Judgment of the Court (First Chamber) of 9 October 2014 (request for a preliminary ruling from the Finanzgericht Düsseldorf — Germany) — Rita van Caster, Patrick van Caster v Finanzamt Essen-Süd

(Case C-326/12) ([1])

(Reference for a preliminary ruling — Free movement of capital — Article 63 TFEU — Taxation of income from investment funds — Investment fund's obligations to communicate and publish certain information — Flat-rate taxation of income from investment funds which do not comply with communication and publication obligations)

(2014/C 439/03)

Language of the case: German

Referring court

Finanzgericht Düsseldorf

Parties to the main proceedings

Applicants: Rita van Caster, Patrick van Caster

Defendant: Finanzamt Essen-Süd

Operative part of the judgment

Article 63 TFEU must be interpreted as precluding national legislation such as that at issue in the main proceedings which provides that the failure by a non-resident investment fund to comply with the obligations to communicate and publish certain information required by that legislation, which are applicable without distinction to resident and non-resident investment funds alike, resulting in the flat-rate taxation of the income which the taxpayer earns from that investment fund, since that legislation does not allow the taxpayer to provide evidence or information that could prove the actual size of that income.

([1]) OJ C 303, 6.10.2012.

Judgment of the Court (Fifth Chamber) of 23 October 2014 (request for a preliminary ruling from the Augstākās Tiesas Senāts — Latvia) — Olainfarm AS v Latvijas Republikas Veselības ministrija, Zāļu valsts aģentūra

(Case C-104/13) ([1])

(Reference for a preliminary ruling — Approximation of laws — Industrial policy — Directive 2001/83/EC — Medicinal products for human use — Article 6 — Marketing authorisation — Article 8(3)(i) — Requirement to attach to the application for authorisation the results of pharmaceutical pre-clinical tests and clinical trials — Derogations relating to pre-clinical tests and clinical trials — Article 10 — Generic medicinal products — Concept of 'reference medicinal product' — Whether the holder of a marketing authorisation for a reference medicinal product has an individual right to oppose the marketing authorisation of a generic of the reference product — Article 10(a) — Medicinal products of which the active substances have been in well-established medicinal use within the European Union for at least 10 years — Whether it is possible to use a medicinal product for which authorisation has been granted on the basis of the derogation provided for in Article 10(a) as a reference medicinal product for the purpose of obtaining a marketing authorisation for a generic product)

(2014/C 439/04)

Language of the case: Latvian

Referring court

Augstākās Tiesas Senāts

Parties to the main proceedings

Applicant: Olainfarm AS

Defendants: Latvijas Republikas Veselības ministrija, Zāļu valsts aģentūra

Intervening party: Grindeks AS

Operative part of the judgment

1) *The concept of 'reference medicinal product' within the meaning of Article 10(2)(a) of Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use, as amended by Regulation (EC) No 1394/2007 of the European Parliament and of the Council of 13 November 2007, must be interpreted as encompassing a medicinal product for which the marketing authorisation was granted on the basis of Article 10(a) of the directive.*

2) *On a proper construction of Article 10 of Directive 2001/83, as amended by Regulation No 1394/2007, read in conjunction with Article 47 of the Charter of Fundamental Rights of the European Union, the holder of a marketing authorisation for a medicinal product used as a reference product in an application for a marketing authorisation under Article 10 of the directive for a generic product of another manufacturer has the right to a judicial remedy enabling him to challenge the decision of the competent authority which granted the marketing authorisation for the generic product, provided that that holder is seeking judicial protection of a right conferred on him by Article 10. Such a judicial remedy exists, inter alia, where the holder demands that his medicinal product is not to be used for the purpose of obtaining, under Article 10, a marketing authorisation for another medicinal product in relation to which his own product cannot be regarded as a reference product within the meaning of Article 10(2)(a) of the directive.*

([1]) OJ C 123, 27.4.2013.

Judgment of the Court (Third Chamber) of 9 October 2014 (request for a preliminary ruling from the Teleklagenævnet — Denmark) — TDC A/S v Erhvervsstyrelsen

(Case C-222/13) ([1])

(Reference for a preliminary ruling — Electronic communications networks and services — Directive 2002/22/EC — Article 32 — Additional mandatory services — Compensation mechanism for the cost associated with providing those services — Meaning of 'court or tribunal' for the purposes of Article 267 TFEU — Lack of jurisdiction of the Court)

(2014/C 439/05)

Language of the case: Danish

Referring court

Teleklagenævnet

Parties to the main proceedings

Applicant: TDC A/S

Defendant: Erhvervsstyrelsen

Operative part of the judgment

The Court of Justice of the European Union has no jurisdiction to answer the questions referred by the Teleklagenævnet (Denmark) in its decision of 22 April 2013.

([1]) OJ C 207, 20.7.2013.