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(2020/C 19/01)

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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Order of the Court (First Chamber) of 3 July 2019 (request for a preliminary ruling from the Juzgado de Primera Instancia No 1 de Fuenlabrada — Spain) — Bankia SA v Henry-Rodolfo Rengifo Jiménez, Sheyla-Jeanneth Felix Caiza

(Case C-92/16) ([1])

(Reference for a preliminary ruling — Consumer protection — Directive 93/13/EEC — Articles 6 and 7 — Unfair terms in consumer contracts — Accelerated repayment term in a mortgage loan agreement — Article 99 of the Rules of Procedure of the Court of Justice — Question identical to a question on which the Court has already ruled or where the reply to such a question may be clearly deduced from existing case-law — Declaration that the term is unfair in part — Powers of the national court when dealing with a term regarded as 'unfair' — Replacement of the unfair term with a provision of national law — Article 53(2) of the Rules of Procedure of the Court — Question manifestly inadmissible)

(2020/C 19/02)

Language of the case: Spanish

Referring court

Juzgado de Primera Instancia No 1 de Fuenlabrada

Parties to the main proceedings

Applicant: Bankia SA

Defendants: Henry-Rodolfo Rengifo Jiménez, Sheyla-Jeanneth Felix Caiza

Operative part of the order

Articles 6 and 7 of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts must be interpreted, on the one hand, as precluding an accelerated repayment term found to be unfair in a mortgage loan contract from being maintained in part through the removal by the national court of the elements which render it unfair. On the other hand, those articles do not preclude the national court from remedying the invalidity of such an unfair term — the wording of which is based on a legislative provision which is applicable where the parties to the contract so agree — by replacing that term with the new wording of that legislative provision introduced after the conclusion of the contract, where the contract at issue is not capable of continuing in existence following the removal of that unfair term and where the cancellation of the contract in its entirety exposes the consumer to particularly unfavourable consequences.

([1]) OJ C 156, 2.5.2016.

Order of the Court of Justice (First Chamber) of 3 July 2019 (request for a preliminary ruling from the Juzgado de Primera Instancia No 2 de Santander — Spain) — Banco Bilbao Vizcaya Argentaria SA v Fernando Quintano Ujeta, María Isabel Sánchez García

(Case C-167/16) ([1])

(Reference for a preliminary ruling — Consumer protection — Directive 93/13/EEC — Articles 6 and 7 — Unfair terms in consumer contracts — Accelerated repayment clause of a mortgage loan contract — Article 99 of the Rules of Procedure of the Court of Justice — Question identical to a question on which the Court has already ruled or where the reply to such a question may be clearly deduced from existing case-law — Declaration that the clause is unfair in part — Powers of a national court when dealing with a term regarded as 'unfair' — Replacement of the unfair term with a provision of national law — Article 53(2) of the Rules of Procedure of the Court of Justice — Question manifestly inadmissible)

(2020/C 19/03)

Language of the case: Spanish

Referring court

Juzgado de Primera Instancia No 2 de Santander

Parties to the main proceedings

Applicant: Banco Bilbao Vizcaya Argentaria SA

Defendant: Fernando Quintano Ujeta, María Isabel Sánchez García

Operative part of the order

Articles 6 and 7 of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts must be interpreted, first, as precluding an accelerated repayment clause of a mortgage loan contract that has been found to be unfair from being maintained in part, with the elements which make it unfair removed by a national court. However, they do not preclude the national court from remedying the invalidity of such an unfair term, the wording of which is based on a legislative provision which is applicable where the parties to the contract so agree, by replacing that term with the new wording of that legislative provision as amended after the conclusion of the mortgage loan contract, where the contract in question cannot continue in existence if that unfair term is removed, and that the annulment of the contract in its entirety would expose the consumer to particularly unfavourable consequences.

([1]) OJ C 200, 6.6.2016.

Order of the Court (First Chamber) of 3 July 2019 (request for a preliminary ruling from the Juzgado de Primera Instancia No 6 de Alicante — Spain) — Bankia SA v Alfredo Sánchez Martínez, Sandra Sánchez Triviño

(Case C-486/16) ([1])

(Reference for a preliminary ruling — Consumer protection — Directive 93/13/EEC — Articles 6 and 7 — Unfair terms in consumer contracts — Accelerated repayment term in a mortgage loan agreement — Article 99 of the Rules of Procedure of the Court of Justice — Question identical to a question on which the Court has already ruled or where the reply to such a question may be clearly deduced from existing case-law — Powers of the national court when dealing with a term regarded as 'unfair' — Replacement of the unfair term with a provision of national law — Principle of effectiveness — Principle of procedural autonomy)

(2020/C 19/04)

Language of the case: Spanish

Referring court

Juzgado de Primera Instancia No 6 de Alicante

Parties to the main proceedings

Applicant: Bankia SA

Defendants: Alfredo Sánchez Martínez, Sandra Sánchez Triviño

Operative part of the order

Article 7(1) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts and the principle of effectiveness must be interpreted, in circumstances such as those of the main proceedings, as not precluding that a national court of first instance may be bound by a decision delivered by an appeal court requiring the initiation of an enforcement procedure taking into account the seriousness of the consumer's failure to fulfil his obligations under the mortgage loan agreement, even if that agreement contains a term declared unfair in an earlier judgment which has become final, but which does not have the force of res judicata under national law.

([1]) OJ C 441, 28.11.2016.

