Operative part of the judgment

Articles 4(1), 14(1)(c)(i) and 15 of Council Directive 93/38/EEC of 14 June 1993 coordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors, as amended by Directive 98/4/EC of the European Parliament and of the Council of 16 February 1998, must be interpreted as meaning that they cannot be relied on against a private undertaking solely on the ground that, in its capacity as the exclusive holder of a public-interest service concession, that undertaking comes within the group of persons covered by Directive 93/38, in circumstances where that directive has not yet been transposed into the domestic system of the Member State concerned.

Such an undertaking, which has been given responsibility, pursuant to a measure adopted by the State, for providing, under the control of the State, a public-interest service and which has, for that purpose, special powers going beyond those which result from the normal rules applicable in relations between individuals, is obliged to comply with the provisions of Directive 93/38, as amended by Directive 98/4, and the authorities of a Member State may therefore rely on those provisions against it.

([1]) OJ C 389, 15.12.2012.

Judgment of the Court (Eighth Chamber) of 19 December 2013 (reference for a preliminary ruling from the Gerechtshof 's Hertogenbosch (Netherlands)) — X

(Case C-437/12) ([1])

(Internal taxation — Article 110 TFEU — Registration duty — Similar domestic products — Neutrality of the tax between imported used automobile vehicles and similar vehicles already present on the national market)

(2014/C 52/29)

Language of the case: Dutch

Referring court

Gerechtshof 's Hertogenbosch

Parties to the main proceedings

X

Re:

Reference for a preliminary ruling — Gerechtshof te's Hertogenbosch (Netherlands) — Interpretation of Article 110 TFEU — Domestic taxation — National legislation imposing a registration levy at the time of the first use of a vehicle on the national road network — Amount of the levy based, as from 2010, on CO_2 emissions — Vehicle first used on the roads outside the Netherlands in 2006 and registered in 2010 for use within national territory.

Operative part of the judgment

1. *For the purpose of applying Article 110 TFEU, the similar domestic products which are comparable to a used vehicle such as the one at issue in the main proceedings, which was first put into service before 1 February 2008 and was imported and registered in the Netherlands in 2010, are the vehicles already present on the Netherlands market whose characteristics are closest to those of the vehicle in question.*

2. *Article 110 TFEU must be interpreted as precluding a tax, such as the passenger-car and motorcycle tax (belasting personenauto's en motorrijwielen) as in force in 2010, if and in so far as the amount of that tax levied on used imported vehicles upon their registration in the Netherlands exceeds the lowest residual amount of BPM incorporated into the value of similar used vehicles already registered in that same Member State.*

([1]) OJ C 399, 22.12.2012.

Judgment of the Court (Third Chamber) of 12 December 2013 (request for a preliminary ruling from the High Court of Justice (Chancery Division) — United Kingdom) — Actavis Group PTC EHF, Actavis UK Ltd v Sanofi

(Case C-443/12) ([1])

(Medicinal products for human use — Supplementary protection certificate — Regulation (EC) No 469/2009 — Article 3 — Conditions for obtaining such a certificate — Successive marketing of two medicinal products containing, wholly or partially, the same active ingredient — Combination of active ingredients, one of which has already been marketed in the form of a medicinal product with a single active ingredient — Whether it is possible to obtain a number of certificates on the basis of the same patent and two marketing authorisations)

(2014/C 52/30)

Language of the case: English

Referring court

High Court of Justice (Chancery Division)

Parties to the main proceedings

Applicants: Actavis Group PTC EHF, Actavis UK Ltd

Defendant: Sanofi

Intervening party: Sanofi Pharma Bristol-Myers Squibb SNC

Re:

Request for a preliminary ruling — High Court of Justice (Chancery Division) — Interpretation of Article 3(a) and (c) of Regulation (EC) No 469/2009 of the European Parliament and of the Council of 6 May 2009 concerning the supplementary protection certificate for medicinal products (OJ 2009 L 152, p. 1) — Conditions for obtaining a supplementary protection certificate — Concept of 'product protected by a basic patent in force' — Criteria — Possibility of granting the certificate for each medicinal product where there is a patent covering a number of medicinal products.

