

produces on the informed user, within the meaning of Article 6 of that Regulation, to be considered by reference to whether it differs from the overall impression produced on such a user by

- (a) any individual design which has previously been made available to the public, or
- (b) any combination of known design features from more than one such earlier design?

2. Is a Community design court obliged to treat an unregistered Community design as valid for the purposes of Article 85(2) of Council Regulation (EC) No 6/2002 of 12th December, 2001 on Community designs where the right holder merely indicates what constitutes the individual character of the design or is the right holder obliged to prove that the design has individual character in accordance with Article 6 of that Regulation?

⁽¹⁾ OJ L 3, p. 1

Action brought on 25 June 2013 — European Commission v Hellenic Republic

(Case C-351/13)

(2013/C 260/48)

Language of the case: Greek

Parties

Applicant: European Commission (represented by: A. Markoulli and B. Schima)

Defendant: Hellenic Republic

Form of order sought

- declare that, by failing to ensure that from 1 January 2012 laying hens are no longer reared in unenriched cage systems, the Hellenic Republic has failed to fulfil its obligations under Article 3 and Article 5(2) of Council Directive 1999/74/EC ⁽¹⁾ of 19 July 1999 laying down minimum standards for the protection of laying hens;
- order the Hellenic Republic to pay the costs.

Pleas in law and main arguments

Article 5(2) of Directive 1999/74/EC prohibits the rearing of laying hens in unenriched cage systems from 1 January 2012. In addition, Article 3 of Directive 1999/74/EC provides that the Member States are obliged to ensure that owners and holders apply in respect of laying hens only the rearing systems that are permitted by the directive.

The Commission directed the Member States' attention to their obligations to comply with the abovementioned provisions of the directive from 2011. In accordance with the information which was supplied by the Hellenic Republic, it was clear that a significant number of owners and holders of establishments with laying hens would not be able to comply with the Hellenic Republic's obligations under Directive 1999/74/EC by the date for compliance which is laid down by that directive.

It is apparent from the information which the Hellenic Republic has provided in the pre-litigation procedure and from more recent updates of that information that the Hellenic Republic has still not succeeded in complying with its obligations under Article 3 and Article 5(2) of Directive 1999/74/EC.

⁽¹⁾ OJ 1999 L 203, p. 53.

Request for a preliminary ruling from the Commissione Tributaria Regionale dell'Umbria (Italy) lodged on 27 June 2013 — Umbra Packaging srl v Agenzia delle Entrate — Direzione Provinciale di Perugia

(Case C-355/13)

(2013/C 260/49)

Language of the case: Italian

Referring court

Commissione Tributaria Regionale dell'Umbria

Parties to the main proceedings

Applicant: Umbra Packaging srl

Defendant: Agenzia delle Entrate — Direzione Provinciale di Perugia

Questions referred

1. Is Article 160 of Legislative Decree No 259/2003, which provides the basis for the government concession tax charged at the tariff indicated in Article 21 of [the Annex to] Presidential Decree No 641/1972, consistent with Article 3 of Directive 20/2002/EC, ⁽¹⁾ which, within the liberalised system for communications, prohibits administrative authorities from having the power of control which is used to justify the charge imposed on service users?
2. Is Article 3(2) of Ministerial Decree No 33/1990, which is referred to in the tariff indicated in Article 21 of [the Annex to] Presidential Decree No 641/1972, as amended by Article 3 of Legislative Decree No 151/1991, consistent with the system of free competition and the prohibition, laid down in Article 102 of the Treaty, of applying dissimilar conditions to equivalent transactions?

3. Are the differing rates of the government concession tax imposed on domestic and business users and its being applied only to subscription agreements, not to pre-paid services, consistent with the criteria of reasonableness and appropriateness and do those differences not impede the creation of a competitive market?

(¹) Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) (OJ L 108, p. 21).

Reference for a preliminary ruling from Supreme Court of the United Kingdom made on 27 June 2013 — Public Relations Consultants Association Ltd v The Newspaper Licensing Agency Ltd and others

(Case C-360/13)

(2013/C 260/50)

Language of the case: English

Referring court

Supreme Court of the United Kingdom

Parties to the main proceedings

Applicant: Public Relations Consultants Association Ltd

Defendant: The Newspaper Licensing Agency Ltd and others

Questions referred

In circumstances where:

- (i) an end-user views a web-page without downloading, printing or otherwise setting out to make a copy of it;
- (ii) copies of that web-page are automatically made on screen and in the internet 'cache' on the end-user's hard disk;
- (iii) the creation of those copies is indispensable to the technical processes involved in correct and efficient internet browsing;
- (iv) the screen copy remains on screen until the end-user moves away from the relevant web-page, when it is automatically deleted by the normal operation of the computer;
- (v) the cached copy remains in the cache until it is overwritten by other material as the end-user views further web-pages, when it is automatically deleted by the normal operation of the computer; and
- (vi) the copies are retained for no longer than the ordinary processes associated with internet use referred to at (iv) and (v) above continue;

Are such copies (i) temporary, (ii) transient or incidental and (iii) an integral and essential part of the technological process within the meaning of Article 5(1) of Directive 2001/29/EC (¹)?

(¹) Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ L 167, p. 10)

Action brought on 26 June 2013 — European Commission v Slovak Republic

(Case C-361/13)

(2013/C 260/51)

Language of the case: Slovak

Parties

Applicant: European Commission (represented by: F. Schatz and A. Tokár, Agents)

Defendant: Slovak Republic

Form of order sought

— Declare that, by refusing to grant the allowance by reason of birth provided for by Law No 592/2006 to persons entitled to it who reside in a Member State other than the Slovak Republic, the Slovak Republic has failed to fulfil its obligations under Articles 45 and 48 of the Treaty on the Functioning of the European Union and Article 7 of Regulation (EC) No 883/2004 (¹) of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems.

— order the Slovak Republic to pay the costs.

Pleas in law and main arguments

The allowance by reason of birth provided for by Law No 592/2006 is an old-age benefit within the meaning of Article 3(1)(d) of Regulation No 883/2004 which must also be granted to persons entitled to it who reside outside the Member State concerned (in the present case, the Slovak Republic). A provision of domestic law may not therefore limit the right to receive the allowance by reason of birth of those entitled to it who reside outside the Slovak Republic. The provision of the domestic law of the Slovak Republic which lays down such a limitation is therefore incompatible with Articles 45 and 48 TFEU and Article 7 of Regulation No 883/2004.

(¹) OJ 2004 L 166, p. 1.