

Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 18 November 2013 — Coty Germany GmbH v Stadtparkasse Magdeburg

(Case C-580/13)

(2014/C 31/04)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: Coty Germany GmbH

Defendant: Stadtparkasse Magdeburg

Question referred

Must Article 8(3)(e) of Directive 2004/48/EC ⁽¹⁾ be interpreted as precluding a national provision which, in a case such as that in the main proceedings, allows a banking institution to refuse, by invoking banking secrecy, to provide information pursuant to Article 8(1)(c) of that directive concerning the name and address of an account holder?

⁽¹⁾ Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights (OJ 2004 L 157, p. 45).

Request for a preliminary ruling from the Cour de cassation (France) lodged on 19 November 2013 — Directeur général des finances publiques, Mapfre Warranty SpA v Mapfre asistencia compania internacional de seguros y reaseguros, Directeur général des finances publiques

(Case C-584/13)

(2014/C 31/05)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Appellants: Directeur général des finances publiques, Mapfre Warranty SpA

Respondents: Mapfre asistencia compania internacional de seguros y reaseguros, Directeur général des finances publiques

Question referred

Must Article 2 and Article 13(B)(a) of the Sixth Council Directive 77/388/EEC ⁽¹⁾ of 17 May 1977 be interpreted as meaning that the service whereby an economic operator which is independent of a second-hand motor vehicle dealer provides, in return for payment of a lump sum, a warranty covering mechanical breakdowns which may affect certain parts of the second-hand vehicle falls within the category of insurance transactions exempt from value added tax or, on the contrary, as meaning that such a supply falls within the category of 'supply of services'?

⁽¹⁾ Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ 1977 L 145, p. 1).

Request for a preliminary ruling from the Juzgado de Primera Instancia No 2 de Santander (Spain) lodged on 25 November 2013 — Banco Bilbao Vizcaya Argentaria, S.A. v Fernando Quintano Ujeta and María Isabel Sánchez García

(Case C-602/13)

(2014/C 31/06)

Language of the case: Spanish

Referring court

Juzgado de Primera Instancia No 2 de Santander

Parties to the main proceedings

Applicant: Banco Bilbao Vizcaya Argentaria, S.A.

Defendants: Fernando Quintano Ujeta and María Isabel Sánchez García

Questions referred

1. Under Council Directive 93/13/EEC ⁽¹⁾ of 5 April 1993 on unfair terms in consumer contracts, and in particular Articles 6(1) and 7(1) thereof, and in order to ensure the protection of consumers and users in accordance with the principles of equivalence and effectiveness[,] must a national court, when it finds there to be an unfair contractual clause concerning default interest, declare that as a consequence any type of default interest is invalid, even that which may result from the subsidiary application of a national provision such as Article 1108 of the Civil Code, the Second Transitional Provision of Law No 1/2013, in conjunction with Article 114 of the Law on mortgages, or Article 4 of Royal Decree-Law No 6/2012, and regard itself as not being bound by any recalculation which the professional may have carried out in accordance with the Second Transitional Provision of Law No 1/13?

2. Must the Second Transitional Provision of Law No 1/2013 be interpreted as meaning that it may not constitute an obstacle to the protection of consumer interests?
3. Under Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, and in particular Articles 6(1) and 7(1) thereof, and in order to ensure the protection of consumers and users in accordance with the principles of equivalence and effectiveness[,] must a national court, when it finds there to be an unfair clause concerning accelerated repayment, declare that that clause does not form part of the contract and draw the conclusions inherent in such a finding[,] even where the professional has waited the minimum time provided for in the national provision?

(¹) OJ 1993 L 95, p. 29.

Appeal brought on 26 November 2013 by the Kingdom of the Netherlands against the judgment of the General Court (Eighth Chamber) delivered on 16 September 2013 in Case T-343/11 Netherlands v Commission

(Case C-610/13 P)

(2014/C 31/07)

Language of the case: Dutch

Parties

Appellant: Kingdom of the Netherlands (represented by: M.K. Bulterman, M.A.M. de Ree, acting as Agents)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

- set aside the judgment of the General Court of the European Union of 16 September 2013 in Case T-343/11;
- in so far as the state of proceedings permits the Court to give final judgment, dispose of the case by annulling Decision 2011/244/EU; (¹)
- if the state of proceedings does not so permit, refer the case back to the General Court for a ruling on the merits;
- order the Commission to pay the costs, including those of the proceedings before the General Court.

Grounds of appeal and main arguments

- **First ground:** erroneous interpretation of Article 8 of Regulation No 1433/2003, (²) read in conjunction with Annex I,

points 8 and 9, and Annex II, point 1, to that regulation, in so far as costs for the printing of packages were treated as packaging costs and as a result were considered ineligible.

- **Second ground:** erroneous interpretation of Article 8 of Regulation No 1433/2003, read in conjunction with points 8 and 9 of Annex I to that regulation, in so far as the wrong test was used for the requirements which apply to the description of promotional operations in an operational programme.

- **Third ground:** incorrect application of Article 7 of Regulation No 1258/1999 (³) and Article 31 of Regulation No 1290/2005 (⁴) in so far as the Commission was allowed a less onerous burden of proof.

- **Fourth ground:** erroneous interpretation of Article 6 of Regulation No 1432/2003, (⁵) read in conjunction with Article 11 of Regulation No 2200/96, (⁶) in so far as it was concluded that the producer organisation could not manage sales by means of seconded staff.

- **Fifth ground:** erroneous interpretation of Article 21 of Regulation No 1432/2003 in so far as it was concluded that it was necessary to withdraw recognition from the producer organisation FresQ.

- **Sixth ground:** incorrect application of Article 7(4) of Regulation No 1258/1999, of Article 31 of Regulation No 1290/2005 and of the principle of proportionality, read in conjunction with Article 21 of Regulation No 1432/2003, in so far as all of the payments made by the producer organisation FresQ were excluded from financing.

(¹) Decision of 15 April 2011 excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (OJ 2011 L 102, p. 33).

(²) Commission Regulation (EC) No 1433/2003 of 11 August 2003 laying down detailed rules for the application of Council Regulation (EC) No 2200/96 as regards operational funds, operational programmes and financial assistance (OJ 2003 L 203, p. 25).

(³) Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy (OJ 1999 L 160, p. 103).

(⁴) Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy (OJ 2005 L 209, p. 1).

(⁵) Commission Regulation (EC) No 1432/2003 of 11 August 2003 laying down detailed rules for the application of Council Regulation (EC) No 2200/96 regarding the conditions for recognition of producer organisations and preliminary recognition of producer groups (OJ 2003 L 203, p. 18).

(⁶) Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables (OJ 1996 L 297, p. 1).