Order of the Court (Seventh Chamber) of 27 April 2012 (reference for a preliminary ruling from the Hoge Raad der Nederlanden — Netherlands) — Staatssecretaris van Financiën v U. Notermans-Boddenberg

(Case C-114/11) ([1])

(Articles 18 EC and 39 EC — Motor vehicles — Use in a Member State of a private motor vehicle registered in another Member State — Taxation of that vehicle in the first Member State on the occasion of its first use on the national road network — Vehicle taken at the time of moving to the first Member State and used for both private use and for going to the place of work situated in the second Member State)

(2012/C 258/12)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Applicant: Staatssecretaris van Financiën

Defendant: U. Notermans-Boddenberg

Re:

Reference for a preliminary ruling — Hoge Raad der Nederlanden — Interpretation of Articles 18 EC and 39 EC (now Articles 21 TFEU and 45 TFEU) — National rules requiring payment of a registration tax on the occasion of the first use of a vehicle on the national road network — Imposition of that tax on a person who has transferred residence from another Member State, is a national of that Member State and uses, on a permanent basis, a vehicle registered in that Member State, and included in the transfer of residence, for purposes of private and work-related use involving work-related travel to that other Member State

Operative part of the order

Article 39 EC must be interpreted as not precluding legislation of a Member State which requires its residents who have moved from another Member State and have taken with them a vehicle registered in that latter Member State, on the occasion of the first use of that vehicle on the national road network, to pay a tax normally due on the registration of a vehicle in the first Member State, where that vehicle is essentially used permanently in the territory of that first Member State, even if that use includes journeys by those residents to their place of work in the second Member State.

([1]) OJ C 152, 21.5.2011.

Order of the Court (Fifth Chamber) of 26 April 2012 — Deichmann SE v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-307/11 P) ([1])

(Appeal — Community trade mark — Regulation (EC) No 40/94 — Article 7(1)(b) — Absolute ground for refusal — Lack of distinctive character — Figurative sign representing a chevron edged with dotted lines)

(2012/C 258/13)

Language of the case: German

Parties

Appellant: Deichmann SE (represented by: O. Rauscher, lawyer)

Other party to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: K. Klüpfel, acting as Agent)

Re:

Appeal brought against the judgment of the General Court (Seventh Chamber) of 13 April 2011 in Case T-202/09 *Deichmann SE* v *OHIM*, by which the General Court dismissed the action for annulment of the decision of the Fourth Board of Appeal of OHIM of 3 April 2009 dismissing the appeal against the examiner's decision, which refused registration of the figurative sign representing a chevron edged with dotted lines as a Community trade mark for certain goods in Classes 10 and 25 — Distinctive character of the mark

Operative part of the order

1. *The appeal is dismissed.*

2. *Deichmann SE shall pay the costs.*

([1]) OJ C 269, 10.9.2011.

Appeal brought on 11 May 2012 by the European Commission against the judgment delivered by the General Court (First Chamber) on 2 March 2012 in Joined Cases T-29/10 and T-33/10 Netherlands and ING Groep v Commission

(Case C-224/12 P)

(2012/C 258/14)

Languages of the case: Dutch and English

Parties

Appellant:	European Commission (represented by: L. Flynn, S. Noë and H. Van Vliet, Agents)
Other parties to the proceedings:	Kingdom of the Netherlands ING Groep NV De Nederlandsche Bank NV

Form of order sought

— Set aside the judgment of the General Court (First Chamber) of 2 March 2012, notified to the Commission on 6 March 2012, in Joined Cases T-29/10 and T-33/10 *Netherlands and ING Groep* v *Commission*; and

— dismiss the applications for partial annulment of the decision of the European Commission ([1]) of 18 November 2009 on State aid C 10/09 (ex N 138/2009) implemented by the Netherlands for ING's Illiquid Assets Back-up Facility and Restructuring Plan;

— order the applicants to pay the costs;

— in the alternative,

— refer the case back to the General Court for reconsideration;

— reserve the costs of the proceedings at first instance and on appeal,

or, in the further alternative,

— annul the third paragraph of Article 2 of the decision at issue;

— order the applicants to pay the costs of the appeal.

Pleas in law and main arguments

The Commission maintains that the judgment under appeal should be set aside on the following grounds:

First, there is no requirement in law to apply the market economy investor principle in relation to an amendment of repayment conditions for a measure that itself constituted State aid.

Second, the General Court wrongly evaluated the loss of revenue to the Member State resulting from the modified repayment conditions examined in the Commission's decision of 18 November 2009 on State aid C 10/09 (ex N 138/09) implemented by the Netherlands for ING's Illiquid Assets Back-up Facility and Restructuring Plan ('the decision at issue').

Third, even if the Commission was wrong to treat the modified repayment conditions as State aid, the General Court was not entitled to annul the first paragraph of Article 2 of the decision at issue in its entirety.

Fourth, the General Court erred in law in finding that the second paragraph of Article 2 of the decision at issue was necessarily unlawful because the Commission had erred in finding that the modified repayment conditions constituted State aid.

Fifth, the General Court ruled *ultra petita* in annulling the second paragraph of Article 2 of the decision at issue and Annex II thereto.

Sixth, in the alternative, if the General Court was correct to annul the first and second paragraphs of Article 2 of the decision at issue and Annex II thereto, it also had to annul the third paragraph of Article 2 of the decision at issue.

([1]) Decision 2010/608/EC (OJ 2010 L 274, p. 139).

Reference for a preliminary ruling from the Hof van Beroep te Brussel (Belgium), lodged on 29 May 2012 — Citroën Belux NV v Federatie voor Verzekerings- en Financiële Tussenpersonen (FvF)

(Case C-265/12)

(2012/C 258/15)

Language of the case: Dutch

Referring court

Hof van Beroep te Brussel

Parties to the main proceedings

Appellant: Citroën Belux NV

Respondent: Federatie voor Verzekerings- en Financiële Tussenpersonen (FvF)

Questions referred

1. Must Article 3(9) of Directive 2005/29/EC ([1]) be interpreted as precluding a provision, such as Article 72 WMPC, ([2]) which — subject to the cases which are exhaustively listed in the law — generally prohibits any combined offer to the consumer as soon as at least one component is a financial service?