

Questions referred

1. Must the rule laid down in Article 5(1) of Council Framework Decision 2005/214/JHA ⁽¹⁾ on the application of the principle of mutual recognition to financial penalties be interpreted as meaning that, where the issuing Member State indicates one of the types of conduct listed in that provision, the authority of the executing Member State has no additional discretion to refuse execution and must execute the [decision imposing the penalty]?
2. If that question is answered in the negative, can the authority of the executing Member State argue that the conduct indicated in the decision of the issuing Member State does not correspond to the conduct described in the list?

⁽¹⁾ OJ 2005 L 76, p. 16.

Request for a preliminary ruling from the Landgericht Hamburg (Germany) lodged on 23 March 2020 — Novartis Pharma GmbH v Abacus Medicine A/S

(Case C-147/20)

(2020/C 215/27)

Language of the case: German

Referring court

Landgericht Hamburg

Parties to the main proceedings

Applicant: Novartis Pharma GmbH

Defendant: Abacus Medicine A/S

Questions referred

1. Can it lead to an artificial partitioning of the markets within the meaning of the case-law of the Court of Justice if the safety features of original outer wrapping/original packaging which are provided for under Article 54(o) and Article 47a of Directive 2001/83/EC ⁽¹⁾ can, in the event that the parallel trader retains that original packaging, be replaced in compliance with Article 47a(1)(b) of that directive only in such a way that visible traces of opening remain after the originally existing safety features have been partly or fully removed and/or covered?
2. Is it of significance for answering the first question whether the traces of opening become visible only when the medicinal product has been thoroughly inspected by wholesalers and/or persons authorised or entitled to supply medicinal products to the public, such as pharmacies, in fulfilment of their obligation under Articles 10, 24 and 30 of Regulation (EU) 2016/161, ⁽²⁾ or may be overlooked in a superficial inspection?
3. Is it of significance for answering the first question whether the signs of opening become visible only when the packaging of a medicinal product is opened, for example by the patient?

4. Is Article 5(3) of Regulation (EU) 2016/161 to be interpreted as meaning that the barcode containing the unique identifier within the meaning of Article 3(2)(a) of that regulation must be printed directly on the packaging, so that Article 5(3) is not complied with if a parallel trader affixes the unique identifier to the original outer packaging using an additional external sticker?

- (¹) Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (OJ 2001 L 311, p. 67).
- (²) Commission Delegated Regulation (EU) 2016/161 of 2 October 2015 supplementing Directive 2001/83/EC of the European Parliament and of the Council by laying down detailed rules for the safety features appearing on the packaging of medicinal products for human use (OJ 2016 L 32, p. 1).

Appeal brought on 27 March 2020 by the Republic of Lithuania against the judgment delivered by the General Court (Second Chamber) on 22 January 2020 in Case T-19/18 *Lithuania v Commission*

(Case C-153/20 P)

(2020/C 215/28)

Language of the case: Lithuanian

Parties

Appellant: Republic of Lithuania (represented by: R. Dzikovič, K. Dieninis)

Other parties to the proceedings: European Commission, Czech Republic

Form of order sought

- set aside the judgment of the General Court of 22 January 2020 in Case T-19/18 *Lithuania v Commission*, EU:T:2020:4, by which it dismissed the Republic of Lithuania's action of 19 January 2018 for annulment of Commission Implementing Decision (EU) 2017/2014 of 8 November 2017 excluding from European Union financing certain expenditure incurred by the Member States under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD);
- refer the case back to the General Court or itself decide the case on the grounds set out in the appeal and give final judgment on the annulment of Commission Implementing Decision (EU) 2017/2014 of 8 November 2017 excluding from European Union financing certain expenditure incurred by the Member States under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD);
- order the European Commission to pay the costs.

Pleas in law and main arguments

The Republic of Lithuania requests the Court to set aside the judgment of the General Court in Case T-19/18 ('the judgment under appeal') and relies upon the following pleas in law:

- (1) misinterpretation of Article 24(1) of Regulation No 65/2011 (¹) and failure to comply with the duty to state reasons for a judgment because the General Court, when ruling in paragraphs 61 to 80 of the judgment under appeal on the *criteria applied in order to determine whether applicants had the status of SMEs*, did not clearly and unambiguously substantiate the grounds for its judgment;