Order of the Court (Sixth Chamber) of 5 September 2019 (request for a preliminary ruling from the Conseil supérieur de la Sécurité sociale — Luxembourg) — EU v Caisse pour l'avenir des enfants

(Case C-801/18) ([1])

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Freedom of movement for workers — Equal treatment — Article 45 TFEU — Regulation (EC) No 883/2004 — Article 4 — Social security convention concluded between the Member State of employment and a non-member country — Family allowances — Application to a frontier worker who is neither a national nor a resident of one of the Contracting States to the convention)

(2020/C 19/05)

Language of the case: French

Referring court

Conseil supérieur de la Sécurité sociale

Parties to the main proceedings

Applicant: EU

Defendant: Caisse pour l'avenir des enfants

Operative part of the order

Article 45 TFEU, read in conjunction with Article 4 of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, must be interpreted as precluding the refusal by the competent authorities of one Member State to pay to a national of a second Member State, who works in the first Member State without living there, family allowances for his child living in a non-member country with her mother when, under identical conditions for the grant of those benefits, those competent authorities recognise the entitlement of their own nationals and residents to family benefits pursuant to a bilateral international convention concluded between the first Member State and that non-member country, unless those authorities can put forward an objective justification for refusing to do so.

([1]) OJ C 82, 4.3.2019.

Order of the Court (Eighth Chamber) of 11 July 2019 (request for a preliminary ruling from the Polymeles Protodikeio Athinon — Greece) — RM, SN v Agrotiki Trapeza Ellados

(Case C-262/19) ([1])

(Reference for a preliminary ruling — Article 53(2) and Article 94 of the Rules of Procedure of the Court of Justice — State aid — Creation of mortgages guaranteeing bank loans granted to farmers — National legislation imposing a cap on the sums in respect of which the mortgages are created — Inadequate statement of reasons which prompted the referring court to inquire about the interpretation of EU law — Manifest inadmissibility)

(2020/C 19/06)

Language of the case: Greek

Referring court

Polymeles Protodikeio Athinon

Parties to the main proceedings

Applicants: RM, SN

Defendant: Agrotiki Trapeza Ellados

Operative part of the order

The request for a preliminary ruling from the Polymeles Protodikeio Athinon (Court of First Instance, Athens, Greece), made by decision of 8 February 2019, is manifestly inadmissible.

([1]) OJ C 187, 3.6.2019.

Request for a preliminary ruling from the Wojewódzki Sąd Administracyjny we Wrocławiu (Poland) lodged on 27 July 2018 — Mennica Wrocławska sp. z o.o. v Dyrektor Izby Administracji Skarbowej we Wrocławiu

(Case C-491/18)

(2020/C 19/07)

Language of the case: Polish

Referring court

Wojewódzki Sąd Administracyjny we Wrocławiu

Parties to the main proceedings

Appellant: Mennica Wrocławska sp. z o.o.

Respondent: Dyrektor Izby Administracji Skarbowej we Wrocławiu

By order of 13 December 2018, the Court (Tenth Chamber) ruled that Articles 168(a), 178(a) and 226 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2010/45/EU of 13 July 2010, must be interpreted as precluding the national tax authorities from refusing to allow a taxable person the right to deduct the input value added tax due or paid for the sole reason that the invoices drawn up contain an error as to the identification of the goods which were the subject of the transactions in question, even though the taxable person had provided to the tax authorities, before those authorities took a decision in his regard, the documents and explanations necessary for determining what the actual subject matter of those transactions was and for establishing that those transactions had indeed taken place.

Appeal brought on 30 July 2019 by Belén Bernaldo de Quirós against the judgment of the General Court (Second Chamber) delivered on 5 June 2019 in Case T-273/18 Bernaldo de Quirós v Commission

(Case C-583/19 P)

(2020/C 19/08)

Language of the case: French

Parties

Appellant: Belén Bernaldo de Quirós (represented by: M. Casado García-Hirschfeld, avocate)

Other party to the proceedings: European Commission

Form of order sought

— Annul the judgment of 5 June 2019, *Bernaldo de Quirós* v *Commission* (T-273/18);

— Uphold the forms of order sought at first instance;

— Order the Commission to pay all of the costs of the proceedings at first instance and on appeal.

Pleas in law and main arguments

In support of the appeal, the appellant relies on a single ground of appeal, alleging a distortion of the facts, a manifest error of assessment and an imprecise reasoning in law.

In the context of the second plea in law submitted before the General Court, the appellant relied on the infringement of the principle of the rights of the defence within the framework of Article 3 of Annex IX to the Staff Regulations. The General Court ruled on that plea in paragraphs 81 to 94 of the judgment under appeal.

The appellant argues that the General Court's findings are substantially incorrect. She submits that the judgment under appeal is vitiated by an error in law and a manifest error of assessment in that, first, the internal rules cannot justify non-compliance with a statutory provision and, secondly, the general implementing provisions in question do not provide the delegation of powers of the appointing authority, Lastly, the interpretation of the provisions of Article 3 of Annex IX to the Staff Regulations and Article 4(4) of the general implementing provisions resulted in an imprecise reasoning in law.

Appeal brought on 14 August 2019 by CC against the judgment of the General Court (Eighth Chamber) delivered on 13 June 2019 in Case T-248/17 RENV, CC v Parliament

(Case C-612/19 P)

(2020/C 19/09)

Language of the case: French

Parties

Appellant: CC (represented by: G. Maximini, Rechtsanwalt)

Other party to the proceedings: European Parliament

Form of order sought

The appellant claims that the Court should:

— set aside the judgment delivered by the General Court on 13 June 2019 in Case T-248/17 RENV, with the exception of point 3 of the operative part of the judgment relating to costs;

— order the Parliament to pay for all of the material and non-material damage suffered by the appellant, in accordance with the calculation method set out in the application initiating proceedings in Case F-9/12;

— order the Parliament to pay the costs.

