

Questions referred

1. Must Article 107(1) TFEU be interpreted as meaning that the obligation to purchase the electricity generated by plants which use solar radiation energy at a price higher than the market price, that is financed by all final consumers of electricity, as it results from the Ministerial Orders of 10 July 2006 (JORF No 171 of 26 July 2006, p. 11133) and 12 January 2010 (JORF No 0011 of 14 January 2010, p. 727) fixing the conditions for purchasing that electricity, read in conjunction with Law No 2000-108 of 10 February 2000 on the modernisation and development of the public electricity service, Decree No 2000-1196 of 6 December 2000 and Decree No 2001-410 of 10 May 2001, constitutes State aid?
2. If so, must Article 108(3) TFEU be interpreted as meaning that the failure to notify the European Commission of that mechanism beforehand affects the validity of the abovementioned Orders giving effect to the aid at issue?

Request for a preliminary ruling from the Cour d'appel de Versailles (France) lodged on 17 November 2016 — Green Yellow Hyères Sup SNC v Enedis, SA**(Case C-584/16)**

(2017/C 038/14)

*Language of the case: French***Referring court**

Cour d'appel de Versailles

Parties to the main proceedings*Applicant:* Green Yellow Hyères Sup SNC*Defendant:* Enedis, SA**Questions referred**

1. Must Article 107(1) TFEU be interpreted as meaning that the obligation to purchase the electricity generated by plants which use solar radiation energy at a price higher than the market price, that is financed by all final consumers of electricity, as it results from the Ministerial Orders of 10 July 2006 (JORF No 171 of 26 July 2006, p. 11133) and 12 January 2010 (JORF No 0011 of 14 January 2010, p. 727) fixing the conditions for purchasing that electricity, read in conjunction with Law No 2000-108 of 10 February 2000 on the modernisation and development of the public electricity service, Decree No 2000-1196 of 6 December 2000 and Decree No 2001-410 of 10 May 2001, constitutes State aid?
2. If so, must Article 108(3) TFEU be interpreted as meaning that the failure to notify the European Commission of that mechanism beforehand affects the validity of the abovementioned Orders giving effect to the aid at issue?

Request for a preliminary ruling from the Landesverwaltungsgericht Oberösterreich (Austria) lodged on 21 November 2016 — Mario Alexander Filippi and Others**(Case C-589/16)**

(2017/C 038/15)

*Language of the case: German***Referring court**

Landesverwaltungsgericht Oberösterreich

Parties to the main proceedings

Applicants: Mario Alexander Filippi, Martin Manigatterer, Play For Me GmbH, ATG GmbH, Christian Vöcklinger, Gmalieva s. r.o., PBW GmbH, Felicitas GmbH, Celik KG, Christian Guzy, Martin Klein, Shopping Center Wels Einkaufszentrum GmbH, Game Zone Entertainment AG, Fortuna Advisory Kft., Finanzamt Linz, Klara Matyiko

Defendants: Landespolizeidirektion Oberösterreich, Bezirkshauptmann Eferding, Bezirkshauptmann Ried im Innkreis, Bezirkshauptmann Linz-Land

Question referred

Is Article 47 of the Charter⁽¹⁾ in conjunction with Article 56 et seq. TFEU to be interpreted as meaning that, in cases in which it is necessary to make an assessment of consistency, national provisions (such as Paragraph 86a(4) of the Verfassungsgerichtshofgesetz (VfGG), Paragraph 38a(4) of the Verwaltungsgerichtsgesetz (VwGG), Paragraph 87(2) of the VfGG or Paragraph 63(1) of the VwGG) are incompatible with those provisions of EU law where — as part of an overall system which in practice has the effect that supreme courts do not carry out any autonomous assessment of the facts or weighing of evidence, and in numerous cases which are in the same position in terms of the question of law raised make only a single decision on the facts in one of those cases and on that basis dismiss all the other appeals in limine — they permit, or do not reliably exclude, that judicial (within the meaning of Article 6(1) of the European Convention on Human Rights (ECHR) or Article 47 of the Charter) decisions — in particular those made in relation to core areas of EU law, such as for example access to markets or free trade — can then be precluded by decisions of institutions of higher instance which for their part do not comply with the requirements of Article 6(1) of the ECHR or Article 47 of the Charter, without a prior reference to the Court of Justice for a preliminary ruling?

⁽¹⁾ Charter of Fundamental Rights of the European Union.

Request for a preliminary ruling from the Cour d'appel de Mons (Belgium) lodged on 23 November 2016 — Cabinet d'Orthopédie Stainier SPRL v État belge

(Case C-592/16)

(2017/C 038/16)

Language of the case: French

Referring court

Cour d'appel de Mons

Parties to the main proceedings

Applicant: Cabinet d'Orthopédie Stainier SPRL

Defendant: État belge

Questions referred

Is the fact that a company issuing a share option may record as income the purchase price of that option in the course of the financial year in which that option is taken up or at the end of its period of validity, in order to take into account the risk borne by the option issuer which results from the commitment he makes, [rather than] in the course of the tax year in which the option is purchased and its final price set — the risk borne by the issuer being valued separately by the recording of a provision — compatible with the accounting rules concerning balance sheets laid down by the Fourth Council Directive 78/660/EEC of 25 July 1978 on the annual accounts of certain types of companies (OJ L 222, 14.08.1978, p. 11), according to which:

- the annual accounts are to give a true and fair view of the company's assets, liabilities, financial position and profit or loss (Article 2(3) of the Directive);
- provisions for liabilities and charges are intended to cover losses or debts the nature of which is clearly defined and which at the date of the balance sheet are either likely to be incurred, or certain to be incurred but uncertain as to amount or as to the date on which they will arise (Article 20(1) of the Directive);
- the principle of prudence must in all circumstances be assessed, and in particular:
 - only profits made at the balance sheet date may be included;