COURT OF JUSTICE

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JUDGMENT OF THE COURT

(Fifth Chamber)

of 7 December 1993

in Case C-6/92: Federazione Sindacale Italiana dell' Industria Estrattiva and Others v. Commission of the European Communities (1)

(Admissibility)

(94/C 18/02)

(Language of the case: Italian)

(Provisional translation; the definitive translation will be published in the Reports of Cases before the Court)

In Case C-6/92: Federazione Sindacale Italiana dell' Industria Estrattiva, an association incorporated under Italian law whose registered office is in Rome, Società italiana sali alcalini SpA, a company incorporated under Italian law whose registered office is in Palermo (Italy), Thalassia SpA, a company incorporated under Italian law whose registered office is in Palermo, Laviosa chimica mineraria SpA, a company incorporated under Italian law whose registered office is in Livorno (Italy), Società sarda di bentonite SpA, a company incorporated under Italian law whose registered office is in Villaspeciosa (Italy), all represented by Aurelio Pappalardo, of the Trapani Bar, with an address for service in Luxembourg at the Chambers of Alain Lorang, 51 rue Albert 1er, supported by the regional authority for Sardinia, represented by Sergio Panunzio and Andrea Guarino, of the Rome Bar, with an address for service in Luxembourg at the Chambers of Alain Lorang, 51 rue Albert 1er, and the regional authority for Sicily, represented by Pier Giorgio Ferri, Avvocato dello Stato, with an address for service in Luxembourg at the Italian Embassy, 5 to 7 rue Marie-Adelaïde, against the Commission of the European Communities (agent: Lucio Gussetti) — application for the annulment of Commission Decision 91/523/EEC of 18 September 1991 abolishing the support tariffs applied by the Italian railways to the carriage of bulk ores and products produced and processed in Sicily and Sardinia (2) — the Court (Fifth Chamber), composed of J. C. Moitinho de Almeida, President of the Chamber, R. Joliet and G. C. Rodríguez Iglesias, Judges; M. Darmon, Advocate-General; L. Hewlett, Administrator, for the Registrar, gave a judgment on 7 December 1993, the operative part of wich is as follows:

1. *the application is dismissed as inadmissible;*
2. *the applicants are ordered to bear their own costs and the costs incurred by the Commission as a result of their application;*
3. *the interveners and the Commission shall bear their own costs relating to the intervention.*

(1) OJ No C 51, 26. 2. 1992.
(2) OJ No L 283, 11. 10. 1991, p. 20.

JUDGMENT OF THE COURT

of 7 December 1993

in Case C-12/92 (reference for a preliminary ruling from the Hof van Cassatie van België): criminal proceedings against Edmond Huygen and Others (1)

(EEC-Austria Agreement on free trade — Origin of goods — Methods of cooperation between governmental authorities)

(94/C 18/03)

(Language of the case: Dutch)

(Provisional translation: the definitive translation will be published in the European Court Reports)

In Case C-12/92: reference to the Court pursuant to Article 177 of the EEC Treaty from the Hof van Cassatie van België (Belgian Court of Cassation) for a preliminary ruling in the criminal proceedings pending before that court against Edmond Huygen and Others on the interpretation of the Agreement between the European Economic Community and the Republic of Austria signed in Brussels on 22 July 1972 and concluded and approved on behalf of the Community by virtue of Council Regulation (EEC) No 2836/72 of 19 December 1972 (2) — the Court (Fifth Chamber), composed of: J. C. Moitinho de Almeida, President of Chamber, R. Joliet and G. C. Rodríguez Iglesias, Judges; C. Gulmann, Advocate-General; H. Rühl, Principal Administrator, for the Registrar, gave a judgment on 7 December 1993, the operative part of which is as follows:

1. *Protocol 3 to the EEC-Austria Agreement signed in Brussels on 22 July 1972 and concluded and approved on behalf of the Community by virtue of Council Regulation (EEC) No 2836/72 of 19 December 1972 is to be interpreted as meaning that if the exporting State which is asked to check the EUR.1 certificate of origin cannot determine the correct origin of the goods, it must decide that the goods are of unknown origin and that the EUR.1 certificate and the preferential tariff were thus wrongly granted;*

(1) OJ No C 37, 15. 2. 1992.
(2) OJ No L 300, 31. 12. 1972, p. 1.

