

The Commission further submits that the Hellenic Republic has not adopted all the necessary measures to ensure observance of the rules governing the stunning of animals at the time of slaughter and to ensure appropriate inspections and controls in slaughterhouses.

The Commission states that both on expiry of the period set in the reasoned opinion and after that date, and notwithstanding certain efforts on the part of the Greek authorities, the Hellenic Republic had not adopted all the measures necessary to make good the deficiencies alleged against it. The majority of the recommendations addressed to the Greek authorities were not implemented or were implemented inadequately. On the other hand, mission reports paint a very worrying picture regarding implementation of the abovementioned measures.

⁽¹⁾ OJ L 340, 11.12.1991, p. 17.

⁽²⁾ OJ L 3, 5.1.2005, p. 1.

⁽³⁾ OJ L 340, 31.12.1993, p. 21.

Reference for a preliminary ruling from the Conseil d'Etat (France) lodged on 12 September 2007 — Société Papillon v Ministère du budget, des comptes publics et de la fonction publique

(Case C-418/07)

(2007/C 283/32)

Language of the case: French

Referring court

Conseil d'Etat

Parties to the main proceedings

Applicant: Société Papillon

Defendant: Ministère du budget, des comptes publics et de la fonction publique

Questions referred

1. Inasmuch as the tax benefit arising under the 'tax integration' scheme affects the liability to tax of the parent company of the group, which can offset the profits and losses of all the companies of the integrated group, and benefit from the tax neutrality of the internal transactions of that group, does the impossibility — resulting from the scheme laid down under

Article 223 A *et seq.* of the *code général des impôts* — of including within the membership of a tax-integrated group a sub-subsidiary of the parent company, when it is held through a subsidiary which, being established in another Member State of the European Community and not carrying on business in France, is not subject to French corporation tax and thus cannot itself form part of the group, constitute a restriction on freedom of establishment by reason of the tax consequences arising from the choice of the parent company as to whether to hold a sub-subsidiary through a French subsidiary or, instead, through a subsidiary established in another Member State?

2. If the answer is in the affirmative, can such a restriction be justified either by the need to maintain the coherence of the 'tax integration' system — in particular the arrangements for the tax neutrality of transactions within the group, having regard to the consequences of a system which consists of treating a subsidiary established in another Member State as belonging to the group solely for the purposes of the condition as to the indirect holding of the sub-subsidiary, while remaining automatically excluded from the application of the group scheme since it is not subject to French tax — or by any other overriding reason of public interest?

Action brought on 12 September 2007 — Commission of the European Communities v Kingdom of Sweden

(Case C-419/07)

(2007/C 283/33)

Language of the case: Swedish

Parties

Applicant: Commission of the European Communities (represented by: K. Mojesowicz and V. Bottka, acting as Agents)

Defendant: Kingdom of Sweden

Form of order sought

— Declare that, by failing correctly to implement Article 2 of Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and services ⁽¹⁾ (the Competition Directive), the Kingdom of Sweden has failed to fulfil its obligations thereunder;

— order the Kingdom of Sweden to pay the costs.

Pleas in law and main arguments

The digital broadcasting licences issued by the Swedish Government are State measures which, *inter alia*, regulate the use of digital broadcasting services and thus indirectly the supply of such services in the Kingdom of Sweden. The requirement in the currently valid licences that the licence holder is to comply with section 2 of the cooperation agreement indirectly gives the State company Boxer a monopoly for access control services (including encryption), contrary to Article 2(1) of the Competition Directive. The retention of the obligation to comply with that section of the cooperation agreement thus prevents undertakings interested in offering a complete range of digital broadcasting services from enjoying the rights which Article 2(2) and (3) is intended to guarantee to them. The Commission therefore notes that Sweden has failed correctly to implement the Competition Directive in its national legal order with regard to digital transfer and broadcasting services over the terrestrial network.

⁽¹⁾ OJ 2002 L 249, p. 21.

Action brought on 13 September 2007 — Commission of the European Communities v Kingdom of Spain

(Case C-422/07)

(2007/C 283/34)

Language of the case: Spanish

Parties

Applicant: Commission of the European Communities (represented by: S. Pardo Quintillán and D. Recchia, Agents)

Defendant: Kingdom of Spain

Forms of order sought

— Declare that, by not adopting the necessary measures for verification of compliance with good laboratory practice in relation to inspections and study checks in the industrial chemical substances sector, the Kingdom of Spain has failed to fulfil its obligations under Article 3 of Directive 2004/10/EC ⁽¹⁾ of the European Parliament and of the Council of 11 February 2004 on the harmonisation of laws, regulations and administrative provisions relating to the application of the principles of good laboratory practice and the verification of their applications for tests on chemical substances

— Order the Kingdom of Spain to pay the costs.

Pleas in law and main arguments

The Commission has no evidence that the necessary measures have been adopted in Spain for study checks in accordance with

principles of good laboratory practice on the part of the laboratories carrying out tests on industrial chemicals. Neither has any authority been designated in Spain as responsible for the verification of the compliance with the principles of good laboratory practice on the part of those aforementioned laboratories or, in any case, the name of that authority has not been communicated to the Commission.

Consequently it can be stated that the Kingdom of Spain has proceeded without adopting the necessary measures for the verification of compliance of good laboratory practice relating to inspections and study checks in the industrial chemical products sector as intended in Article 3 of the Directive.

⁽¹⁾ OJ L 50, 20.2.2004, p. 44.

Action brought on 13 September 2007 — Commission of the European Communities v Federal Republic of Germany

(Case C-424/07)

(2007/C 283/35)

Language of the case: German

Parties

Applicant: Commission of the European Communities (represented by: G. Braun and A. Nijenhuis, acting as Agents)

Defendant: Federal Republic of Germany

Form of order sought

— declare that, with the provisions made in paragraphs 3 No 12(b) and 9(a) of the German Law on Telecommunications (Telekommunikationsgesetz — 'TKG'), newly inserted into the TKG by the Law amending the laws governing telecommunications of 18 February 2007, the Federal Republic of Germany has infringed Articles 6, 7, 15(3), 16 and 8(1) and (2) of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services ⁽¹⁾, Article 8(4) of Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities ⁽²⁾, as well as Article 17(2) of Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services ⁽³⁾;

— order the Federal Republic of Germany to pay the costs.