Operative part of the judgment

The Court:

1. *Declares that, by failing to comply with Commission Decision 2009/726/EC of 24 September 2009 concerning interim protection measures taken by France as regards the introduction onto its territory of milk and milk products coming from a holding where a classical scrapie case is confirmed, the French Republic has failed to fulfil its obligations under Articles 4(3) TEU and 288 TFEU.*

2. *The French Republic is ordered to pay costs.*

([1]) OJ C 362, 10.12.2011.

Judgment of the Court (Third Chamber) of 18 July 2013 (requests for a preliminary ruling from the Verwaltungsgericht Hannover, Verwaltungsgericht Karlsruhe — Germany) — Laurence Prinz v Region Hannover (C-523/11), and Philipp Seeberger v Studentenwerk Heidelberg (C-585/11)

(Joined Cases C-523/11 and C-585/11) ([1])

(Citizenship of the Union — Articles 20 TFEU and 21 TFEU — Right of freedom of movement and residence — Education or training grant awarded to nationals of a Member State in order to pursue their studies in another Member State — Requirement of residence in the home Member State for at least three years prior to the commencement of studies)

(2013/C 260/15)

Language of the case: German

Referring court

Verwaltungsgericht Hannover, Verwaltungsgericht Karlsruhe

Parties to the main proceedings

Applicants: Laurence Prinz (C-523/11), Philipp Seeberger (C-585/11)

Defendants: Region Hannover (C-523/11), and Studentenwerk Heidelberg (C-585/11)

Re:

Requests for a preliminary ruling — Verwaltungsgericht Hannover — Interpretation of Articles 20 TFEU and 21 TFEU — Receipt of an education or training grant ('Ausbildungsförderung') — National rules limiting receipt of that grant to one year for citizens who pursue their studies abroad and reside for less than three years prior to the commencement of their studies in a national territory

Operative part of the judgment

Articles 20 TFEU and 21 TFEU must be interpreted as meaning that they preclude legislation of a Member State which makes the award of an education grant for studies in another Member State for a period of more than one year subject to a sole condition, such as that laid down in Paragraph 16(3) of the Federal Law on assistance for education and training [Bundesgesetz über individuelle Förderung der Ausbildung (Bundesausbildungsförderungsgesetz)], as amended on 1 January 2008, by the twenty-second law amending the Federal Law on assistance for education and training, requiring the applicant to have had a permanent residence, within the meaning of that law, in national territory for at least three years before commencing those studies.

([1]) OJ C 13, 14.1.2012.
OJ C 49, 18.2.2012.

Judgment of the Court (Fourth Chamber) of 18 July 2013 — New Yorker SHK Jeans GmbH & Co. KG, formerly New Yorker SHK Jeans GmbH v Office for Harmonisation in the Internal Market (Trade Marks and Designs), Vallis K.-Vallis A. & Co. OE

(Case C-621/11 P) ([1])

(Appeal — Application for registration of the Community word mark FISHBONE — Opposition proceedings — Earlier national figurative mark FISHBONE BEACHWEAR — Genuine use of the earlier mark — Taking into account additional evidence not submitted within the time-limit set — Regulation (EC) No 207/2009 — Articles 42(2) and (3) and Article 76(2) — Regulation (EC) No 2868/95 — Rule 22(2))

(2013/C 260/16)

Language of the case: English

Parties

Appellant: New Yorker SHK Jeans GmbH & Co. KG, formerly New Yorker SHK Jeans GmbH (represented by: V. Spitz, Rechtsanwalt)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: P. Geroulakos, acting as Agent), Vallis K. — Vallis A. & Co. O.E

Re:

Appeal against the judgment of the General Court (Sixth Chamber) of 29 September 2011 in Case T-415/09 *New Yorker SHK Jeans* v *OHIM* by which that court dismissed an action for annulment brought by the applicant for the word mark 'FISHBONE', for goods in Classes 18 and 25, against decision R 1051/2008-1 of the First Board of Appeal of the Office for Harmonisation in the Internal Market (OHIM) of 30 July 2009, rejecting in part the appeal brought against the decision of the Opposition Division refusing in part registration of that mark in the context of the opposition formed by the proprietor of the national mark 'FISHBONE BEACHWEAR' for the goods in Class 25, and the national sign 'Fishbone' used in business — Genuine use of the earlier mark — Taking into account additional evidence

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders New Yorker SHK Jeans GmbH & Co. KG to pay the costs.*

([1]) OJ C 25, 28.1.2012.

