

Judgment of the Court (Ninth Chamber) of 7 July 2022 (request for a preliminary ruling from the Consiglio di Stato — Italy) — F. Hoffmann-La Roche Ltd, Novartis AG, Novartis Farma SpA, Roche SpA v Autorità Garante della Concorrenza e del Mercato

(Case C-261/21) ⁽¹⁾

(Reference for a preliminary ruling — Second subparagraph of Article 19(1) TEU — Obligation on Member States to provide remedies sufficient to ensure effective legal protection in the fields covered by EU law — Article 267 TFEU — Obligation on the referring court to give full effect to the interpretation of EU law provided by the Court of Justice — Charter of Fundamental Rights of the European Union — Article 47 — Access to an independent and impartial tribunal previously established by law — Judgment of a national court of last instance after a preliminary ruling by the Court — Alleged non-conformity of that judgment with the interpretation of EU law provided by the Court — National legislation preventing the bringing of an action for revision of that judgment)

(2022/C 318/21)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Applicants: F. Hoffmann-La Roche Ltd, Novartis AG, Novartis Farma SpA, Roche SpA

Defendant: Autorità Garante della Concorrenza e del Mercato

Interveners: Società Oftalmologica Italiana (SOI) — Associazione Medici Oculisti Italiani (AMOI), Regione Emilia-Romagna, Regione Lombardia, Altroconsumo, Novartis Farma SpA, Roche SpA, Novartis AG, F. Hoffmann-La Roche Ltd, Associazione Italiana delle Unità Dedicatoe Autonome Private di Day Surgery e dei Centri di Chirurgia Ambulatoriale (Aiudapds), Coordinamento delle associazioni per la tutela dell'ambiente e dei diritti degli utenti e consumatori (Codacons), Ministero della Salute — Agenzia Italiana del Farmaco

Operative part of the judgment

Article 4(3) and Article 19(1) TEU, and Article 267 TFEU, read in the light of Article 47 of the Charter of Fundamental Rights of the European Union, must be interpreted as not precluding provisions of procedural law of a Member State which, while observing the principle of equivalence, have the effect that, where the supreme court of the administrative system of that Member State gives a decision settling a dispute in which it had made a request to the Court of Justice for a preliminary ruling under Article 267 TFEU, the parties to that dispute may not seek a revision of that decision of the national court based on the contention that the latter disregarded the interpretation of EU law provided by the Court of Justice in response to that request.

⁽¹⁾ OJ C 263, 5.7.2021.

Judgment of the Court (Tenth Chamber) of 7 July 2022 (request for a preliminary ruling from the Korkein oikeus — Finland) — Keskinäinen Vakuutusyhtiö Fennia v Koninklijke Philips NV

(Case C-264/21) ⁽¹⁾

(Reference for a preliminary ruling — Directive 85/374/EEC — Liability for defective products — Article 3(1) — Concept of ‘producer’ — Any person who, by putting his name, trade mark or other distinguishing feature on the product, or having authorised those particulars to be put on the product, presents himself as its producer)

(2022/C 318/22)

Language of the case: Finnish

Referring court

Korkein oikeus

Parties to the main proceedings

Appellant: Keskinäinen Vakuutusyhtiö Fennia

Respondent: Koninklijke Philips NV

Operative part of the judgment

Article 3(1) of Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products, as amended by Directive 1999/34/EC of the European Parliament and of the Council of 10 May 1999, must be interpreted as meaning that the concept of ‘producer’, referred to in that provision, does not require that the person who has put his name, trade mark or other distinguishing feature on the product, or who has authorised those particulars to be put on the product, also present himself as the producer of that product in some other way.

⁽¹⁾ OJ C 278, 12.7.2021.

Judgment of the Court (Eighth Chamber) of 7 July 2022 (request for a preliminary ruling from the Tribunal Judicial da Comarca dos Açores — Portugal) — KU, OP, GC v SATA International — Azores Airlines SA

(Case C-308/21) ⁽¹⁾

(Reference for a preliminary ruling — Air transport — Regulation (EC) No 261/2004 — Compensation and assistance to passengers — Cancellation or long delay of flights — Article 5(3) — Exemption from the obligation to pay compensation — Extraordinary circumstances — Generalised failure of the aircraft refuelling system at the airport)

(2022/C 318/23)

Language of the case: Portuguese

Referring court

Tribunal Judicial da Comarca dos Açores

Parties to the main proceedings

Applicants: KU, OP, GC

Defendant: SATA International — Azores Airlines SA

Operative part of the judgment

Article 5(3) of Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91, must be interpreted as meaning that where the airport of origin of the flights or aircraft concerned is responsible for the aircraft refuelling system, a generalised breakdown in the supply of fuel can be regarded as an ‘extraordinary circumstance’ within the meaning of that provision.

⁽¹⁾ OJ C 329, 16.8.2021.