Cross-border workers subject to income tax in the Member State of residence — Notional taking into account of the tax on wages of the Member State of employment)**

(2012/C 258/09)

Language of the case: German

**Referring court**

Arbeitsgericht Ludwigshafen am Rhein

**Parties to the main proceedings**

Applicant: Georges Erny

Defendant: Daimler AG — Werk Wörth

**Re:**

Reference for a preliminary ruling — Arbeitsgericht Ludwigshafen am Rhein, Landau Divisions — Interpretation of Article 45 TFEU and of Article 7(4) of Council Regulation (EEC) No 1612/68 of 15 October 1968 on freedom of movement for workers within the Community (OJ, English special edition 1968 (II), p. 475) — Top-up amount on wages paid to workers placed on a scheme of part-time work prior to retirement — Less favourable pay for cross-border workers subject to income tax only in their State of residence as a result of the taking into account, when calculating that top-up amount, of the tax on wages notionally payable in the State of employment

**Operative part of the judgment**

Article 45 TFEU and Article 7(4) of Regulation (EEC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community preclude clauses in collective and individual agreements under which a top-up amount such as that at issue in the main proceedings, which is paid by an employer under a scheme of part-time working for older employees in preparation for retirement, must be calculated in such a way that the tax on wages payable in the Member State of employment is notionally deducted when the basis for the calculation of that top-up amount is being established, even though, under a tax convention for the avoidance of double taxation, the pay, salaries and similar remuneration paid to workers who do not reside in the Member State of employment are taxable in