2. *Protocol 3 to the EEC-Austria Agreement is to be interpreted as meaning that in circumstances such as those in the main proceedings in the present case the importing State is not definitively bound, for the purposes of demanding payment of the unpaid customs duties, by the negative result of the back-checking, but may take into consideration other evidence indicating the origin of the goods;*

3. *depending on the circumstances, an importer may plead* force majeure *where the customs authorities in the exporting State are unable, owing to their own neglect, to establish the correct origin of goods in the course of back-checking. It is for the national court to determine all the facts relied on in that regard.*

JUDGMENT OF THE COURT

(Fifth Chamber)

of 7 December 1993

in Case C-83/92 (reference for a preliminary ruling from the Consiglio di Stato): Pierrel SpA. and Others v. Ministero della Sanità [1]

(Directive on medicinal products — Authorization to place on the market — Lapse)

(94/C 18/04)

(Language of the case: Italian)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case C-83/92: reference to the Court pursuant to Article 177 of the EEC Treaty from the Consiglio di Stato (Council of State, Italy) for a preliminary ruling in the proceedings pending before that court between Pierrel SpA. and Others and Ministero della Sanità — on the interpretation of Council Directive 65/65/EEC of 26 January 1965 on the approximation of provisions laid down by law, regulation or administrative action relating to proprietary medicinal products [2] — the Court (Fifth Chamber), composed of: J. C. Moitinho de Almeida, President of Chamber, R. Joliet and G. C. Rodríguez Iglesias, Judges; C. O. Lenz, Advocate-General; H. von Holstein, Deputy Registar, gave a judgment on 7 December 1993, the operative part of which is as follows:

1. *Article 21 of Council Directive 65/65/EEC of 26 January 1965 on the approximation of provisions laid down by law, regulation or administrative action relating to proprietary medicinal products must be interpreted as meaning that the suspension or revocation of an authorization to market medicinal products may be decided only on the grounds laid down in that Directive or other relevant provisions of Community law;*

2. *Directive 65/65/EEC as amended precludes the national authorities not only from introducing grounds for suspension or revocation other than those laid down by Community law but also from providing for the lapse of authorizations to market medicinal products.*

(1) OJ No C 103, 23. 4. 1992.

(2) OJ No 22, 9. 2. 1965, p. 369/65.

JUDGMENT OF THE COURT

(Fifth Chamber)

of 7 December 1993

in Case C-109/92 (reference for a preliminary ruling from the Verwaltungsgericht Hannover (Federal Republic of Germany)): Stephan Max Wirth v. Landeshauptstadt Hannover [1]

(Financing of studies — Services — Non-discrimination)

(94/C 18/05)

(Language of the case: German)

(Provisional translation; the definitive translation will be published in the European Court Reports)

In Case C-109/92: reference to the Court pursuant to Article 177 of the EEC Treaty by the Verwaltungsgericht Hannover (Administrative Court, Hannover) (Federal Republic of Germany) for a preliminary ruling in the proceedings pending before that court between Stephan Max Wirth and Landeshauptstadt Hannover on the interpretation of the EEC Treaty, and in particular Articles 59, 60 and 62 thereof — the Court (Fifth Chamber), composed of: J. C. Moitinho de Almeida, President of the Chamber, D. A. O. Edward and M. Zuleeg, Judges; M. Darmon, Advocate-General; H. A. Rühl, Principal Administrator, for the Registrar, gave a judgment on 7 December 1993, the operative part of which is as follows:

1. *courses given in a university or institute of higher education which is financed essentially out of public funds do not constitute services within the meaning of Article 60 of the EEC Treaty;*

2. *neither Article 59 nor Article 62 of the EEC Treaty precludes a system of educational grants in so far as they relate to studies pursued in an institute the activities of which do not constitute services within the meaning of Article 60 of the EEC Treaty.*

(1) OJ No C 135, 26. 5. 1992.