Grounds of appeal and main arguments

The appellant seeks to have set aside in part the judgment of 13 June 2019 in Case *CC* v *Parliament*, T-248/17 RENV (with the exception of point 3 of the operative part), in which the General Court ordered the Parliament to pay the appellant the sum of EUR 6 000 and all of the costs, with the remainder of the action being dismissed.

In support of the appeal, the appellant relies on five grounds of appeal alleging:

— infringement of Article 106 of the Rules of Procedure of the General Court — breach of the principle of legal certainty — infringement of Article 47 of the Charter of Fundamental Rights of the European Union;

— errors of law in so far as the General Court failed to take the measures of inquiry and of organisation of the procedure requested;

— distortion of the competition notice — failure to comply with the judgment ordering annulment — unlawful substitution of its own assessment — infringement of Article 1d(2) of the Staff Regulations;

— error of law in so far as the General Court excluded certain posts from its assessment of the loss of opportunity;

— arbitrary assessment — error of law — failure to state reasons — lack of impartiality.

Request for a preliminary ruling from the Curtea de Apel Alba Iulia (Romania) lodged on 30 August 2019 — LN v Administrația Județeană a Finanțelor Publice Sibiu, Direcția Generală Regională a Finanțelor Publice Brașov

(Case C-655/19)

(2020/C 19/10)

Language of the case: Romanian

Referring court

Curtea de Apel Alba Iulia

Parties to the main proceedings

Applicant: LN

Defendants: Administrația Județeană a Finanțelor Publice Sibiu, Direcția Generală Regională a Finanțelor Publice Brașov

Questions referred

1. Does Article 2 of Directive 2006/112 on the common system of value added tax preclude a transaction, [1] one whereby a taxpayer, as creditor, acquires immovable property in the context of an enforcement procedure and, sometime later, sells it in order to recover a sum of money which he had loaned, from being regarded as an economic activity in the form of the exploitation of tangible or intangible property for the purposes of obtaining income therefrom on a continuing basis?

2. Can an individual who has carried out such a legal transaction be regarded as a taxable person within the meaning of Article 9 of Directive 2006/112?

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

Request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on 25 September 2019 — Vereniging van Effectenbezitters v BP plc

(Case C-709/19)

(2020/C 19/11)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Appellant: Vereniging van Effectenbezitters

Respondent: BP plc

Questions referred

1. (a) Should Article 7(2) of Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) (OJ 2012 L 351, p. 1; 'the Brussels Ia Regulation) be interpreted as meaning that the direct occurrence of purely financial damage to an investment account in the Netherlands or to an investment account of a bank and/or investment firm established in the Netherlands, damage which is the result of investment decisions influenced by globally distributed but incorrect, incomplete and misleading information from an international listed company, constitutes a sufficient connecting factor for the international jurisdiction of the Netherlands courts by virtue of the location of the occurrence of the damage (*'Erfolgsort'*)?

   (b) If not, are additional circumstances required to justify the jurisdiction of the Netherlands courts and what are those circumstances? Are the additional circumstances referred to [in point 4.2.2. of the request for a preliminary ruling] sufficient to found the jurisdiction of the Netherlands courts?

2. Would the answer to Question 1 be different in the case of a claim brought under Article 3:305a of the BW (Burgerlijk Wetboek: Netherlands Civil Code) by an association the purpose of which is to defend, in its own right, the collective interests of investors who have suffered damage as referred to in Question 1, which means, among other things, that neither the places of domicile of the aforementioned investors, nor the special circumstances of individual purchase transactions or of individual decisions not to sell shares which were already held, have been established?

3. If courts in the Netherlands have jurisdiction on the basis of Article 7(2) of the Brussels Ia Regulation to hear the claim brought under Article 3:305a of the BW, do those courts then, on the basis of Article 7(2) of the Brussels Ia Regulation, also have international and internal territorial jurisdiction to hear all subsequent individual claims for compensation brought by investors who have suffered damage as referred to in Question 1?

4. If courts in the Netherlands as referred to in Question 3 above have international, but not internal, territorial jurisdiction to hear all individual claims for compensation brought by investors who have suffered damage as referred to in Question 1, will the internal territorial jurisdiction be determined on the basis of the place of domicile of the misled investor, the place of establishment of the bank in which that investor holds his or her personal bank account or the place of establishment of the bank in which the investment account is held, or on the basis of some other connecting factor?

Request for a preliminary ruling from the Raad van State (Netherlands) lodged on 30 September 2019 – FS v Staatssecretaris van Justitie en Veiligheid

(Case C-719/19)

(2020/C 19/12)

Language of the case: Dutch

Referring court

Raad van State

Parties to the main proceedings

Applicant: FS

Defendant: Staatssecretaris van Justitie en Veiligheid

Questions referred

1. Must Article 15(1) of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEG, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ 2004 L 158, [1] corrected by OJ 2004 L 229, OJ 2005 L 30, OJ 2005 L 197and OJ 2007 L 204) be interpreted as meaning that the decision to expel a Union citizen from the territory of the host Member State taken on the basis of that provision has been complied with and that that decision no longer has any legal effects once that Union citizen has demonstrably left the territory of that host Member State within the period for voluntary departure laid down in that decision?