Operative part of the judgment

In circumstances such as those in the main proceedings, where, on the basis of a patent protecting an innovative active ingredient and a marketing authorisation for a medicinal product containing that ingredient as the single active ingredient, the holder of that patent has already obtained a supplementary protection certificate for that active ingredient entitling him to oppose the use of that active ingredient, either alone or in combination with other active ingredients, Article 3(c) of Regulation (EC) No 469/2009 of the European Parliament and of the Council of 6 May 2009 concerning the supplementary protection certificate for medicinal products must be interpreted as precluding that patent holder from obtaining — on the basis of that same patent but a subsequent marketing authorisation for a different medicinal product containing that active ingredient in conjunction with another active ingredient which is not protected as such by the patent — a second supplementary protection certificate relating to that combination of active ingredients.

([1]) OJ C 389, 15.12.2012.

Judgment of the Court (First Chamber) of 12 December 2013 — Rivella International AG v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) and Baskaya di Baskaya Alim e C. Sas

(Case C-445/12 P) ([1])

(Appeal — Community trade mark — Figurative mark containing the word element 'BASKAYA' — Opposition — Bilateral convention — Territory of a non-Member State — 'Genuine use')

(2014/C 52/31)

Language of the case: German

Parties

Appellant: Rivella International AG (represented by: C. Spintig, Rechtsanwalt)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (represented by: G. Schneider, Agent), Baskaya di Baskaya Alim e C. Sas

Re:

Appeal against the judgment of 12 July 2012 in Case T-170/11 *Rivella International* v *OHIM — Baskaya di Baskaya Alim (BASKAYA)* by which the General Court (Sixth Chamber) dismissed the action brought against the decision of the Fourth Board of Appeal of OHIM of 10 January 2011 (Case R 534/2010-4) relating to opposition proceedings between Rivella International AG and Baskaya di Baskaya Alim e C. Sas — Likelihood of confusion between a figurative sign containing the word element 'BASKAYA' and an earlier international figurative mark containing the word element 'Passaia' — Infringement of Article 42(2) and (3) of Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1) — Error of assessment in examining the opposition.

Operative part of the judgment

The Court:

1. *Dismisses the appeal;*

2. *Orders Rivella International AG to pay the costs.*

([1]) OJ C 366, 24.11.12

Judgment of the Court (Third Chamber) of 19 December 2013 (request for a preliminary ruling from the Landgericht Krefeld — Germany) — Nipponkoa Insurance Co. (Europe) Ltd v Inter-Zuid Transport BV

(Case C-452/12) ([1])

(Judicial cooperation in civil and commercial matters — Regulation (EC) No 44/2001 — Articles 27, 33 and 71 — Lis pendens — Recognition and enforcement of judgments — Convention on the Contract for the International Carriage of Goods by Road (CMR) — Article 31(2) — Rules for coexistence — Action for indemnity — Action for a negative declaration — Negative declaratory judgment)

(2014/C 52/32)

Language of the case: German

Referring court

Landgericht Krefeld

Parties to the main proceedings

Applicant: Nipponkoa Insurance Co. (Europe) Ltd

Defendant: Inter-Zuid Transport BV

Intervener: DTC Surhuisterveen BV

Re:

Request for a preliminary ruling — Landgericht Krefeld — Interpretation of Articles 27 and 71 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 ('Brussels I') (OJ 2001 L 12, p. 1) — Relationship with the Convention on the Contract for the International Carriage of Goods by Road (CMR) — Rules on inter-relationship — *Lis pendens* — Duty to interpret Article 31(2) of the CMR in the light of Article 27 of the Brussels I Regulation — Relationship between an action for damages by the sender of the goods or the consignee thereof and a declaratory action by the carrier seeking a declaration that he is not liable for the damage or, if he is liable, that his liability is limited to a maximum amount ('action for a negative declaration').