

**Reference for a preliminary ruling from High Court of Justice (Chancery Division) (United Kingdom) made on 28 June 2013 — International Stem Cell Corporation v Comptroller General of Patents**

(Case C-364/13)

(2013/C 260/54)

*Language of the case: English*

**Referring court**

High Court of Justice (Chancery Division)(United Kingdom)

**Parties to the main proceedings**

*Applicant:* International Stem Cell Corporation

*Defendant:* Comptroller General of Patents

**Question referred**

Are unfertilised human ova whose division and further development have been stimulated by parthenogenesis, and which, in contrast to fertilised ova, contain only pluripotent cells and are incapable of developing into human beings included in the term ‘human embryos’ in Article 6(2)(c) of Directive 98/44/EC <sup>(1)</sup> on the Legal Protection of Biotechnological Inventions?

<sup>(1)</sup> Directive 98/44/EC of the European Parliament and of the Council of 6 July 1998 on the legal protection of biotechnological inventions  
OJ L 213, p. 13

**Request for a preliminary ruling from the Corte suprema di cassazione (Italy) lodged on 1 July 2013 — Profit Investment Sim SpA, in liquidation v Stefano Ossi and Commerzbank AG**

(Case C-366/13)

(2013/C 260/55)

*Language of the case: Italian*

**Referring court**

Corte suprema di cassazione

**Parties to the main proceedings**

*Appellant:* Profit Investment Sim SpA, in liquidation

*Respondents:* Stefano Ossi, Commerzbank AG

**Questions referred**

1. Can the connecting link between different actions referred to in Article 6(1) of Regulation No 44/2001 <sup>(1)</sup> be said to exist

where the subject-matter of the heads of claim put forward in those actions and the basis for the pleas in law raised therein are different and there is no relationship between them of subordination or logical and legal incompatibility, but the upholding of one of those actions is nonetheless potentially capable, in practice, of affecting the extent of the interest on the grounds of which the other action has been brought?

2. Can the requirement that the agreement conferring jurisdiction be in written form, as laid down in Article 23(1)(a) of Regulation No 44/2001, be said to be satisfied where such an agreement is inserted into the document (Information Memorandum) that has been created unilaterally by a bond issuer, with the effect that the prorogation of jurisdiction is made applicable to disputes involving any future purchaser concerning the validity of those bonds? If not, can it be said that the insertion of that agreement into the document governing a bond issue which is intended for cross-border movement corresponds to a form which accords with usages in international trade or commerce within the terms of Article 23(1)(c) of that regulation?
3. Should the expression ‘matters relating to a contract’, as used in Article 5(1) of Regulation No 44/2001, be understood to refer only to disputes in which the applicant intends to assert before the court the binding legal relationship arising from the contract and to disputes which are closely linked to that relationship, or must it be extended so as also to include disputes in which the applicant, far from invoking the contract, disputes the existence of a legally valid and binding contractual relationship and seeks to obtain a refund of the amount paid on the basis of a document which, in its view, is bereft of legal value?

<sup>(1)</sup> Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1).

**Request for a preliminary ruling from the Commissione tributaria provinciale di Roma (Italy) lodged on 1 July 2013 — Pier Paolo Fabretti v Agenzia delle Entrate**

(Case C-367/13)

(2013/C 260/56)

*Language of the case: Italian*

**Referring court**

Commissione tributaria provinciale di Roma

**Parties to the main proceedings**

*Applicant:* Pier Paolo Fabretti

*Defendants:* Agenzia delle Entrate — Direzione Provinciale I di Roma — Ufficio Controlli

### Question referred

Is it incompatible with Article 49 of the EC Treaty for persons resident in Italy to be required to declare for tax purposes, and be liable for tax on, winnings obtained from casinos in Member States of the European Union, as provided for by Article 67(1)(d) of Presidential Decree No 917 of 22.12.1986 (‘the TUIR’), or must this be regarded as justified on grounds of public policy, public security or public health, pursuant to Article 46 of the EC Treaty?

