2. Must Article 45 TFEU be interpreted as also having direct effect as between private parties in a situation such as the present one, with the result that private creditors must accept reductions or total loss of amounts owed to them by a debtor who has moved to another country?

(1) Judgment of the Court of Justice of 8 November 2012, ECLI:EU:C:2012:704.

Request for a preliminary ruling from the Korkein oikeus (Finland) lodged on 22 December 2017 — Vantaan kaupunki v Skanska Industrial Solutions Oy, NCC Industry Oy, Asfaltmix Oy

(Case C-724/17)

(2018/C 083/21)

Language of the case: Finnish

Referring court

Korkein oikeus

Parties to the main proceedings

Appellant: Vantaan kaupunki

Respondents: Skanska Industrial Solutions Oy, NCC Industry Oy, Asfaltmix Oy

Questions referred

1. Is the determination of which parties are liable for the compensation of damage caused by conduct contrary to Article 101 TFEU to be done by applying that article directly or on the basis of national provisions?

2. If the parties liable are determined directly on the basis of Article 101 TFEU, are those parties which fall within the concept of undertaking mentioned in that article liable for compensation? When determining the parties liable for compensation, are the same principles to be applied as the Court of Justice has applied to determining the parties liable in cases concerning penalty payments, in accordance with which liability may be founded in particular on belonging to the same economic unit or on economic continuity?

3. If the parties liable are determined on the basis of national provisions of a Member State, are national rules under which a company which, after acquiring the entire share capital of a company which took part in a cartel contrary to Article 101 TFEU, has dissolved the company in question and continued its activity is not liable for compensation for the damage caused by the anti-competitive conduct of the company in question, even though obtaining compensation form the dissolved company is impossible in practice or unreasonably difficult, contrary to the EU law requirement of effectiveness? Does the requirement of effectiveness preclude an interpretation of a Member State's domestic law making it a condition of compensation for damage that a transformation of the kind described has been implemented unlawfully or artificially in order to avoid liability for compensation for damage under competition law or otherwise fraudulently, or at least that the company knew or ought to have known of the competition infringement when implementing the transformation?

Action brought on 22 December 2017 — European Commission v Hellenic Republic

(Case C-729/17)

(2018/C 083/22)

Language of the case: Greek

Parties

Applicant: European Commission (represented by: H. Tserepa-Lacombe and H. Støvlbæk, acting as Agents)

Defendant: Hellenic Republic

Form of order sought

The European Commission claims that the Court should:

— declare that, by restricting the legal form of mediation training service providers to non-profit companies, which have to be set up by at least one Bar Association and at least one Professional Chamber in Greece, as enacted in Law 3898/2010 and Presidential Decree 123/2011, Greece has failed to fulfil its obligations under Article 49 TFEU and Article 15(2)(b) and (c) and (3) of Directive 2006/123/EC ([1]).

— declare that, by subjecting the procedure for the recognition of academic qualifications to preconditions: the imposition of additional requirements related to the content of certificates and the imposition of compensatory measures without a prior assessment of real differences, and by maintaining in force provisions which lead to discrimination by requiring applicants for accreditation as professional mediators who have accreditation that was obtained outside Greece or from a recognised provider of training outside Greece following training provided in in Greece, to possess experience of having taken part in at least three mediation procedures, Greece has failed to fulfil its obligations under Article 49 TFEU, and Articles 13, 14 and 50(1) of, and Annex VII to, Directive 2005/36/EC ([2]).

— order the Hellenic Republic to pay the costs.

Pleas in law and main arguments

1. **Infringement of the right of freedom of establishment laid down in Article 49 TFEU and in Article 15(2)(b) and (c) of Directive 2006/123/EC on services in the internal market.**

Article 5(1) of Law 3898/2010 together with the related Presidential Decree D. 123/2011 provides that companies that provide mediation training services must exclusively have the legal form of non-profit companies which are set up by at least one Bar Association and at least one of the Professional Chambers in Greece and that their operation is subject to the granting of authorisation by the authority referred to in Article 7 of that law.

