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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (Third Chamber) of 4 July 2013 — European Commission v Aalberts Industries NV, Comap SA, formerly Aquatis France SAS, Simplex Armaturen + Fittings GmbH & Co. KG

(Case C-287/11 P) ⁽¹⁾

(Appeals — Agreements, decisions and concerted practices — European market — Copper and copper alloy fittings sector — Commission decision — Finding of an infringement of Article 101 TFEU — Fines — Single, complex and continuous infringement — Cessation of the infringement — Continuation of the infringement by certain participants — Repeated infringement)

(2013/C 245/02)

Language of the case: English

Parties

Appellant: European Commission (represented by: F. Castillo de la Torre, V. Bottka and R. Sauer, acting as Agents)

Other parties to the proceedings: Aalberts Industries NV, Comap SA, formerly Aquatis France SAS, Simplex Armaturen + Fittings GmbH & Co. KG (represented by: R. Wesseling, advocaat)

Re:

Appeal brought against the judgment delivered by the General Court (Eighth Chamber) on 24 March 2011 in Case T-385/06 *Aalberts Industries NV and Others v European Commission* by which the Court annulled, in part, Commission Decision C(2006) 4180 final of 20 September 2006 relating to a proceeding under Article 81 EC and Article 53 of the EEA Agreement (Case COMP/F-1/38.121 — Fittings) in respect of a cartel involving price-fixing and agreement on discounts and rebates, the creation of mechanisms for coordinating price increases, allocation of customers and exchange of commercial information in the European market for copper and copper alloy fittings, and also, in the alternative, a reduction in the fine imposed on the applicants

Operative part of the judgment*The Court:*

1. Dismisses the appeal;
2. Declares that there is no need to examine the cross-appeal;

3. Orders the European Commission to pay the costs.

⁽¹⁾ OJ C 238, 13.8.2011.

Judgment of the Court (Fourth Chamber) of 4 July 2013 — European Commission v Italian Republic

(Case C-312/11) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Directive 2000/78/EC — Article 5 — Establishing a general framework for equal treatment in employment and occupation — Persons with disabilities — Insufficient implementing measures)

(2013/C 245/03)

Language of the case: Italian

Parties

Applicant: European Commission (represented by: J. Enegren and C. Cattabriga, acting as Agents)

Defendant: Italian Republic (represented by: G. Palmieri, acting as Agent, assisted by C. Gerardis, avvocato dello Stato)

Re:

Failure of a Member State to fulfil obligations — Failure to take, within the prescribed period, all the provisions necessary to comply with Article 5 of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ 2000 L 303, p. 16) — National legislation providing for the application of that article through various measures, the application of which is itself dependent on the currently purely theoretical adoption of further measures — Insufficient guarantees and adjustments

Operative part of the judgment*The Court:*

1. Declares that, by not introducing a requirement for all employers to make reasonable adjustments, where needed in a particular case, for all persons with disabilities, the Italian Republic has failed to fulfil its obligation to ensure the correct and full implementation of Article 5 of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation;

2. *Orders the Italian Republic to pay the costs.*

(¹) OJ C 226, 30.7.2011.

Judgment of the Court (First Chamber) of 4 July 2013
(request for a preliminary ruling from the *Rechtbank van eerste aanleg te Antwerpen — Belgium*) — *Argenta Spaarbank NV v Belgische Staat*

(Case C-350/11) (¹)

(Tax legislation — Corporation tax — Deduction for risk capital — Notional interest — Reduction of the amount deductible by companies with establishments abroad the income from which is exempt under double taxation conventions)

(2013/C 245/04)

Language of the case: Dutch

Referring court

Rechtbank van eerste aanleg te Antwerpen

Parties to the main proceedings

Applicant: Argenta Spaarbank NV

Defendant: Belgische Staat

Re:

Request for a preliminary ruling — *Rechtbank van eerste aanleg te Antwerpen* — Interpretation of Article 49 TFEU — Tax legislation — Corporation tax — Deduction for risk capital ('notional interest') — Reduction of the amount deductible, for companies with establishments abroad the income from which is exempt under agreements to prevent double taxation conventions

Operative part of the judgment

Article 49 TFEU must be interpreted as precluding national legislation under which, for calculation of a deduction granted to a company subject to full tax liability in a Member State, the net value of the assets of a permanent establishment situated in another Member State is not taken into account when the profits of that permanent establishment are not taxable in the first Member State by virtue of a double taxation convention, whereas the assets attributed to a permanent establishment situated in the territory of the first Member State are taken into account for that purpose.

(¹) OJ C 282, 24.9.2011.

Judgment of the Court (Tenth Chamber) of 4 July 2013
(request for a preliminary ruling from the *Tribunale Amministrativo Regionale per il Piemonte — Italy*) — *Fastweb SpA v Azienda Sanitaria Locale di Alessandria*

(Case C-100/12) (¹)

(Public procurement — Directive 89/665/EEC — Public procurement review — Action brought by an unsuccessful tenderer for review of a decision awarding a contract — Action for review based on the ground that the bid selected did not meet the technical specifications for the contract — Counterclaim made by the successful tenderer alleging that certain technical specifications for the contract were not respected in the bid submitted by the tenderer seeking review — Neither of those bids in compliance with the technical specifications for the contract — National case-law requiring that the counterclaim be examined first and, where such a counterclaim proves well founded, that the main action be declared inadmissible without any consideration of its merits — Whether compatible with European Union law)

(2013/C 245/05)

Language of the case: Italian

Referring court

Tribunale Amministrativo Regionale per il Piemonte

Parties to the main proceedings

Applicant: Fastweb SpA

Defendant: Azienda Sanitaria Locale di Alessandria

Intervening parties: Telecom Italia SpA, Path-Net SpA

Re:

Request for a preliminary ruling — *Tribunale Amministrativo Regionale per il Piemonte* — Interpretation of Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (OJ 1989 L 395, p. 33), as amended by Directive 2007/66/EC (OJ 2007 L 335, p. 31) — Principles of equal treatment, non-discrimination and protection of competition — Rule laid down in the national case-law under which the national court before which an action is brought for annulment of the act awarding a public procurement contract, as well as a counterclaim seeking to challenge the legitimacy of the participation in the tendering procedure of the unsuccessful tenderer (which is also the applicant in the main action), may rule on the merits of the main action only if the counterclaim proves to be unfounded — A restricted call for tenders, with only two tenderers, neither of which submitted a bid which was admissible