### Request for a preliminary ruling from the *Rechtbank Oost-Brabant 's-Hertogenbosch* (Netherlands) lodged on 1 July 2013 — Criminal proceedings against *N.F. Gielen and Others*

(Case C-369/13)

(2013/C 260/57)

*Language of the case:* Dutch

### Referring court

Rechtbank Oost-Brabant 's-Hertogenbosch

### Parties to the main proceedings

N.F. Gielen, M.M.J. Geerings, F.A.C. Pruijboom, A.A. Pruijboom

### Questions referred

1(a) Can the chemical substance alpha-phenylacetonitrile (CAS No 4468-48-8; further referred to as ‘APAAN’) be equated with the scheduled substance 1-phenyl-2-propanone (CAS No 103-79-7; further referred to as ‘BMK’)? In particular, the *Rechtbank* seeks clarification as to whether the Dutch term ‘bevatten’, the English term ‘containing’ and the French term ‘contenant’ should be interpreted as meaning that the substance BMK must, as such, already be present in the substance APAAN.

If Question 1(a) is answered in the negative, the *Rechtbank* wishes to submit the following supplementary questions to the Court of Justice under 1:

1(b) Must APAAN be regarded, or must it not be regarded, as [one of the] ‘stoffen ... die zodanig zijn vermengd dat genoemde stoffen niet gemakkelijk met eenvoudige of economisch rendabele middelen kunnen worden gebruikt of geëxtraheerd’, ‘[a substance] that [is] compounded in such a way that [it] cannot be easily used or extracted by readily applicable or economically viable means’ and ‘[une autre préparation] contenant des substances classifiées qui sont composées de manière telle que ces substances ne peuvent pas être facilement utilisées, ni extraites par des moyens aisés à mettre en oeuvre ou

économiquement viables’? It appears from Annex 3 that, in the view of the police, a relatively straightforward, perhaps even simple, conversion process is involved.

1(c) In answering Question 1(b), more particularly with regard to the use of ‘economisch rendabele middelen/economically viable means/[moyens] économiquement [viables]’, is it significant that in the conversion of APAAN to BMK — albeit by illegal means — very substantial amounts of money (can) apparently be made when the further processing of APAAN to BMK and/or amphetamine is successful and/or in the case of the (illegal) trade in the BMK obtained from APAAN?

2. The term ‘operator’ is defined in Article 2(d) of Regulation No 273/2004<sup>(1)</sup> and in Article 2(f) of Regulation No 111/2005.<sup>(2)</sup> In answering the following question, the *Rechtbank* requests that the Court of Justice proceed on the basis that what is under discussion here is a scheduled substance within the meaning of Article 2(a) or an equivalent substance within the terms of ‘Annex I: Scheduled substances within the meaning of Article 2(a)’ of the Regulations.

Should that term ‘operator also’ be understood to refer to a natural person who, whether or not with (an)other legal person(s) and/or natural person(s), (intentionally) has a scheduled substance in his possession without a licence, without there being any further suspicious circumstances?

<sup>(1)</sup> Regulation (EC) No 273/2004 of the European Parliament and of the Council of 11 February 2004 on drug precursors (OJ 2004 L 47, p. 1).

<sup>(2)</sup> Council Regulation (EC) No 111/2005 of 22 December 2004 laying down rules for the monitoring of trade between the Community and third countries in drug precursors (OJ 2005 L 22, p. 1).

### Action brought on 2 July 2013 — European Commission v Hellenic Republic

(Case C-378/13)

(2013/C 260/58)

*Language of the case:* Greek

### Parties

*Applicant:* European Commission (represented by: M. Patakia and A. Alcover San Pedro)

*Defendant:* Hellenic Republic

### Form of order sought

— declare that, by failing to take the necessary measures to comply with the judgment delivered by the Court of Justice on 6 October 2005 in Case C-502/03 *Commission v Hellenic Republic*, the Hellenic Republic has failed to fulfil its obligations under Article 260(1) TFEU;