

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM), Medion AG

Form of order sought

— set aside the judgment in Case T-460/07;

— order OHIM to pay the costs.

Pleas in law and main arguments

The appellant claims that the judgment of the General Court in Case T-460/07 should be set aside on the ground that the General Court wrongly considered in that judgment that there was a likelihood of confusion between the marks LIFE and LIFE BLOG and thus applied incorrectly Article 8(1)(b) of Regulation No 40/94.⁽¹⁾ The applicant submits that by so doing the judgment infringed European Union law.

The General Court indeed found, as regards the similarity of the marks, that the subjects of comparison were the marks LIFE and LIFE BLOG, but then proceeded in a manner that clearly contradicted that finding, by assessing only the component LIFE of the composite mark LIFE BLOG in order to justify the conclusion that the marks were similar.

In that connection the General Court incorrectly examined the questions of what kind of consumers belonged to the relevant group and how the consumers understood the mark, and thereby infringed the principles recognised in the case-law of the Court of Justice.

⁽¹⁾ Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ 1994 L 11, p. 1).

Reference for a preliminary ruling from the Tribunal Supremo (Spain) lodged on 2 April 2010 — Banco Bilbao Vizcaya Argentaria S.A. v Administración General del Estado

(Case C-157/10)

(2010/C 179/26)

Language of the case: Spanish

Referring court

Tribunal Supremo

Parties to the main proceedings

Applicant: Banco Bilbao Vizcaya Argentaria S.A.

Defendant: Administración General del Estado

Question referred

Must Articles 63 and 65 of the Treaty on the Functioning of the European Union be interpreted as meaning that they preclude national rules (enacted unilaterally or under a bilateral convention for the avoidance of double taxation) which, in the context of corporation tax and within the framework of provisions for the avoidance of such double taxation, prohibit the deduction of amounts of tax due in other Member States of the European Union on income subject to corporation tax and obtained in their territory where those amounts, though due, are not paid by virtue of an exemption, a credit or any other tax benefit?

Reference for a preliminary ruling from the Juzgado de lo Contencioso-Administrativo No 12 de Sevilla (Spain) lodged on 7 April 2010 — Francisco Javier Rosado Santana v Consejería de la Justicia y Administración Pública de la Junta de Andalucía

(Case C-177/10)

(2010/C 179/27)

Language of the case: Spanish

Referring court

Juzgado de lo Contencioso-Administrativo No 12 de Sevilla

Parties to the main proceedings

Applicant: Francisco Javier Rosado Santana

Defendant: Consejería de la Justicia y Administración Pública de la Junta de Andalucía

Questions referred

1. Is [Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP] ⁽¹⁾ to be interpreted as meaning that, if the Constitutional Court of a Member State has ruled that the establishment of different rights for temporary civil servants and career civil servants of that State might not be contrary to its Constitution, that necessarily means that the directive is excluded from applying in the sphere of that State's civil service?

2. Is Directive 1999/70 to be interpreted as meaning that it precludes a national court from interpreting the principles of equal treatment and non-discrimination in a manner which generally excludes from their scope the placing of temporary civil servants and career civil servants on an equal footing?
3. Is Clause 4 to be interpreted as meaning that it precludes a refusal to take into account as length of service, in attaining the status of member of the permanent staff, previous periods of service as a temporary employee, specifically for the purposes of remuneration, grading and career advancement in the civil service?
4. Does Clause 4 require an interpretation of the national legislation to the effect that it does not exclude from the calculation of length of service of civil servants periods worked under a temporary employment relationship?
5. Is Clause 4 to be interpreted as meaning that, even though the rules of a public selection process were published and were not contested by the applicant, the national court must examine whether those rules are contrary to the Community legislation and, in that case, must the national court refrain from applying those rules or the national provision on which they are based in so far as they conflict with that clause?

⁽¹⁾ OJ L 175, p. 43

Reference for a preliminary ruling from the Naczelny Sąd Administracyjny (Poland) lodged on 9 April 2010 — Jarosław Słaby v Minister Finansów

(Case C-180/10)

(2010/C 179/28)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Applicant: Jarosław Słaby

Defendant: Minister Finansów

Question referred

Is a natural person who carried out an agricultural activity on land and subsequently, on account of a change to urban management plans which occurred for reasons beyond his control, ceased that activity and reclassified his property as private property, divided it into smaller parts (land designated for a holiday home development) and began to dispose of it, on that basis a taxable person for VAT within the meaning of Article 9(1) of Directive 2006/112/EC ⁽¹⁾ and Article 4(1) and (2) of Sixth Directive 77/388/EEC ⁽²⁾ who is liable for payment of VAT on the basis of a trading activity?

⁽¹⁾ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1).

⁽²⁾ Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ 1977 L 145, p. 1).

Reference for a preliminary ruling from the Naczelny Sąd Administracyjny (Poland) lodged on 9 April 2010 — Emilian Kuć and Halina Jeziorska-Kuć v Dyrektor Izby Skarbowej w Warszawie

(Case C-181/10)

(2010/C 179/29)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Applicants: Emilian Kuć and Halina Jeziorska-Kuć

Defendant: Dyrektor Izby Skarbowej w Warszawie

Questions referred

1. Is a flat-rate farmer within the meaning of Article 295(1)(3) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ⁽¹⁾ ... who sells plots of land used for his agricultural activity which are designated in a municipality's urban management plan for residential and service development and were purchased as agricultural land (VAT-free) covered by Article 16 of that directive, which regards the application of business assets for the taxable person's private use or for purposes other than those of his business as a supply of goods for consideration only where the tax on those assets was wholly or partly deductible?