

preclude a national rule which, in the case where the statutory nine-month period for compiling and disclosing annual accounts to the relevant court maintaining the commercial register is exceeded,

- without a prior opportunity to state views on the existence of an obligation to disclose and on any potential obstacles to doing so, in particular without prior examination as to whether those annual accounts have in fact already been submitted to the court which maintains the register in the judicial district of which the principal place of business is situated; and
- without a prior individual request to the company or the bodies authorised to represent it to comply with the disclosure obligation,

requires that the court maintaining the commercial register impose immediately a minimum fine of EUR 700 on the company and on each of the bodies authorised to represent it, in the absence of the provision of proof to the contrary and pursuant to the fiction that the company and its bodies were culpable in failing to effect disclosure; and which requires, in the event of further failure for periods of two months, the further and immediate imposition in each case of further minimum fines of EUR 700 on the company and on each of the bodies authorised to represent it, again in the absence of the provision of proof to the contrary and pursuant to the fiction that the company and its bodies were culpable in failing to effect disclosure?

<sup>(1)</sup> First Council Directive 68/151/EEC of 9 March 1968 on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 58 of the Treaty, with a view to making such safeguards equivalent throughout the Community (OJ, English special edition 1968(I), p. 41).

<sup>(2)</sup> Fourth Council Directive 78/660/EEC of 25 July 1978 based on Article 54(3)(g) of the Treaty on the annual accounts of certain types of companies (OJ 1978 L 222, p. 11; amended version at OJ 2006 L 224, p. 1).

<sup>(3)</sup> Seventh Council Directive 83/349/EEC of 13 June 1983 based on Article 54(3)(g) of the Treaty on consolidated accounts (OJ 1983 L 193, p. 1).

**Reference for a preliminary ruling from the Finanzgericht Baden-Württemberg (Germany) lodged on 16 August 2011 — Katja Ettwein v Finanzamt Konstanz**

(Case C-425/11)

(2011/C 331/12)

*Language of the case: German*

**Referring court**

Finanzgericht Baden-Württemberg

**Parties to the main proceedings**

*Applicant:* Katja Ettwein

*Defendant:* Finanzamt Konstanz

**Question referred**

Are the provisions of the Agreement of 21 June 1999 <sup>(1)</sup> between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons (BGBl. II 2001, 810 et seq.), which was passed as a Law by the Bundestag on 2 September (BGBl. II 2001, 810) and entered into force on 1 June (‘the Agreement on free movement’), in particular Articles 1, 2, 11, 16 and 21 thereof and Articles 9, 13 and 15 of Annex I thereto, to be interpreted as precluding a rule under which spouses who live in Switzerland and are subject to taxation in the Federal Republic of Germany on their entire taxable income cannot be granted joint assessment, regard being had to the ‘splitting’ regime?

<sup>(1)</sup> Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons — Final Act — Joint Declarations — Information relating to the entry into force of the seven Agreements with the Swiss Confederation in the sectors free movement of persons, air and land transport, public procurement, scientific and technological cooperation, mutual recognition in relation to conformity assessment, and trade in agricultural products, OJ 2002 L 114, p. 6.

**Appeal brought on 18 August 2011 by Gosselin Group NV, formerly Gosselin World Wide Moving NV, against the judgment delivered by the General Court (Eighth Chamber) on 16 June 2011 in Joined Cases T-208/08 and T-209/08 Gosselin Group NV and Stichting Administratiekantoor Portielje v European Commission**

(Case C-429/11 P)

(2011/C 331/13)

*Language of the case: Dutch*

**Parties**

*Appellant:* Gosselin Group NV, formerly Gosselin World Wide Moving NV, (represented by: F. Wijckmans and H. Burez, advocaten)

*Other parties to the proceedings:* European Commission and Stichting Administratiekantoor Portielje

**Form of order sought**

- Principally, (i) set aside the judgment under appeal <sup>(1)</sup> in so far as the General Court finds that the unlawful practices by their nature restrict competition and that there is no need to prove anti-competitive effects; and (ii) annul the Decision <sup>(2)</sup> (as amended and in so far as it relates to the appellant) since it contains no proof of the consequences in terms of competition law of the practices for which the appellant is held liable;