2. If Question 1 must be answered in the affirmative, does that Union citizen, in the event of an immediate return to the host Member State, have the right of residence of up to three months referred to in Article 6(1) of Directive 2004/38/EC, or may the host Member State take a new expulsion decision in order to prevent the Union citizen from entering the host Member State for a short period of time?

3. If Question 1 must be answered in the negative, must that Union citizen in that case then reside outside the territory of the host Member State for a certain period of time and, if so, how long is that period?

[1] p. 77.

Request for a preliminary ruling from the Verwaltungsgericht Düsseldorf (Germany) lodged on 30 September 2019 — GR v Stadt Duisburg

(Case C-720/19)

(2020/C 19/13)

Language of the case: German

Referring court

Verwaltungsgericht Düsseldorf

Parties to the main proceedings

Applicant: GR

Defendant: Stadt Duisburg

Questions referred

1. Does a family member of a Turkish worker, who is able to derive from the latter rights under the first paragraph of Article 7 of Decision No 1/80 of the EEC-Turkey Association Council ('Decision No 1/80'), lose those rights if he acquires the nationality of the host Member State and loses his previous nationality?

2. If Question 1 is answered in the affirmative: Can the family member of the Turkish worker in the situation described then continue to rely on the rights under Article 7 of Decision No 1/80 if he has lost the nationality of the host Member State because he has reacquired his previous nationality?

Request for a preliminary ruling from the Rechtbank Amsterdam (Netherlands) lodged on 7 October 2019 — A v B, C

(Case C-738/19)

(2020/C 19/14)

Language of the case: Dutch

Referring court

Rechtbank Amsterdam

Parties to the main proceedings

Applicant: A

Defendants: B, C

Question referred

How should Directive 93/13 [1] and, more specifically, the principle of cumulative effect contained therein, be interpreted when assessing whether the sum which a consumer who fails to fulfil his obligations is required to pay in compensation ('penalty clause') is disproportionately high within the meaning of point 1(e) of the annex to that directive, in a case in which penalty clauses are associated with shortcomings of various kinds which, by their very nature, do not have to occur together, and indeed do not do so in the present case? Is it also relevant in that regard that, with regard to the shortcoming on the basis of which payment of the fine is sought, compensation in the form of the remittance of unfairly made profits is also sought?

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[1] Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ 1993 L 95, p. 29).

Request for a preliminary ruling from the Vrhovno sodišče Republike Slovenije (Slovenia) lodged on 10 October 2019 — B. K. v Republic of Slovenia

(Case C-742/19)

(2020/C 19/15)

Language of the case: Slovenian

Referring court

Vrhovno sodišče Republike Slovenije

Parties to the main proceedings

Applicant: B. K.

Defendant: Republic of Slovenia

Questions referred

1. Does Article 2 of Directive 2003/88/EC ([1]) apply even to workers employed in the defence sector and to military personnel who perform guard duty in peace time?

2. Do the provisions of Article 2 of Directive 2003/88/EC preclude national legislation pursuant to which time spent by workers in the defence sector at their place of work or at some other designated place (but not at home) on stand-by, and time during which military personnel in the defence sector performing guard duty are physically present in barracks but not actually working, is not counted as 'working time'?

([1]) Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time (OJ 2003 L 299, p. 9).

Request for a preliminary ruling from the Juzgado de lo Contencioso-Administrativo No 17 de Barcelona (Spain) lodged on 14 October 2019 — UD v Subdelegación del Gobierno en Barcelona

(Case C-746/19)

(2020/C 19/16)

Language of the case: Spanish

Referring court

Juzgado de lo Contencioso-Administrativo No 17 de Barcelona

Parties to the main proceedings

Applicant: UD

Defendant: Subdelegación del Gobierno en Barcelona

Questions referred

1. Did the Spanish State correctly transpose Directive 2008/115 ([1]) into national law (Ley Orgánica 4/2000 (Organic Law 4/2000) as amended by Ley Orgánica 2/2009 (Organic Law 2/2009)), in so far as it kept fines as the main penalty for illegal staying, with the penalty of expulsion being applied only where there are aggravating circumstances?

2. Can the Spanish State, pursuant to the principle that national law must be interpreted in conformity with EU law, require Directive 2008/115 to be applied directly, even where contrary to the provisions of its national legislation and where doing so aggravates the situation of the foreign national?

3. Can Articles 55(1) and 57(1) of Organic Law 4/2000 be interpreted in conformity with Directive 2008/115 whilst a rule remains in force under national Spanish law to the effect that the main penalty for illegal staying is a fine, or would such an interpretation be *contra legem* under national law?

4. Must national courts continue to apply the penalty of a fine as the main penalty and the penalty of expulsion in cases where there are aggravating circumstances or, conversely, are they strictly obliged to impose the penalty of expulsion in all cases, with the exception of the situations expressly excluded by Directive 2008/115?

([1]) Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ 2008 L 348, p. 98).

Request for a preliminary ruling from the Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD) (Portugal) lodged on 15 October 2019 — Ramada Storax SA v Autoridade Tributária e Aduaneira

(Case C-756/19)

(2020/C 19/17)

Language of the case: Portuguese

Referring court

Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD)

Parties to the main proceedings

Applicant: Ramada Storax S.A.