Those restrictions cover both service providers that seek to be established for the first time in Greece and service providers that seek secondary establishment in the form of a subsidiary.

No natural or legal person other than the Bar Associations and the Professional Chambers is permitted to found training service providers for the training of mediators who can, on the basis of that training, take the examination for accreditation as professional mediators in Greece, if that person does not have the support of a Bar Association and a Professional Chamber of Greece.

In addition, the reality is that any service provider the current legal form of which is not non-profit making is excluded from the opportunity to provide, on payment of fees, the training of potential mediator candidates who can, on the basis of that training, take the examination for accreditation as professional mediators in Greece.

Last, any training provider from another Member State that is interested in providing the service in question on the payment of fees by students who register on mediation training courses is in reality excluded from entering the Greek market and from setting up a secondary establishment in the form of a subsidiary, if its current legal form is not non-profit making and its choice of subsidiary is not confined to non-profit-making entities.

The Commission considers that the above provisions establish a restriction on the right of freedom of establishment laid down in Article 49 TFEU and Article 15(2)(b) and (c) of Directive 2006/123/EC on the internal market.

That restriction is not covered by the exception in Article 51(1) TFEU because the provision of mediator training services is not an activity that is connected to the State, the exercise of official authority or indeed the 'administration of justice'. Further there is no legal justification in the interest of protecting the quality of the services, since that has no direct connection with the restriction on the legal form of the training service providers and the ownership of share capital.

2. **Infringement of Directive 2005/36/EC and Article 49 TFEU on the freedom of establishment.**

The Commission considers that the requirements in paragraph 2 of section A of the single article of Ministerial Decision No 109088/12.12.2011, in accordance with which the mediation training certificate must confirm the teaching methods, the number of participants, the number and qualifications of the trainers, the procedure for the examination and evaluation of candidates and the means of ensuring the integrity of that procedure, exceed what can be required for the evaluation of the level of professional knowledge and qualifications which the certificate-holder is certified to possess and do not permit a correct assessment of the question whether the training of the person concerned covers matters that are substantially different from those covered by the required accreditation in Greece. For those reasons the abovementioned provision is contrary to Articles 13, 14 and 50 of, and Annex VII to, Directive 2005/36/EC.

Further, paragraph 5 of section A of the above Ministerial Decision requires foreign mediators with full professional qualifications to demonstrate that in addition they possess experience of having taken part in at least three mediation procedures before their qualifications are recognised in Greece, although that requirement is not imposed on mediators who obtain their professional training in Greece. Consequently, the abovementioned provision is contrary to Article 13 of Directive 2005/36/EC, which provides that the competent authority of the host Member State is to permit access to and pursuit of the profession under the same conditions as apply to its nationals to applicants who are certified in another Member State, and is in breach of the principle of the prohibition of discrimination enshrined in Article 49 TFEU.

(1) Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (*OJ 2006 L 376, p. 36*).

(2) Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005, on the recognition of professional qualifications (*OJ 2005 L 255, p. 22*).

Appeal brought on 5 January 2018 by Ms against the order of the General Court (First Chamber) delivered on 31 May 2017 in Case T-17/16 Ms v Commission

(Case C-19/18 P)

(2018/C 083/23)

Language of the case: French

Parties

Appellant: Ms (represented by: L. Levi, avocat)

Other party to the proceedings: European Commission

Form of order sought

— Set aside the order of the General Court of 31 May 2017 in Case T-17/16;

— consequently, refer the case back to the General Court for judgment on the substance of the action brought before it at first instance, or if the Court of Justice were to consider that the state of the proceedings permits final judgment, to grant the appellant the relief sought at first instance and, accordingly,

— hold that the Commission is non-contractually liable on the basis of Article 268 and the second paragraph of Article 340 TFEU;

— order the production of the documents declared confidential by the Commission and providing the necessary basis for the exclusion decision;

— order payment of compensation for the non-material harm resulting from the Commission's wrongful conduct, assessed *ex aequo et bono* at EUR 20 000;

— order the Commission to publish a letter of apology to the applicant and to reinstate him within Team Europe;