

Judgment of the Court (Ninth Chamber) of 28 October 2021 (request for a preliminary ruling from the Administrativen sad Varna — Bulgaria) — ‘Varchev Finans’ EOOD v Komisia za finansov nadzor

(Case C-95/20) ⁽¹⁾

(Reference for a preliminary ruling — Directive 2014/65/EU — Markets in financial instruments — Delegated Regulation (EU) 2017/565 — Investment firms — Article 56 — Assessment of appropriateness and related record-keeping obligations — Article 72 — Retention of records — Methods of retention — Information concerning client categorisation — Information on costs and associated charges relating to investment services)

(2022/C 2/07)

Language of the case: Bulgarian

Referring court

Administrativen sad Varna

Parties to the main proceedings

Applicant: ‘Varchev Finans’ EOOD

Defendant: Komisia za finansov nadzor

Intervener: Okrazhna prokuratura — Varna

Operative part of the judgment

Article 56(2) and Article 72(2) of Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive, read in conjunction with Annex I to that delegated regulation, must be interpreted as meaning that investment firms are not required to record the suitability and appropriateness assessments undertaken for each client with respect to investment products and services and the information provided to each client on the costs and charges relating to the investment services in separate single registers, in the form, in particular, of a database, and the manner in which those records are kept may be freely chosen, provided, however, that it meets all of the requirements laid down in Article 72(1) of that delegated regulation.

⁽¹⁾ OJ C 175, 25.5.2020.

Judgment of the Court (Grand Chamber) of 26 October 2021 (request for a preliminary ruling from the Högsta domstolen — Sweden) — Republiken Polen v PL Holdings Sàrl

(Case C-109/20) ⁽¹⁾

(Reference for a preliminary ruling — Agreement between the Government of the Kingdom of Belgium and the Government of the Grand Duchy of Luxembourg, of the one part, and the Government of the People’s Republic of Poland, of the other, concerning the reciprocal promotion and protection of investments, signed on 19 May 1987 — Arbitration proceedings — Dispute between an investor from one Member State and another Member State — Arbitration clause provided for in that agreement contrary to EU law — Invalidity — Ad hoc arbitration agreement between the parties to that dispute — Participation in the arbitration proceedings — Tacit expression by that other Member State of its intention to conclude that arbitration agreement — Unlawfulness)

(2022/C 2/08)

Language of the case: Swedish

Referring court

Högsta domstolen

Parties to the main proceedings

Applicant: Republiken Polen

Defendant: PL Holdings Sàrl

Operative part of the judgment

Articles 267 and 344 TFEU must be interpreted as precluding national legislation which allows a Member State to conclude an ad hoc arbitration agreement with an investor from another Member State that makes it possible to continue arbitration proceedings initiated on the basis of an arbitration clause whose content is identical to that agreement, where that clause is contained in an international agreement concluded between those two Member States and is invalid on the ground that it is contrary to those articles.

⁽¹⁾ OJ C 161, 11.5.2020.

Judgment of the Court (Fifth Chamber) of 28 October 2021 (request for a preliminary ruling from the Bundesgerichtshof — Germany) — Ferrari SpA v Mansory Design Holding GmbH, WH

(Case C-123/20) ⁽¹⁾

(Reference for a preliminary ruling — Regulation (EC) No 6/2002 — Community designs — Articles 4, 6 and 11 — Infringement proceedings — Unregistered Community design — Appearance of a part of a product — Conditions for protection — Component part of a complex product — Individual character — Act of making available to the public)

(2022/C 2/09)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: Ferrari SpA

Defendant: Mansory Design Holding GmbH, WH

Operative part of the judgment

Article 11(2) of Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs must be interpreted as meaning that the making available to the public of images of a product, such as the publication of photographs of a car, entails the making available to the public of a design of a part of that product, within the meaning of Article 3(a) of that regulation, or of a component part of that product, as a complex product, within the meaning of Article 3(c) and Article 4 (2) of that regulation, provided that the appearance of that part or component part is clearly identifiable at the time the design is made available.

In order for it to be possible to examine whether that appearance satisfies the condition of individual character referred to in Article 6(1) of that regulation, it is necessary that the part or component part in question constitute a visible section of the product or complex product, clearly defined by particular lines, contours, colours, shapes or texture.

⁽¹⁾ OJ C 215, 29.6.2020.