Defendant: Autoridade Tributária e Aduaneira

Question referred

Can Articles 90 and 273 of Council Directive 2006/112/EC ([1]) of 28 November 2006 …, the principles of VAT neutrality and of proportionality and the fundamental economic freedoms be interpreted as permitting the Portuguese legislature, pursuant to Article 78(7)(b) of the Código do Imposto sobre o Valor Acrescentado (Value Added Tax Code), approved by Decree-Law No 394-B of 26 December 1984, to restrict adjustments of value added tax (VAT) for debts deemed irrecoverable in insolvency proceedings to the circumstances referred to in that article (that is, where the insolvency has been declared a simplified insolvency, once the ruling on the admission and ranking of claims referred to in the Código da Insolvência e da Recuperação de Empresas (Corporate Insolvency and Recovery Code), approved by Decree-Law No 53 of 18 March 2004, has become final, or following approval of the plan, where such plan exists, agreed under Article 156 of that code), with the result that rulings by courts of other Member States declaring debts claimed in insolvency proceedings irrecoverable are not recognised for that purpose?

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

Request for a preliminary ruling from the Polymeles Protodikeio Athinon (Greece) lodged on 16 October 2019 — OH v ID

(Case C-758/19)

(2020/C 19/18)

Language of the case: Greek

Referring court

Polymeles Protodikeio Athinon

Parties to the main proceedings

Applicant: OH

Defendant: ID

Questions referred

(1) Are the terms 'immunity from legal proceedings' and 'immunity', as formulated and for the purpose which they serve in Article 11 of the Protocol, ([1]) identical?

(2) Does the immunity from legal proceedings/immunity envisaged in Article 11 include and cover, in addition to criminal prosecutions, civil claims made in actions against members of the Commission by injured third parties?

(3) Is waiver of the Commissioner's immunity from legal proceedings/immunity also possible in the context of a civil action brought against him, such as the action under consideration? If it is, who must initiate the waiver procedure in question?

(4) Do the Courts of the European Union have jurisdiction to rule on a non-contractual claim in tort, such as that at issue here, against a Commissioner?

([1]) Article 11 of the Protocol of 8 April 1965 on the Privileges and Immunities of the European Union, now annexed to the Treaty as Protocol No 7.

Reference for a preliminary ruling from the First-tier Tribunal (Tax Chamber) (United Kingdom) made on 16 October 2019 – JCM Europe (UK) Ltd v Commissioners for Her Majesty's Revenue and Customs

(Case C-760/19)

(2020/C 19/19)

Language of the case: English

Referring court

First-tier Tribunal (Tax Chamber)

Parties to the main proceedings

Appellant: JCM Europe (UK) Ltd

Respondent: Commissioners for Her Majesty's Revenue and Customs

Questions referred

1. Is Commission Implementing Regulation (EU) 2016/1760 ([1]) of 28 September 2016 concerning the classification of certain goods in the Combined Nomenclature (CN) invalid in so far as it classifies the bank note validator and cash boxes specified in the Regulation under CN Code 84729070, rather than CN Code 903149 90?

2. In particular, is Commission Implementing Regulation (EU) 2016/1760 invalid in so far as it:

   a) unduly restricts the scope of heading 9031;

   b) unduly extends the scope of heading 8472;

   c) takes into account impermissible factors;

   d) does not take proper account of the Explanatory Notes, CN headings and/or the General Interpretative Rules when classifying the product as described in that Regulation.

([1]) OJ 2016, L 269, p. 6.

Request for a preliminary ruling from the Tribunal Judicial da Comarca dos Açores (Portugal) lodged on 18 October 2019 — QE, RD v SATA Internacional — Serviços de Transportes Aéreos SA

(Case C-766/19)

(2020/C 19/20)

Language of the case: Portuguese

Referring court

Tribunal Judicial da Comarca dos Açores

Parties to the main proceedings

Applicants: QE, RD

Defendant: SATA Internacional — Serviços de Transportes Aéreos SA

Other party: Ana — Aeroportos de Portugal SA

Questions referred

1. Must an event such as the one that occurred on 10 May 2017 at the Lisbon airport, when there was an extensive and significant interruption to the fuel supply making it impossible to refuel aircraft due to a malfunction in the pumping system that impeded the transfer of fuel to the plate system, which system is the responsibility of the airport infrastructure managing entities, and which malfunction impacted the continuous functioning and operability of that airport, resulting in delays and cancellations of 473 flights, of which 12 were diverted, 98 cancelled and 363 delayed, affecting more than 41 000 passengers, be classified as 'extraordinary circumstances' within the meaning of Article 5(3) of Regulation No 261/2004 ([1]) exempting air carriers from the obligation to pay compensation?

2. Did an airline use all means and alternatives at its disposal in order to limit the delay to a flight when, as a result of not being able to refuel at Lisbon airport for the aforementioned reason, it decided to refuel at an alternative close-by airport (Porto), and when, as a result of the delay caused by the late departure from Lisbon airport and the refuelling at another airport, which meant that the crew members of that aircraft no longer had any flight duty time available which, under the applicable legal provisions, would have enabled them to complete the flight that had been delayed, it resorted to entering into an operational leasing agreement (ACMI) with another airline in order to complete that flight?

([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 2004 L 46, p. 1).

Request for a preliminary ruling from the Bundesverwaltungsgericht (Germany) lodged on 18 October 2019 — Bundesrepublik Deutschland v SE

(Case C-768/19)

(2020/C 19/21)

Language of the case: German

Referring court

Bundesverwaltungsgericht

Parties to the main proceedings

Applicant: Bundesrepublik Deutschland

Defendant: SE

Other party: The Representative of the Federal Interest at the Bundesverwaltungsgericht

Questions referred

1. In the case of an applicant for asylum who, before the point at which the age of majority is reached by his child, by way of whom a family existed in the country of origin and to whom subsidiary protection status was granted, following the attainment of majority, on the basis of an application for protection filed before the age of majority was reached ('the beneficiary of protection'), entered the host Member State of the beneficiary of protection and also made an application for international protection there ('the applicant for asylum'), and in the case of a national provision which, in relation to the granting of a right to be granted subsidiary protection, that right being derived from the beneficiary of subsidiary protection, makes reference to Article 2(j) of Directive 2011/95/EU, ([1]) is the point in time at which the decision on the asylum application of the applicant for asylum is taken or an earlier point in time to be taken into account for the question as to whether the beneficiary of protection is a 'minor' within the meaning of the third indent of Article 2(j) of Directive 2011/95/EU, such as the point in time at which

   (a) the beneficiary of protection was granted subsidiary protection status,

   (b) the applicant for asylum made his asylum application,

   (c) the applicant for asylum entered the host Member State, or

   (d) the beneficiary of protection made his asylum application?

2. In the event

   (a) that the point in time at which the application is made is decisive:

   Is the request for protection expressed in writing, verbally or in any other way and made known to the national authority responsible for the asylum application (request for asylum) or the formal application for international protection to be taken as the basis in this respect?

   (b) that the point in time at which the applicant for asylum enters the territory or the point in time at which he makes the asylum application is decisive:

   Is it also significant whether, at that point in time, the decision on the application for protection of the beneficiary of protection who was subsequently recognised as being a beneficiary of subsidiary protection had not yet been taken?

3. (a) What requirements are to be imposed in the situation described in Question 1 in order for the applicant for asylum to be a 'family member' (Article 2(j) of Directive 2011/95/EU) who is present 'in the same Member State in relation to the application for international protection' in which the person who was granted international protection is present and by way of whom the family 'already' existed 'in the country of origin'? Does this require, in particular, that family life between the beneficiary of protection and the applicant for asylum within the meaning of Article 7 of the Charter has been resumed in the host Member State, or is the mere simultaneous presence of the beneficiary of protection and the applicant for asylum in the host Member State sufficient in this respect? Is a parent a family member even if, depending on the circumstances of the individual case, entry into the territory was not intended for the purpose of actually assuming responsibility within the meaning of the third indent of Article 2(j) of Directive 2011/95/EU for a beneficiary of international protection who is still a minor and unmarried?

   (b) If Question 3(a) is to be answered to the effect that family life between the beneficiary of protection and the applicant for asylum within the meaning of Article 7 of the Charter must have been resumed in the host Member State, is the point in time at which it resumed significant? In that regard, must account be taken, in particular, of whether family life was re-established within a certain period of time after the applicant for asylum entered the territory, or at the point in time at which the applicant for asylum makes the asylum application or at a point in time at which the beneficiary of protection was still a minor?

4. Does the status of an applicant for asylum as a family member within the meaning of the third indent of Article 2(j) of Directive 2011/95/EU end when the beneficiary of protection reaches the age of majority and the associated responsibility for a person who is a minor and unmarried ceases to exist? In the event that this is answered in the negative: Does this status as a family member (and the associated rights) continue to exist indefinitely beyond that point in time or does it cease to exist after a certain period of time (if so: what period of time?) or upon the occurrence of certain events (if so: which events?)?

([1]) Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (OJ 2011 L 337, p. 9).

Request for a preliminary ruling from the Symvoulio tis Epikrateias (Greece) lodged on 21 October 2019 — NAMA Symvouloi Michanikoi kai Meletites A.E. — LDK Symvouloi Michanikoi A.E., NAMA Symvouloi Michanikoi kai Meletites A.E.,LDK Symvouloi Michanikoi A.E.v Archi Exetasis Prodikastikon prosfygon (AEPP), ATTIKO METRO A.E.

(Case C-771/19)

(2020/C 19/22)

Language of the case: Greek

Referring court

Symvoulio tis Epikrateias

Parties to the main proceedings

Applicants: NAMA Symvouloi Michanikoi kai Meletites A.E.— LDK Symvouloi Michanikoi A.E., NAMA Symvouloi Michanikoi kai Meletites A.E., LDK Symvouloi Michanikoi A.E.

Defendants: Archi Exetasis Prodikastikon Prosfygon (AEPP), ATTIKO METRO A.E.

Questions referred

1. a) Do Articles 1(3), 2(1)(a) and (b) and 2a(2) of Council Directive 92/13/EEC [1]of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors (OJ 1992 L 76, p. 14), interpreted in light of the judgments in *Fastweb* (C-100/12), *PFE* (C-689/13), *Archus and Gama* (C-131/16) and *Lombardi* (C-333/18), conflict with national judicial practice whereby if, by decision of the contracting authority, one competitor is excluded from, and another interested party (competitor) is admitted to, a stage of the procurement procedure prior to the final contract award stage (for example the stage for the examination of technical bids) and the court with jurisdiction dismisses the part of its application for suspension contesting its exclusion, the excluded competitor retains a legal interest in contesting the admission of the other competitor, by the same application for suspension, only if the other competitor was admitted in breach of the same criterion?

   b) If the answer to Question 1a is in the affirmative, do the above provisions mean that the tenderer excluded as described above may, by its application for suspension, raise any complaint against the participation of its competitor in the procurement procedure; in other words, it may also complain of other, separate, shortcomings in the competitor's bid which have no bearing on the shortcomings for which its bid was excluded, in order to obtain suspension of the competition and of the award of the contract to its competitor in a decision to be adopted at a later stage of the procedure, so that if the main remedy (application for annulment) is subsequently upheld, its competitor will be excluded, the contract award will be cancelled and the only remaining possibility will be to launch a new contract award procedure in which the excluded applicant will participate?

