

2. Orders the Hellenic Republic to pay the costs.

JUDGMENT OF THE COURT

(Grand Chamber)

(¹) OJ C 19 of 25.01.2003.

of 7 June 2005

in Case C-17/03: Reference for a preliminary ruling from the College van Beroep voor het bedrijfsleven Vereniging voor Energie, Milieu en Water and Others v Directeur van de Dienst uitvoering en toezicht energie (¹)

(Internal market in electricity — Preferential access to the system for cross-border transmission of electricity — Undertaking previously responsible for the operation of services of general economic interest — Long-term contracts existing prior to the liberalisation of the market — Directive 96/92/EC — Principle of non-discrimination — Principles of the protection of legitimate expectation and of legal certainty)

JUDGMENT OF THE COURT

(Grand Chamber)

of 31 May 2005

in Case C-438/02: Reference for a preliminary ruling from the Stockholms tingsrätt in criminal proceedings against Krister Hanner (¹)

(Articles 28 EC, 31 EC, 43 EC and 86(2) EC — Marketing of medicinal preparations — Establishment of retail traders — National monopoly on the retail of medicinal preparations — Undertaking entrusted with providing a service of general economic interest)

(2005/C 182/03)

(Language of the case: Swedish)

In Case C-438/02: reference for a preliminary ruling under Article 234 EC from the Stockholms tingsrätt (Sweden), made by decision of 29 November 2002, received at the Court on 4 December 2002, in criminal proceedings against Krister Hanner, the Court (Grand Chamber), composed of V. Skouris, President of the Chamber, P. Jann (Rapporteur), C.W.A. Timmermans and A. Rosas, Presidents of Chambers, J.-P. Puissechet, R. Schintgen, N. Colneric, S. von Bahr and J.N. Cunha Rodrigues, Judges; P. Léger, Advocate General; M. Múgica Arzamendi, Principal Administrator, for the, Registrar, gave a judgment on 31 May 2005, the operative part of which is as follows:

Article 31(1) EC precludes a sales regime which grants an exclusive retail right and is arranged in the same way as the sales regime at issue in the main proceedings.

(¹) OJ C 31 of 08.02.2003.

(2005/C 182/04)

(Language of the case: Dutch)

In Case C-17/03: reference for a preliminary ruling under Article 234 EC from the College van Beroep voor het bedrijfsleven (Administrative Court for Trade and Industry) (Netherlands), made by decision of 13 November 2002, received at the Court on 16 January 2003, in the proceedings between **Vereniging voor Energie, Milieu en Water, Amsterdam Power Exchange Spotmarket BV, Eneco NV and Directeur van de Dienst uitvoering en toezicht energie**, intervening party: **Nederlands Elektriciteit Administratiekantoor BV**, previously Samenwerkende Elektriciteits Productiebedrijven NV — the Court (Grand Chamber), composed of V. Skouris, President, P. Jann, C.W.A. Timmermans and A. Rosas (Rapporteur), Presidents of Chambers, J.-P. Puissechet, R. Schintgen, N. Colneric, S. von Bahr, M. Ilešič, J. Malenovský and U. Lohmus, Judges; C. Stix-Hackl, Advocate General; M.-F. Contet, Principal Administrator, for the, Registrar, gave a judgment on 7 June 2005, the operative part of which is as follows:

- Articles 7(5) and 16 of Directive 96/92/EC of the European Parliament and of the Council of 19 December 1996 concerning common rules for the internal market in electricity are not limited to covering technical rules but must be construed as applying to all discrimination.
- Those articles preclude national measures that grant an undertaking preferential capacity for the cross-border transmission of electricity, whether those measures derive from the system operator, the controller of system management or the legislature, in the case where such measures have not been authorised within the framework of the procedure set out in Article 24 of Directive 96/92.

(¹) OJ C 70 of 2.03.2003.