

*Respondent:* Kuoni Travel Ltd

### Questions referred

- 1) Where there has been a failure to perform or an improper performance of the obligations arising under the contract of an organizer or retailer with a consumer to provide a package holiday to which Council Directive 90/314/EEC <sup>(1)</sup> of 13 June 1990 on package travel, package holidays and package tours applies, and that failure to perform or improper performance is the result of the actions of an employee of a hotel company which is a provider of services to which that contract relates:
  - a) is there scope for the application of the defence set out in the second part of the third alinea to article 5(2); and, if so,
  - b) by which criteria is the national court to assess whether that defence applies?
- 2) Where an organizer or retailer enters into a contract with a consumer to provide a package holiday to which Council Directive 90/314/EEC applies, and where a hotel company provides services to which that contract relates, is an employee of that hotel company himself to be considered a 'supplier of services' for the purposes of the defence under article 5(2), third alinea of the Directive?

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<sup>(1)</sup> OJ 1990, L 158, p. 59.

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### Reference for a preliminary ruling from Supreme Court of the United Kingdom (United Kingdom) made on 30 July 2019 — R (on the application of Association of Independent Meat Suppliers and another) v The Food Standards Agency

(Case C-579/19)

(2019/C 328/36)

*Language of the case: English*

### Referring court

Supreme Court of the United Kingdom (United Kingdom)

### Parties to the main proceedings

*Applicants:* R (on the application of Association of Independent Meat Suppliers and another)

*Respondent:* The Food Standards Agency

### Questions referred

1. Do Regulations (EC) Nos 854 <sup>(1)</sup> and 882 <sup>(2)</sup> preclude a procedure whereby pursuant to section 9 of the Food Safety Act 1990 a Justice of the Peace decides on the merits of the case and on the basis of the evidence of experts called by each side whether a carcass fails to comply with food safety requirements?

2. Does Regulation (EC) No 882 mandate a right of appeal in relation to a decision of an Official Veterinarian under article 5.2 of Regulation (EC) No 854 that the meat of a carcass was unfit for human consumption and, if it does, what approach should be applied in reviewing the merits of the decision taken by the Official Veterinarian on an appeal in such a case?

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(<sup>1</sup>) Regulation (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption (OJ 2004, L 139, p. 206).

(<sup>2</sup>) Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (OJ 2004, L 165, p. 1).

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**Appeal brought on 16 August 2019 by John Dalli against the judgment of the General Court (Sixth Chamber)  
delivered on 6 June 2019 in Case T-399/17: Dalli v Commission**

**(Case C-615/19 P)**

(2019/C 328/37)

*Language of the case: English*

### **Parties**

*Appellant:* John Dalli (represented by: L. Levi, avocate, S. Rodrigues, avocat)

*Other party to the proceedings:* European Commission

### **Forms of order sought**

The appellant claims that the Court should:

- set aside the contested judgment and declare the appellant's requests in case T-399/17 admissible and well-founded, and consequently, order
- the compensation of the prejudice, notably the moral prejudice, which can be estimated, on a provisional basis, at 1 000 000 Euros;
- the defendant to bear the entire costs.
- order the European Commission to pay the costs of both the appeal and of the proceedings at first instance in full.

### **Pleas in law and main arguments**

By his first plea in law the appellant alleges several errors in law, namely violation of the duty to state reasons and distortion of the file by rejecting the first complaint related to the unlawfulness of the decision to open the investigation.

Second, the appellant alleges that the General Court erred in law by rejecting the second complaint related to flaws in the characterisation of the investigation and the unlawful extension of the investigation.

Third, the appellant alleges a distortion of evidence and breach of the rights of the defence in the General Court's judgment in which the third complaint related to breach of the principles governing the gathering of evidence and distortion and falsification of the evidence was rejected.

Fourth, the appellant alleges a distortion of the clear sense of facts and evidence and errors in law by the General Court's rejecting of the fourth complaint relating to the breach of the rights of the defence, of Article 4 of Commission Decision 1999/396, (<sup>1</sup>) and of Article 18 of the OLAF Instructions.

Fifth, the appellant alleges that the General Court erred in law by breaching the duty to state reasons and distorting evidence by rejecting the fifth complaint relating to the infringement of Article 11(7) of Regulation (EC) No 1073/1999 (<sup>2</sup>) and of Article 13(5) of the Supervisory Committee's Rules.