

G. Breach of the principle that the duration of proceedings must be reasonable: (i) annulment of the order under appeal and (ii) further manifestation of the flaw for the purposes of the action for damages

The Court of First Instance breached the principle that the duration of proceedings must be reasonable, a general principle of Community law which is also set out in the first paragraph of Article 6 of the European Convention on Human Rights and Fundamental Freedoms and in Article 47 of the Charter of Fundamental Rights of the European Union.

(¹) Commission Decision 2006/678/EC of 3 October 2006 on the financial treatment to be applied, in the context of clearance of expenditure financed by the Agricultural Guidance and Guarantee Section, in certain cases of irregularity by operators (OJ L 278, 10.10.2006, p. 24).

Reference for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on 25 November 2009 — Stichting de Thuis kopie v Mijndert van der Lee and Others

(Case C-462/09)

(2010/C 24/66)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Appellant: Stichting de Thuis kopie

Respondents: Mijndert van der Lee, Hananja van der Lee, Opus Supplies Deutschland GmbH

Questions referred

- Does Directive 2001/29/EC, (¹) in particular Article 5(2)(b) and (5) thereof, provide any assistance in determining who should be regarded under national law as owing the 'fair compensation' referred to in Article 5(2)(b)? If so, what assistance does it provide?
- In a case of distance selling in which the buyer is established in a different Member State to that of the seller, does Article 5(5) of Directive 2001/29/EC require national law to be interpreted so broadly that a person owing the 'fair compensation' referred to in Article 5(2)(b) of the directive who is

acting on a commercial basis owes such compensation in at least one of the Member States involved in the distance selling?

(¹) Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ 2001 L 167, p. 10)

Appeal brought on 25 November 2009 by Holland Malt B.V. against the judgment of the Court of First Instance (Fourth Chamber) delivered on 9 September 2009 in Case T-369/06: Holland Malt B.V. v Commission of the European Communities

(Case C-464/09 P)

(2010/C 24/67)

Language of the case: English

Parties

Appellant: Holland Malt B.V. (represented by: O. W. Brouwer, A.C.E. Stoffer, P. Schepens, advocaten)

Other parties to the proceedings: Commission of the European Communities, Kingdom of the Netherlands

Form of order sought

The appellant claims that the Court should:

- Set aside paragraphs 168 to 180 of the judgment of the court of First Instance;
- Refer the case back to the CFI or annul the decision of the Commission; and
- Order the Commission to pay the costs of the proceedings

Pleas in law and main arguments

The appeal is directed against the judgment of the Court of First Instance of 9 September 2009 in case T-369/06, Holland Malt B.V. v. Commission (the Judgment), dismissing the application brought by Holland Malt against the decision of the Commission declaring that a subsidy conditionally granted to the Appellant constitutes incompatible aid. The Appellant submits that the Court of First Instance made errors of law and a procedural error in dismissing the application brought by Holland Malt. In this regard, the Appellant has forwarded the following pleas: