

national legislation — in the present case, Article 26(4) of the Belgian Law of 6 January 1989 on the Cour d'arbitrage (now called the Cour constitutionnelle), as amended by the Law of 12 July 2009, whether read separately or in conjunction with Article 9(2) of that Special Law of 6 January 1989 — under which the national courts are required to refer to a court which occupies a higher rank in the national court system (in the present case, the Cour constitutionnelle, referred to above), for a preliminary ruling, any question concerning the interpretation of provisions of European Union law, which is directly applicable in the domestic legal order and takes precedence over domestic law, where those provisions are also laid down in the national Constitution and where the national courts suppose those provisions to have been infringed in the circumstances of the disputes brought before them, with the result that those courts have been divested of jurisdiction to apply European Union law immediately, at the very least in cases where the higher court has already ruled on an identical issue?

Reference for a preliminary ruling from the Tribunale di Palermo (Italy) lodged on 5 January 2011 — Public Prosecutor v Fabio Caronna

(Case C-7/11)

(2011/C 80/26)

Language of the case: Italian

Referring court

Tribunale di Palermo

Parties to the main proceedings

Fabio Caronna

Questions referred

1. Is Article 77(2) of Directive 2001/83/EC ⁽¹⁾ of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use to be construed as meaning that pharmacists are included among the persons who must obtain authorisation for the wholesale distribution of medicinal products or was it the Community legislature's intention, instead, to exempt pharmacists from the requirement to apply for that authorisation, as would appear to be suggested by a reading of recital 36 in the preamble to the directive? It is appropriate to set out the arguments put forward by the suspect's lawyer in support of the latter interpretation.
2. In more general terms, what is the correct interpretation to be given to the rules governing authorisation to distribute medicinal products laid down by Article 76 to 84 of the Directive, with particular reference to the requirements to be met in order for a pharmacist (that is, a natural person, not a company) who, by virtue of that status, is already authorised to retail medicinal products under national law, also to be able to distribute medicinal products?

Reference for a preliminary ruling from Dublin Metropolitan District Court (Ireland) made on 10 January 2011 — Danise McDonagh v Ryanair Ltd

(Case C-12/11)

(2011/C 80/27)

Language of the case: English

Referring court

Dublin Metropolitan District Court

Parties to the main proceedings

Applicant: Denise McDonagh

Defendant: Ryanair Ltd

Questions referred

1. Do circumstances such as the closures of European airspace as a result of the eruption of the Eyjafjallajökull volcano in Iceland, which caused widespread and prolonged disruption to air travel, go beyond 'extraordinary circumstances' within the meaning of Regulation 261/2004 ⁽¹⁾?
2. If the answer to question 1 is yes, is liability for the duty to provide care excluded under Articles 5 and 9 in such circumstances?
3. If the answer to question 2 is no, are Articles 5 and 9 invalid in so far as they violate the principles of proportionality and non-discrimination, the principle of an 'equitable balance of interests' enshrined in the Montreal Convention, and Articles 16 and 17 of the Charter of Fundamental Rights of the European Union?
4. Is the obligation in Articles 5 and 9 to be interpreted as containing an implied limitation, such as a temporal and/or a monetary limit, to provide care in cases where cancellation is caused by 'extraordinary circumstances'?
5. If the answer to question 4 is no, are Articles 5 and 9 invalid in so far as they violate the principles of proportionality and non-discrimination, the principle of an 'equitable balance of interests' enshrined in the Montreal Convention, and Articles 16 and 17 of the Charter of Fundamental Rights of the European Union?

⁽¹⁾ 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
OJ L 46, p. 1

⁽¹⁾ OJ 2001 L 311, p. 67.