Judgment of the Court (Fifth Chamber) of 18 July 2013 (request for a preliminary ruling from the Korkein hallinto-oikeus — Finland) — P Oy

(Case C-6/12) ([1])

(State aid — Articles 107 and 108 TFEU — Condition of 'selectivity' — Regulation (EC) No 659/1999 — Article 1(b)(i) — Existing aid — National legislation concerning corporate income tax — Deductibility of losses sustained — Non-deductibility in the case of change of ownership — Authorisation of derogations — Degree of latitude of the tax authorities)

(2013/C 260/17)

Language of the case: Finnish

Referring court

Korkein hallinto-oikeus

Parties to the main proceedings

Applicant: P Oy

Re:

Request for a preliminary ruling — Korkein hallinto-oikeus — Interpretation of Article 107(1) TFEU — System of deduction of companies' losses — Legislation on corporate income tax providing that losses sustained during one tax year may be carried forward and deducted from any profit made in the following tax years — Deduction of losses in the case of a change of ownership during the year in which the losses are sustained or thereafter excluded — Exception to the rule excluding deduction for good reasons to do with the continuation of the activities of the company in question

Operative part

1. *A tax regime such as that at issue in the main proceedings may satisfy the condition of selectivity as an element of the concept of 'State aid' within the meaning of Article 107(1) TFEU if it were to be established that the reference system, namely, the 'normal' system, consists in a prohibition of the deduction of losses in the case of a change of ownership for the purposes of the first subparagraph of Paragraph 122 of Law No 1535/1992 of 30 December 1992 on income tax (Tuloverolaki), in relation to which the authorisation procedure provided for in the third subparagraph of Paragraph 122 would constitute an exception. Such a regime may be justified by the nature or general scheme of the system of which it forms part, but justification is not possible if the competent national authorities, so far as concerns authorisation to derogate from the prohibition of the deduction of losses, have discretion that empowers them to base authorisation decisions on criteria unrelated to that tax regime. However, the Court does not have sufficient information before it to rule definitively on those classifications.*

2. *Article 108(3) TFEU does not preclude a tax regime such as that provided for in the first and third subparagraphs of Paragraph 122 of Law No 1535/1992, if that regime should be classified as 'State aid', from continuing to be applied in the Member State which established it because it grants 'existing' aid, without prejudice to the competence of the European Commission under Article 108(3) TFEU.*

([1]) OJ C 58, 25.2.2012.

Judgment of the Court (Fourth Chamber) of 18 July 2013 (request for a preliminary ruling from the Gerechtshof te Leeuwarden — Netherlands) — Fiscale eenheid PPG Holdings BV cs te Hoogezand v Inspecteur van de Belastingdienst/Noord/kantoor Groningen

(Case C-26/12) ([1])

(Value added tax — Sixth Directive 77/388/EEC — Articles 17 and 13B(d)(6) — Exemptions — Deduction of input tax — Pension fund — Concept of 'management of special investment funds')

(2013/C 260/18)

Language of the case: Dutch

Referring court

Gerechtshof te Leeuwarden

Parties to the main proceedings

Applicant: Fiscale eenheid PPG Holdings BV cs te Hoogezand

Defendant: Inspecteur van de Belastingdienst/Noord/kantoor Groningen

Re:

Request for a preliminary ruling — Gerechtshof te Leeuwarden — Interpretation of Articles 13B(d)(6) and 17 of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ 1977 L 145, p. 1) and of Articles 135(1)(g), 168 and 169 of Council Directive 2006/112/EC of 28 November 2006 concerning the common system of value