

**Judgment of the Court (Third Chamber) of 23 November 2017 — Bionorica SE (C-596/15 P),
Diapharm GmbH & Co. KG (C-597/15 P) v European Commission**

(Joined Cases C-596/15 P and C-597/15 P) ⁽¹⁾

(Appeal — Public health — Consumer protection — Regulation (EC) No 1924/2006 — Health claims on foods — Article 13(3) — List of permitted health claims on foods — Botanical substances — Claims on hold — Action for failure to act — Article 265 TFEU — Defined position of the European Commission — Interest in bringing proceedings — Locus standi)

(2018/C 022/03)

Language of the case: German

Parties

Appellants: Bionorica SE (C-596/15 P), Diapharm GmbH & Co. KG (C-597/15 P) (represented by: M. Weidner, T. Gutttau and N. Hußmann, Rechtsanwälte)

Other party to the proceedings: European Commission (represented by: S. Grünheid and M. Wilderspin, acting as Agents)

Operative part of the judgment

The Court:

1. Sets aside the order of the General Court of the European Union of 16 September 2015, *Bionorica v Commission* (T-619/14, not published, EU:T:2015:723);
2. Dismisses the action for failure to act lodged by Bionorica SE in Case T-619/14 as inadmissible;
3. Dismisses the appeal in Case C-597/15 P;
4. Orders Bionorica SE and the Commission each to bear their own costs incurred both at first instance in Case T-619/14 and on appeal in Case C-596/15 P;
5. Orders Diapharm GmbH & Co. KG to pay the costs incurred on appeal in Case C-597/15 P.

⁽¹⁾ OJ C 16, 18.1.2016.

Judgment of the Court (Fourth Chamber) of 16 November 2017 (request for a preliminary ruling from the College van Beroep voor het Bedrijfsleven — Netherlands) — Robeco Hollands Bezit NV and Others v Stichting Autoriteit Financiële Markten (AFM)

(Case C-658/15) ⁽¹⁾

(Reference for a preliminary ruling — Directive 2004/39/EC — Markets in financial instruments — Article 4(1)(14) — Definition of ‘regulated market’ — Scope — System in which the participants are brokers representing investors and ‘open end’ investment fund agents required to execute orders relating to their funds)

(2018/C 022/04)

Language of the case: Dutch

Referring court

College van Beroep voor het Bedrijfsleven

Parties to the main proceedings

Applicants: Robeco Hollands Bezit NV, Robeco Duurzaam Aandelen NV, Robeco Safe Mix NV, Robeco Solid Mix NV, Robeco Balanced Mix NV, Robeco Growth Mix NV, Robeco Life Cycle Funds NV, Robeco Afrika Fonds NV, Robeco Global Stars Equities, Robeco All Strategy Euro Bonds, Robeco High Yield Bonds, Robeco Property Equities

Defendant: Stichting Autoriteit Financiële Markten (AFM)

Operative part of the judgment

Article 4(1)(14) of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC must be interpreted as meaning that the concept of a 'regulated market' within the meaning of that provision covers a trading system in which multiple fund agents and brokers represent, respectively, 'open end' investment funds and investors, the sole purpose of which is to facilitate those investment funds in their obligation to execute the purchase and selling orders for shares placed by those investors.

⁽¹⁾ OJ C 98, 14.3.2016.

Judgment of the Court (Grand Chamber) of 14 November 2017 (request for a preliminary ruling from the Cour de cassation — France) — President of the Autorité de la concurrence v Association des producteurs vendeurs d'endives (APVE) and Others

(Case C-671/15) ⁽¹⁾

(Reference for a preliminary ruling — Common agricultural policy — Article 42 TFEU — Regulation (EC) No 2200/96 — Regulation (EC) No 1182/2007 — Regulation (EC) No 1234/2007 — Anticompetitive practices — Article 101 TFEU — Regulation No 26 — Regulation (EC) No 1184/2006 — Producer organisations — Associations of producer organisations — Responsibilities of those organisations and associations — Practice of fixing minimum sale prices — Practice of concertation on quantities placed on the market — Practice of exchanges of strategic information — French endive market)

(2018/C 022/05)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Applicant: President of the Autorité de la concurrence

Defendants: Association des producteurs vendeurs d'endives (APVE), Comité économique régional agricole fruits et légumes de Bretagne (Cerafel), Fraileg SARL, Prim'Santerre SARL, Union des endiviers, formerly Fédération nationale des producteurs d'endives (FNPE), Soleil du Nord SARL, Comité économique fruits et légumes du Nord de la France (Celfnord), Association des producteurs d'endives de France (APEF), Section nationale de l'endive (SNE), Fédération du commerce de l'endive (FCE), France endives société coopérative agricole, Cambrésis Artois-Picardie endives (CAP'Endives) société coopérative agricole, Marché de Phalempin société coopérative agricole, Primacoop société coopérative agricole, Coopérative agricole du marais audomarois (Sipema), Valois-Fruits union de sociétés coopératives agricoles, Groupe Perle du Nord SAS, Ministre de l'Économie, de l'Industrie et du Numérique