

- iv. breach of Article 296(2) of the Treaty of the Functioning of the European Union (“TFEU”);
- v. breach of Articles 34 and 35 TFEU; and
- vi. breach of Articles 1, 7 and 35 of the EU Charter of Fundamental Rights.

⁽¹⁾ Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC (OJ 2014, L 127, p. 1).

Action brought on 4 April 2017 — European Commission v Portuguese Republic

(Case C-170/17)

(2017/C 161/20)

Language of the case: Portuguese

Parties

Applicant: European Commission (represented by N. Yerrell and P. Costa de Oliveira, acting as Agents)

Defendant: Portuguese Republic

Form of order sought

1. Declare that, by issuing special national driving licences for driving vehicles of the AM harmonized category, the Portuguese Republic failed to fulfil its obligations under Article 4(1) and (2) and Article 7(2)(a) of Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences. ⁽¹⁾
2. Declare that, by failing to ensure that a person holds one driving licence only, the Portuguese Republic failed to fulfil its obligations under Article 7(5)(b) of Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences.
3. Order Portuguese Republic to pay the costs.

Pleas in law and main arguments

As regards the obligations of the Portuguese Republic under Article 4(1) and (2) and Article 7(2)(a) and under Article 7(5)(b) of the Directive, the Commission considers that the Portuguese Republic has not taken the necessary measures before expiry of the period laid down in the reasoned opinion. Moreover, the Portuguese administration, by stating in its letter of 15 December 2016 that it will carry out future legislative amendments in this respect, itself acknowledges that it has not taken such measures.

⁽¹⁾ OJ 2006, L 403, p. 18.

Appeal brought on 5 April 2017 by the European Union, represented by the Court of Justice of the European Union, against the judgment of the General Court (Third Chamber, extended composition) delivered on 17 February 2017 in Case T-40/15, ASPLA and Armando Álvarez v European Union

(Case C-174/17 P)

(2017/C 161/21)

Language of the case: Spanish

Parties

Appellant: European Union, represented by the Court of Justice of the European Union (represented by: J. Inghelram, Á. M. Almendros Manzano and P. Giusta, acting as Agents)

Other parties to the proceedings: Plásticos Españoles, S.A. (ASPLA), Armando Álvarez S.A. and European Commission

Form of order sought

The appellant claims that the Court of Justice should:

- set aside point 1 of the operative part of the judgment under appeal;
- dismiss as unfounded the claim brought by ASPLA and Armando Álvarez at first instance seeking payment of an amount of EUR 3 495 038,66 as compensation for the damage they claim to have suffered as a result of the breach of the obligation to adjudicate within a reasonable time;
- order ASPLA and Armando Álvarez to pay the costs.

Pleas in law and main arguments

1. The first ground of appeal alleges an error of law in the interpretation of the concept of causal relationship, in that the General Court held that the breach of the obligation to adjudicate within a reasonable time was the determining cause of the alleged material damage, consisting of the payment of the bank guarantee charges, whereas, in accordance with settled case-law, the determining cause of the payment of those charges is the choice made by an undertaking itself not to pay the fine during the proceedings before the EU judicature.
2. The second ground of appeal alleges an error of law in the interpretation of the concept of damage, in that the General Court did not apply to the alleged material damage resulting from the payment of the bank guarantee charges the same condition which it imposed in respect of the alleged material damage resulting from the payment of interest on the fine, namely, that the applicants at first instance had to show that the financial burden resulting from the latter payment was greater than the advantage conferred on them by not paying the fine.

**Order of the President of the Court of 28 February 2017 (request for a preliminary ruling from the
Tribunale civile di Roma — Italy) — X v Presidenza del Consiglio dei Ministri**

(Case C-167/15) ⁽¹⁾

(2017/C 161/22)

Language of the case: Italian

The President of the Court has ordered that the case be removed from the register.

⁽¹⁾ OJ C 245, 27.7.2015.

**Order of the President of the Second Chamber of the Court of 10 March 2017 (request for a
preliminary ruling from the Supremo Tribunal de Justiça — Portugal) — Sociedade Metropolitana de
Desenvolvimento SA v Banco Santander Totta SA**

(Case C-136/16) ⁽¹⁾

(2017/C 161/23)

Language of the case: Portuguese

The President of the Second Chamber has ordered that the case be removed from the register.

⁽¹⁾ OJ C 165, 10.5.2016.
