

Operative part of the judgment

The Court:

1. Dismisses the appeal;
2. Orders Mr Bernhard Rintisch to pay the costs.

(¹) OJ C 165, 9.6.2012.

Judgment of the Court (Third Chamber) of 19 September 2013 (request for a preliminary ruling from the Oberster Gerichtshof — Austria) — Pensionsversicherungsanstalt v Peter Brey

(Case C-140/12) (¹)

(Freedom of movement for persons — Union Citizenship — Directive 2004/38/EC — Right of residence for more than three months — Article 7(1)(b) — Person no longer having worker status — Person in possession of a retirement pension — Having sufficient resources not to become a burden on the ‘social assistance system’ of the host Member State — Application for a special non-contributory cash benefit — Compensatory supplement intended to augment a retirement pension — Regulation (EC) No 883/2004 — Articles 3(2) and 70 — Competence of the Member State of residence — Conditions for granting — Legal right to reside on the national territory — Compliance with European Union law)

(2013/C 344/43)

Language of the case: German

Referring court

Oberster Gerichtshof

Parties to the main proceedings

Applicant: Pensionsversicherungsanstalt

Defendant: Peter Brey

Re:

Request for a preliminary ruling — Oberster Gerichtshof — Interpretation of Article 7(1)(b) of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ 2004 L 158, p. 77), as amended — Right of a citizen of the European Union who has ceased his professional activity to reside for more than three months in the territory of another Member State — Situation in which that citizen receives a retirement pension which is below the

minimum subsistence level of the host Member State and has, for that reason, requested that he be granted a compensatory supplement (‘Ausgleichszulage’), which is a special non-contributory cash benefit

Operative part of the judgment

EU law — in particular, as it results from Article 7(1)(b), Article 8(4) and Article 24(1) and (2) of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC — must be interpreted as precluding national legislation, such as that at issue in the main proceedings, which, even as regards the period following the first three months of residence, automatically — whatever the circumstances — bars the grant of a benefit, such as the compensatory supplement provided for in Paragraph 292(1) of the Federal Act on General Social Insurance (Allgemeines Sozialversicherungsgesetz), as amended, from 1 January 2011, by the 2011 Budget Act (Budgetbegleitgesetz 2011), to a national of another Member State who is not economically active, on the grounds that, despite having been issued with a certificate of residence, he does not meet the necessary requirements for obtaining the legal right to reside on the territory of the first Member State for a period of longer than three months, since obtaining that right of residence is conditional upon that national having sufficient resources not to apply for the benefit.

(¹) OJ C 165, 9.6.2012.

Judgment of the Court (Fourth Chamber) of 26 September 2013 (request for a preliminary ruling from the Bundesgerichtshof — Germany) — Salzgitter Mannesmann Handel GmbH v SC Laminorul SA

(Case C-157/12) (¹)

(Area of freedom, security and justice — Judicial cooperation in civil matters — Regulation (EC) No 44/2001 — Article 34(3) and (4) — Recognition of a judgment given in another Member State — Situation whereby that judgment is irreconcilable with an earlier judgment given in that Member State involving the same cause of action and between the same parties)

(2013/C 344/44)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: Salzgitter Mannesmann Handel GmbH

Defendant: SC Laminorul SA

Re:

Request for a preliminary ruling — Bundesgerichtshof — Interpretation of Article 34(4) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1) — Recognition of a judgment given in another Member State — Situation in which that decision is irreconcilable with another judgment given previously in the same Member State between the same parties, with the same subject matter and same cause of action

Operative part of the judgment

Article 34(4) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters must be interpreted as not covering irreconcilable judgments given by courts of the same Member State.

⁽¹⁾ OJ C 184, 23.6.2012.

Judgment of the Court (Fourth Chamber) of 3 October 2013 (request for a preliminary ruling from the Cour de cassation — France) — Peter Pinckney v KDG Mediatech AG

(Case C-170/12) ⁽¹⁾

(Regulation (EC) No 44/2001 — Jurisdiction — Matters relating to tort, delict and quasi-delict — Copyright — Material support reproducing a protected work — Placing on line — Determination of the place where the harmful event occurred)

(2013/C 344/45)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Applicant: Peter Pinckney

Defendant: KDG Mediatech AG

Re:

Request for a preliminary ruling — Cour de cassation — Interpretation of Article 5(3) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1) — Jurisdiction of the national court in matters of tort, delict and quasi-delict — Criteria for determining the place where the harmful event occurred or may occur — Infringement of copyright caused by the placing on-line of dematerialised content or a material carrier medium reproducing the content — Content directed at the public

Operative part of the judgment

Article 5(3) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters must be interpreted as meaning that, in the event of alleged infringement of copyrights protected by the Member State of the court seised, the latter has jurisdiction to hear an action to establish liability brought by the author of a work against a company established in another Member State and which has, in the latter State, reproduced that work on a material support which is subsequently sold by companies established in a third Member State through an internet site also accessible with the jurisdiction of the court seised. That court has jurisdiction only to determine the damage caused in the Member State within which it is situated.

⁽¹⁾ OJ C 174, 16.6.2012.

Judgment of the Court (Ninth Chamber) of 26 September 2013 — EI du Pont de Nemours and Company v European Commission, DuPont Performance Elastomers LLC, DuPont Performance Elastomers SA

(Case C-172/12 P) ⁽¹⁾

(Appeal — Competition — Agreements, decisions and concerted practices — Market for chloroprene rubber — Price-fixing and market-sharing — Infringement of Article 81 EC — Imputability of the unlawful conduct of a subsidiary to its parent company — Joint control by two parent companies — Decisive influence — Joint and several liability — Limitation period — Legitimate interest)

(2013/C 344/46)

Language of the case: English

Parties

Appellants: EI du Pont de Nemours and Company (represented by: J. Boyce and A. Lyle-Smythe, Solicitors)

Other parties to the proceedings: European Commission (represented by: V. Bottka and A. Biolan, acting as Agents), DuPont Performance Elastomers LLC, DuPont Performance Elastomers SA (represented by: J. Boyce and A. Lyle-Smythe, Solicitors)

Re:

Appeal brought against the judgment of the General Court (Seventh Chamber) of 2 February 2012 in Case T-76/08 *EI du Pont de Nemours and Others v Commission*, in which that Court dismissed an action for the partial annulment of Commission Decision C(2007) 5910 final of 5 December 2007 relating to a proceeding under Article 81 EC and Article 53 of the EEA Agreement (Case COMP/F/38.629 — Chloroprene Rubber) concerning a cartel in the market for chloroprene rubber in the European Economic Area (EEA), relating to market-sharing and price-fixing, and, in the alternative, a reduction in the amount of the fine imposed on the applicant — Joint venture — Imputability of the unlawful conduct