2. In light of the judgment in *Bietergemeinscaft Technische Gebäudebetreuung und Caverion Österreich* (C-355/15), is the answer to the previous question affected by the fact that provisional (but not final) judicial protection depends on an application for review having previously been dismissed by an independent national review board?

3. Is the answer to the first question affected by (a) the finding that, if the excluded tenderer's complaints against its competitor's participation in the competition are upheld, it will not be possible to issue a new notice of competition or (b) the fact that the reason the applicant was excluded will make it impossible for it to participate if a new competition is announced?

[1] Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors (OJ 1992 L 76, p. 14).

Request for a preliminary ruling from the Vrhovno sodišče Republike Slovenije (Slovenia) lodged on 22 October 2019 — A.B. and B.B. v Personal Exchange International Limited

(Case C-774/19)

(2020/C 19/23)

Language of the case: Slovenian

Referring court

Vrhovno sodišče Republike Slovenije

Parties to the main proceedings

Applicants: A.B., B.B.

Defendant: Personal Exchange International Limited

Question referred

Must Article 15(1) of Regulation No 44/2001 ([1]) be interpreted as meaning that an online poker playing contract, concluded remotely over the internet by an individual with a foreign operator of online games and subject to that operator's general terms and conditions, can also be classified as a contract concluded by a consumer for a purpose which can be regarded as being outside his trade or profession, where that individual has, for several years, lived on the income thus obtained or the winnings from playing poker, even though he has no formal registration for that type of activity and in any event does not offer that activity to third parties on the market as a paid service?

([1]) Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1).

Request for a preliminary ruling from the Tribunal de grande instance de Paris (France) lodged on 22 October 2019 — VB, WA v BNP Paribas Personal Finance SA

(Case C-776/19)

(2020/C 19/24)

Language of the case: French

Referring court

Tribunal de grande instance de Paris

Parties to the main proceedings

Applicants: VB, WA

Defendant: BNP Paribas Personal Finance SA

Questions referred

1. Does Directive 93/13, ([1]) interpreted in the light of the principle of effectiveness, preclude, in a case such as that in the main proceedings, the application of limitation rules, in the following cases: (a) for a declaration that a term is unfair; (b) for any restitutions; (c) where the consumer is the applicant; and (d) where the consumer is the defendant, including to a counter-claim?

2. If the answer to the first question is wholly or partly negative, does Directive 93/13, interpreted in the light of the principle of effectiveness, preclude, in a case such as that at issue in the main proceedings, the application of national case-law which fixes the starting-point of the limitation period at the date of acceptance of the loan offer, rather than at the date on which serious financial difficulties arise?

3. Do terms such as those at issue in the main proceedings, which provide in particular that the Swiss franc is the account currency and the euro the settlement currency, and have the effect that the exchange risk is borne by the borrower, come within the main subject matter of the agreement within the meaning of Article 4(2) of Directive 93/13, where there is no dispute as to the amount of the exchange charges and where there are terms providing for the possibility for the borrower, on fixed dates, to exercise an option to convert the loan into euros according to a predetermined formula?

4. Does Directive 93/13, interpreted in the light of the principle of effectivity of Community law, preclude national case-law in which a term or set of terms, such as those at issue in the main proceedings, are considered to be 'plain [and] intelligible' for the purposes of the directive, on the grounds that:

   — the preliminary loan offer sets out in detail the exchange transactions carried out during the life of the credit and makes clear that the euro/Swiss franc exchange rate will be that applicable two working days before the date of the event that determines the transaction and which is published on the website of the European Central Bank;

   — it is stated in the offer that the borrower agrees to the Swiss franc/euro and euro/Swiss franc exchange transactions necessary for the transaction and repayment of the credit, and that the lender will convert the balance of the monthly payments after payment of the charges associated with the credit into Swiss francs;

   — the offer states that, if the exchange transaction results in a sum lower than the amount payable in Swiss francs, the amortisation of the capital will be less rapid and any unpaid capital in respect of a repayment period will be entered on the debit side of the account in Swiss francs, and that it is made clear that the amortisation of the capital of the loan will change according to upwards or downwards variations in the exchange rate applied to the monthly payments that that change may result in the extension or reduction of the loan amortisation period and, where appropriate, alter the total repayment cost;

   — the articles 'internal account in euros' and 'internal account in Swiss francs' describe the transactions carried out in each payment period to the credit and the debit of each account, and the contract explains in transparent terms the actual functioning of the foreign currency conversion mechanism in transparent terms; and although there is no express reference in the offer to the 'exchange risk' which is borne by the borrower since he does not receive income in the account currency, or any explicit reference to the 'interest rate risk'?

5. If the answer to the fourth question is in the affirmative, does Directive 93/13, interpreted in the light of the principle of effectiveness of Community law, preclude national case-law according to which a term or set of terms, such as those at issue in the main proceedings, are 'plain [and] intelligible' for the purposes of the directive, when in addition to the elements referred to in the fourth question there is only a simulation of a reduction of 5.37% of the payment currency by reference to the account currency, in an agreement having an initial duration of 25 years, without any reference to terms such as 'risk' or 'difficulty'?

