Parties to the main proceedings

Applicant: Guy Kleynen

Defendant: Council of Ministers

Question referred

Must Articles 56 and 63 of the Treaty on the Functioning of the European Union and Articles 36 and 41 of the Agreement on the European Economic Area be interpreted as precluding a Member State from introducing and maintaining a system of higher taxation of the interest paid by non-resident banks through the application of a tax exemption or a lower tax rate solely to the interest paid by Belgian banks?

Request for a preliminary ruling from the Tribunale di Tivoli (Italy) lodged on 4 March 2013 — Francesco Fierro and Fabiana Marmorale v Edoardo Ronchi and Cosimo Scocozza

(Case C-106/13)

(2013/C 141/26)

Language of the case: Italian

Referring court

Tribunale di Tivoli

Parties to the main proceedings

Applicants: Francesco Fierro and Fabiana Marmorale

Defendants: Edoardo Ronchi and Cosimo Scocozza

Question referred

Does the national legislation of the Italian Republic — in particular, Article 33 of Law No 1150/42, which allows the municipalities to regulate the urban development of land and/or building works on that land within the boundaries of each municipality in accordance with the general principles laid down in that Law, in Article 1 of Law No 10/77 and in various laws adopted by the individual regions, read in conjunction with Article 2 of Presidential Decree No. 380 of 6 June 2001 'consolidating the legislative and regulatory provisions on building' and with lower-ranking local rules (general land use plans, implementing rules) and Article 46 of Presidential Decree No 380/2001, which renders sales transactions void in the event of alterations to immovable property being made without proper authorisation — constitute a disproportionate and unreasonable encroachment on the right to property, albeit regulated by law, contrary to Article 1 of Protocol 1 to the European Convention for the Protection of Human Rights, read in conjunction with Article 6 [TEU] and Articles 17 and 52(3) of the [Charter of fundamental rights of the European Union]?

Request for a preliminary ruling from the Conseil d'État (France) lodged on 6 March 2013 — Société Mac GmbH v Ministère de l'agriculture, de l'agroalimentaire et de la forêt

(Case C-108/13)

(2013/C 141/27)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: Société Mac GmbH

Defendant: Ministère de l'agriculture, de l'agroalimentaire et de la forêt

Question referred

Do Articles 34 and 36 of the Treaty on the Functioning of the European Union preclude national legislation which makes, inter alia, the grant of a parallel import marketing authorisation for a plant protection product subject to the condition that the product in question have, in the exporting State, a marketing authorisation granted in accordance with Directive 91/414/EEC, [1] and which consequently does not permit the grant of a parallel import marketing authorisation for a product which has, in the exporting State, a parallel import marketing authorisation and which is identical to a product authorised in the importing State?

(1) Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market (OJ 1991 L 230, p. 1).

Request for a preliminary ruling from the Tribunale Ordinario di Firenze (Italy) lodged on 15 March 2013 — Paola C. v Presidenza del Consiglio dei Ministri

(Case C-122/13)

(2013/C 141/28)

Language of the case: Italian

Referring court

Tribunale Ordinario di Firenze

Parties to the main proceedings

Applicant: Paola C.

Defendant: Presidenza del Consiglio dei Ministri

Question referred

Must Article 12 of Directive 2004/80/EC [1] be interpreted as permitting Member States to make provision for compensation only for the victims of certain categories of violent or intentional crime or, instead, as imposing an obligation on Member States, for the purposes of the implementation of the directive, to adopt a compensation scheme for victims of all violent or intentional crime?

(1) Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims (OJ 2004 L 261, p. 15).

Reference for a preliminary ruling from First-tier Tribunal (Tax Chamber) (United Kingdom) made on 18 March 2013 — Raytek GmbH, Fluke Europe BV v Commissioners for Her Majesty's Revenue and Customs

(Case C-134/13)

(2013/C 141/29)

Language of the case: English

Referring court

First-tier Tribunal (Tax Chamber)

Parties to the main proceedings

Applicants: Raytek GmbH, Fluke Europe BV

Defendant: Commissioners for Her Majesty's Revenue and Customs

Question referred

Is Commission Regulation (EU) No 314/2011 of 30 March 2011 concerning the classification of certain goods in the Combined Nomenclature [1] valid in so far as it classifies infrared thermal cameras under CN code 9025 19 20?

(1) OJ L 86, p. 57

Appeal brought on 20 March 2013 by Reber Holding GmbH & Co. KG against the judgment of the General Court (Fifth Chamber) delivered on 17 January 2013 in Case T-355/09 Reber Holding GmbH & Co. KG v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-141/13 P)

(2013/C 141/30)

Language of the case: German

Parties

Appellant: Reber Holding GmbH & Co. KG (represented by: O. Spuhler and M. Geitz, Rechtsanwälte)

Other party to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs), Wedl & Hofmann GmbH

Form of order sought

I. Set aside the judgment of 17 January 2013 in Case T-355/09 and the decision of the Fourth Board of Appeal of the respondent of 9 July 2009 in Case R 623/2008-4;

II. in the alternative,

set aside the judgment referred to at I above and refer the case back to the General Court;

III. order the respondent to pay the costs of the proceedings.

Pleas in law and main arguments

The General Court interprets the element of 'genuine use' in the first sentence of Article 42(2) in conjunction with Article 42(3) of the Community Trade Mark Regulation as being dependent on the level of turnover and the number of sales outlets. This is incorrect for the simple reason that, according to the relevant case-law of the Court of Justice, there is no need at all for a particular level of turnover to be achieved in order for use to be genuine.

Even if the General Court had established that, in the present case, the mark cited in opposition, 'Walzertraum', had not been used for chocolate goods in such a way as to preserve the rights attached to it, the General Court should not simply have broken off its assessment.

The General Court ought to have moved on in its assessment to focus on handmade chocolates, taking into consideration the principles of the judgment of the Court of Justice of 19 June 2012 in Case C-307/10 (not yet published). Next it ought to have assessed whether the evidence of use submitted was sufficient to demonstrate use such as to preserve the rights attached to the mark cited in opposition, 'Walzertraum', in respect of handmade chocolates. That is clearly the case. The General Court failed, however, to proceed with that assessment.