

2. Are Articles 34 and 35 of Law 1/2000 incompatible with Articles 6(1) and 7(2) of, and [point 1(q) of the Annex to], Directive [93/13/EEC] inasmuch as they preclude the production of evidence for the purpose of resolving the dispute in the administrative procedure for recovery of unpaid fees?

⁽¹⁾ Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ 1993 L 95, p. 29).

⁽²⁾ Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') (OJ 2005 L 149, p. 22).

Request for a preliminary ruling from the Oberlandesgericht Düsseldorf (Germany) lodged on 23 November 2015 — Hummel Holding A/S v Nike Inc. and Nike Retail B.V.

(Case C-617/15)

(2016/C 038/50)

Language of the case: German

Referring court

Oberlandesgericht Düsseldorf

Parties to the main proceedings

Applicant: Hummel Holding A/S

Defendants: Nike Inc., Nike Retail B.V.

Question referred

Under which circumstances is a legally distinct second-tier subsidiary, with its seat in an EU Member State, of an undertaking that itself has no seat in the European Union to be considered as an 'establishment' of that undertaking within the meaning of Article 97(1) of Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark? ⁽¹⁾

⁽¹⁾ OJ 2009 L 78, p. 1.

Request for a preliminary ruling from the Cour de cassation (France) lodged on 23 November 2015 — Concurrence Sàrl v Samsung Electronics France SAS, Amazon Services Europe Sàrl

(Case C-618/15)

(2016/C 038/51)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Applicant: Concurrence Sàrl

Defendants: Samsung Electronics France SAS, Amazon Services Europe Sàrl

Question referred

Is Article 5(3) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters ⁽¹⁾ to be interpreted as meaning that, in the event of an alleged breach of a prohibition on resale outside a selective distribution network and via a marketplace by means of online offers for sale on a number of websites operated in various Member States, an authorised distributor which considers that it has been adversely affected has the right to bring an action seeking an injunction prohibiting the resulting unlawful interference in the courts of the territory in which the online content is or was accessible, or must some other clear connecting factor be present?

⁽¹⁾ OJ 2001 L 12, p. 1.

Reference for a preliminary ruling from Court of Appeal (England & Wales) (Civil Division) (United Kingdom) made on 24 November 2015 — The Trustees of the BT Pension Scheme v Commissioners for Her Majesty's Revenue and Customs

(Case C-628/15)

(2016/C 038/52)

Language of the case: English

Referring court

Court of Appeal (England & Wales) (Civil Division)

Parties to the main proceedings

Applicant: The Trustees of the BT Pension Scheme

Defendant: Commissioners for Her Majesty's Revenue and Customs

Questions referred

1. Given that the Court, in its answer to Question 4 in the judgment of 12 December 2006 in Case C-446/04 *Test Claimants in the FII Group Litigation v Commissioners of Inland Revenue* [2006] ECR I-11753, determined that Articles 43 and 56 of the EC Treaty — now Articles 49 and 63 of the Treaty on the Functioning of the European Union — precluded legislation of a Member State which allows resident companies distributing dividends to their shareholders which have their origin in foreign-sourced dividends received by them to elect to be taxed under a regime which permits them to recover advance corporation tax paid, but, first, obliges those companies to pay that advance corporation tax and subsequently to claim repayment and, secondly, does not provide a tax credit for their shareholders, whereas those shareholders would have received such a tax credit in the case of a distribution made by a resident company which had its origin in nationally-sourced dividends: are any rights under EU law conferred on those shareholders themselves, whether under Article 63 TFEU or otherwise, in cases where they are the recipients of the dividends elected to be paid under that regime; in particular where a shareholder is resident in the same Member State as the company distributing the dividends?
2. If the shareholder referred to in Question 1 does not itself have rights under Article 63 TFEU, is it entitled to rely on any infringement of rights under Article 49 or Article 63 TFEU of the company distributing the dividend?
3. If the answer to Question 1 or Question 2 is that the shareholder has rights under or can rely on EU law, does EU law impose any requirements as to the remedy to be provided to the shareholder under domestic law?
4. Does it make any difference to the Court's answer to the above questions that:
 - a) the shareholder is not liable to income tax in the Member State on any dividends received, with the consequence that in the case of a distribution made by a resident company outside the above regime the tax credit to which the shareholder is entitled under domestic legislation may result in a payment of the tax credit to the shareholder by the Member State;