

Reference for a preliminary ruling from High Court of Justice (Chancery Division) Patents Court (United Kingdom) made on 18 December 2012 — AstraZeneca AB v Comptroller-General of Patents

(Case C-617/12)

(2013/C 86/15)

Language of the case: English

Referring court

High Court of Justice (Chancery Division) Patents Court

Parties to the main proceedings

Applicant: AstraZeneca AB

Defendant: Comptroller-General of Patents

Questions referred

1. Is a Swiss marketing authorisation not granted pursuant to the administrative authorisation procedure laid down in Directive 2001/83/EC⁽¹⁾, but automatically recognised by Liechtenstein, capable of constituting the ‘first authorisation to place the product on the market’ for the purposes of Article 13(1) of Regulation 469/2009/EC⁽²⁾?
2. Does it make a difference to the answer to the first question if:
 - (a) the set of clinical data upon which the Swiss authority granted the marketing authorisation was considered by the European Medicines Agency as not satisfying the conditions for the grant of a marketing authorisation pursuant to Regulation 726/2004/EC⁽³⁾; and/or
 - (b) the Swiss marketing authorisation was suspended after grant and was only reinstated following the submission of additional data?
3. If Article 13(1) of Regulation 469/2009 refers solely to marketing authorisations granted pursuant to the administrative authorisation procedure laid down in Directive 2001/83/EC, does the fact that a medicinal product was first placed on the market within the EEA pursuant to a Swiss marketing authorisation automatically recognised in Liechtenstein which was not granted pursuant to Directive

2001/83/EC render that product ineligible for the grant of a supplementary protection certificate pursuant to Article 2 of Regulation 469/2009?

- (¹) 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
OJ L 311, p. 67
- (²) 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 L 152, p. 1
- (³) Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency
OJ L 136, p. 1

Request for a preliminary ruling from the Bundespatentgericht (Germany) lodged on 10 January 2013 — Bayer CropScience AG

(Case C-11/13)

(2013/C 86/16)

Language of the case: German

Referring court

Bundespatentgericht

Parties to the main proceedings

Applicant and appellant: Bayer CropScience AG

Question referred

The following question is referred to the Court of Justice of the European Union for a preliminary ruling on the interpretation of Article 3(1) and of Article 1.8 and 1.3 of Regulation (EC) No 1610/96:⁽¹⁾

Are the terms ‘product’ in Article 3(1) and Article 1.8 and ‘active substance’ in Article 1.3 of that regulation to be interpreted as covering a safener?

- (¹) Regulation (EC) No 1610/96 of the European Parliament and of the Council of 23 July 1996 concerning the creation of a supplementary protection certificate for plant protection products (OJ 1996 L 198, p. 30).

Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 14 January 2013 — Alpina River Cruises GmbH and Nicko Tours GmbH v Ministero delle infrastrutture e dei trasporti — Capitaneria di Porto di Chioggia

(Case C-17/13)

(2013/C 86/17)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Applicants: Alpina River Cruises GmbH, Nicko Tours GmbH

Defendant: Ministero delle infrastrutture e dei trasporti — Capitaneria di Porto di Chioggia

Question referred

Must Council Regulation (EEC) No 3577/92 of 7 December 1992⁽¹⁾ be interpreted as applying to cruises carried out between ports within a Member State without different passengers embarking and disembarking in those ports, in that those cruises start and end with the same passengers embarking and disembarking in the same port within that Member State?

⁽¹⁾ Council Regulation (EEC) No 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage) (OJ 1992 L 364, p. 7).

Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 15 January 2013 — Ministero dell'Interno v Fastweb S.p.a.

(Case C-19/13)

(2013/C 86/18)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Applicant: Ministero dell'Interno

Defendant: Fastweb S.p.a.

Questions referred

1. Must Article 2d(4) of Directive 2007/66/EC⁽¹⁾ be construed as meaning that if, before awarding the contract directly to a specific economic operator, selected without prior publication of a contract notice, an awarding authority published the notice for voluntary ex ante transparency in the *Official Journal of the European Union* and waited at least 10 days before concluding the contract, the national court is — always and in any event — precluded from declaring the contract to be ineffective, even if it is established that there has been an infringement of the provisions permitting, subject to certain conditions, the award of a contract without a competitive tendering procedure?
2. Is Article 2d(4) of Directive 2007/66/EC — if interpreted as making it impossible to declare a contract ineffective, in

accordance with national law (Article 122 of the Code of administrative procedure), even though the national court has established an infringement of the provisions permitting, subject to certain conditions, the award of a contract without a competitive tendering procedure — compatible with the principles of equality of the parties, of non-discrimination and of protecting competition, and also of guaranteeing the right to an effective remedy enshrined in Article 47 of the Charter of Fundamental Rights of the European Union?

⁽¹⁾ Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts (OJ 2007 L 335, p. 31).

Request for a preliminary ruling from the Verwaltungsgericht Berlin (Germany) lodged on 15 January 2013 — Daniel Unland v Land Berlin

(Case C-20/13)

(2013/C 86/19)

Language of the case: German

Referring court

Verwaltungsgericht Berlin

Parties to the main proceedings

Applicant: Daniel Unland

Defendant: Land Berlin

Questions referred

1. Is European primary and/or secondary law, here in particular Directive 2000/78/EC,⁽¹⁾ to be interpreted as a comprehensive prohibition of unjustified age discrimination, such that it also covers national rules on the remuneration of *Land* judges?
2. If Question 1 is answered in the affirmative: does the interpretation of this European primary and/or secondary law mean that a national provision under which the level of the basic pay of a judge on establishment of the status of judge, and the subsequent rise in that basic pay, is dependent on his age constitutes direct or indirect age discrimination?
3. If Question 2 is also answered in the affirmative: does the interpretation of this European primary and/or secondary law preclude the justification of such a national provision by the legislative aim of making payment for professional experience and/or interpersonal skills?