Parties to the main proceedings

Appellant: PI Pharma NV

Respondents: Novartis AG, Novartis Pharma NV

Questions referred

1. Must Articles 34 to 36 TFEU be interpreted as meaning that, where a branded medicine (reference medicine) and a generic medicine have been put on the market in the EEA by economically linked undertakings, a trade mark proprietor's opposition to the further commercialisation of the generic medicine by a parallel importer after the repackaging of that generic medicine by the affixing to it of the trade mark of the branded medicine (reference medicine) in the country of importation may lead to an artificial partitioning of the markets of the Member States?

2. If the answer to that question is in the affirmative, must the trade mark proprietor's opposition to that rebranding be assessed by reference to the BMS conditions?

3. Is it relevant to the answer to those questions that the generic medicine and the branded medicine (reference medicine) are identical or have the same therapeutic effect as referred to in Article 3(2) of the Koninklijk besluit van 19 april 2001 inzake parallelinvoer (Royal Decree of 19 April 2001 on parallel imports)?

Request for a preliminary ruling from the Bundesfinanzhof (Germany) lodged on 18 June 2020 — Finanzamt T v S

(Case C-269/20)

(2020/C 297/41)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Applicant: Finanzamt T

Defendant: S

Questions referred

1. Is the authorisation granted to Member States in the second subparagraph of Article 4(4) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes [1] to treat as a single taxable person persons established in their territory who, while legally independent, are closely bound to one another by financial, economic and organisational links to be exercised in such a way that:

   a) treatment as a single taxable person is effected through one of those persons, who is the taxable person for all of the transactions performed by those persons; or in such a way that:

   b) treatment as a single taxable person must of necessity — and thus, in addition, under sufferance of substantial tax losses — lead to a VAT group separate from the persons closely bound to one another, which constitutes a fictitious entity to be set up specifically for VAT purposes?

2. If the correct answer to the first question is (a): does it follow from the case-law of the Court of Justice of the European Union concerning non-business purposes within the meaning of Article 6(2) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes (judgment of the Court of Justice of the European Union of 12 February 2009 in *VNLTO* – C-515/07, EU:C:2009:88) that, in the case of a taxable person who

   a) on the one hand, pursues an economic activity and, in so doing, provides services for consideration within the meaning of Article 2(1) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes, and

b) on the other hand, pursues at the same time an activity which is incumbent upon him in the exercise of public authority (an activity he carries on in an official capacity) and in respect of which he is not considered to be a taxable person, in accordance with Article 4(5) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes,

a service falling within the sphere of his economic activity which he provides free of charge for a purpose falling within the sphere of the activity he carries on in an official capacity is not subject to tax, in accordance with Article 6(2)(b) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes?

(1) OJ 1977 L 145, p. 1.

Request for a preliminary ruling from the Giudice di pace di Massa (Italy) lodged on 19 June 2020 — GN and WX v Prefettura di Massa Carrara — Ufficio Territoriale del Governo di Massa Carrara

(Case C-274/20)

(2020/C 297/42)

Language of the case: Italian

Referring court

Giudice di pace di Massa

Parties to the main proceedings

Applicants: GN and WX

Defendant: Prefettura di Massa Carrara — Ufficio Territoriale del Governo di Massa Carrara

Questions referred

1. Is the concept of the prohibition of 'discrimination on grounds of nationality' under Article 18 TFEU to be interpreted as meaning that Member States are prohibited from enacting any legislation that could, indirectly, covertly and/or materially, cause difficulties for nationals of other Member States?

2. If the first question is answered in the affirmative, could Article 93(1-*bis*) of the Codice della Strada (Italian Highway Code), concerning the prohibition of driving with foreign number plates (registered in anybody's name) after 60 days of residence in Italy, cause difficulties for nationals of other Member States (who own cars with foreign number plates) and consequently be discriminatory on grounds of nationality?

3. Are the following concepts:

   a. 'right to move and reside freely within the territory of the Member States', as referred to in Article 21 TFEU;

   b. 'internal market' which 'shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of the Treaties', as referred to in Article 26 TFEU;

   c. 'freedom of movement for workers shall be secured within the Union', as referred to in Article 45 TFEU;

   d. 'restrictions on the freedom of establishment of nationals of a Member State in the territory of another Member State shall be prohibited', as referred to in Articles 49 to 55 TFEU; [and]

   e. 'restrictions on freedom to provide services within the Union shall be prohibited in respect of nationals of Member States who are established in a Member State other than that of the person for whom the services are intended', as referred to in Articles 56 to 62 TFEU

   to be interpreted as meaning that national provisions that could, indirectly, covertly and/or materially, limit or hinder the ability of European citizens to exercise the right of freedom of movement and residence within the territory of the Member States, the right of freedom of movement for workers within the Union, freedom of establishment and the freedom to provide services, or in any way affect those rights, are also prohibited?