6. Is the burden of proving the 'plain [and] intelligible' nature of a term for the purposes of Directive 93/13 borne, including in respect of the circumstances attending the conclusion of the contract, by the professional party or by the consumer?

7. If the burden of proving the plain and intelligible nature of the term is borne by the professional party, does Directive 93/13 preclude national case-law in which it was held that, in the presence of documents relating to sales techniques, it is for the borrowers to prove, first, that they were the addressees of the information contained in those documents and, second, that it was the bank that communicated that information to them, or, conversely, does it require that that evidence constitutes a presumption that the information contained in those documents was transmitted, including orally, to borrowers, a rebuttable presumption that it is for the professional party, which must assume responsibility for the information communicated by the intermediaries which it has chosen, to rebut?

8. May the existence of a significant imbalance be characterised in an agreement such as that at issue in the main proceedings in which both parties bear an exchange risk, when, first, the professional party has greater means than the consumer to foresee the exchange risk and when, second, the risk borne by the professional party is subject to an upper limit while that borne by the consumer is not?

([1]) Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ 1993 L 95, p. 29).

Request for a preliminary ruling from the Tribunal de grande instance de Paris (France) lodged on 22 October 2019 — XZ, YY v BNP Paribas Personal Finance SA

(Case C-777/19)

(2020/C 19/25)

Language of the case: French

Referring court

Tribunal de grande instance de Paris

Parties to the main proceedings

Applicants: XZ, YY

Defendants: BNP Paribas Personal Finance SA

Questions referred

1. Does Directive 93/13, ([1]) interpreted in the light of the principle of effectiveness, preclude, in a case such as that in the main proceedings, the application of limitation rules, in the following cases: (a) for a declaration that a term is unfair; (b) for any restitutions; (c) where the consumer is the applicant; and (d) where the consumer is the defendant, including to a counter-claim?

2. If the answer to the first question is wholly or partly negative, does Directive 93/13, interpreted in the light of the principle of effectiveness, preclude, in a case such as that at issue in the main proceedings, the application of national case-law which fixes the starting-point of the limitation period at the date of acceptance of the loan offer, rather than at the date on which serious financial difficulties arise?

3. Do terms such as those at issue in the main proceedings, which provide in particular that the Swiss franc is the account currency and the euro the settlement currency, and have the effect that the exchange risk is borne by the borrower, come within the main subject matter of the agreement within the meaning of Article 4(2) of Directive 93/13, where there is no dispute as to the amount of the exchange charges and where there are terms providing for the possibility for the borrower, on fixed dates, to exercise an option to convert the loan into euros according to a predetermined formula?

4. Does Directive 93/13, interpreted in the light of the principle of effectivity of Community law, preclude national case-law in which a term or set of terms, such as those at issue in the main proceedings, are considered to be 'plain [and] intelligible' for the purposes of the directive, on the grounds that:

— the preliminary loan offer sets out in detail the exchange transactions carried out during the life of the credit and makes clear that the euro/Swiss franc exchange rate will be that applicable two working days before the date of the event that determines the transaction and which is published on the website of the European Central Bank;

— it is stated in the offer that the borrower agrees to the Swiss franc/euro and euro/Swiss franc exchange transactions necessary for the transaction and repayment of the credit, and that the lender will convert the balance of the monthly payments after payment of the charges associated with the credit into Swiss francs;

— the offer states that, if the exchange transaction results in a sum lower than the amount payable in Swiss francs, the amortisation of the capital will be less rapid and any unpaid capital in respect of a repayment period will be entered on the debit side of the account in Swiss francs, and that it is made clear that the amortisation of the capital of the loan will change according to upwards or downwards variations in the exchange rate applied to the monthly payments that that change may result in the extension or reduction of the loan amortisation period and, where appropriate, alter the total repayment cost;

— the articles 'internal account in euros' and 'internal account in Swiss francs' describe the transactions carried out in each payment period to the credit and the debit of each account, and the contract explains in transparent terms the actual functioning of the foreign currency conversion mechanism in transparent terms; and although there is no express reference in the offer to the 'exchange risk' which is borne by the borrower since he does not receive income in the account currency, or any explicit reference to the 'interest rate risk'?

5. If the answer to the fourth question is in the affirmative, does Directive 93/13, interpreted in the light of the principle of effectiveness of Community law, preclude national case-law according to which a term or set of terms, such as those at issue in the main proceedings, are 'plain [and] intelligible' for the purposes of the directive, when in addition to the elements referred to in the fourth question there is only a simulation of a reduction of 5.37% of the payment currency by reference to the account currency, in an agreement having an initial duration of 25 years, without any reference to terms such as 'risk' or 'difficulty'?

6. Is the burden of proving the 'plain [and] intelligible' nature of a term for the purposes of Directive 93/13 borne, including in respect of the circumstances attending the conclusion of the contract, by the professional party or by the consumer?

7. If the burden of proving the plain and intelligible nature of the term is borne by the professional party, does Directive 93/13 preclude national case-law in which it was held that, in the presence of documents relating to sales techniques, it is for the borrowers to prove, first, that they were the addressees of the information contained in those documents and, second, that it was the bank that communicated that information to them, or, conversely, does it require that that evidence constitutes a presumption that the information contained in those documents was transmitted, including orally, to borrowers, a rebuttable presumption that it is for the professional party, which must assume responsibility for the information communicated by the intermediaries which it has chosen, to rebut?

8. May the existence of a significant imbalance be characterised in an agreement such as that at issue in the main proceedings in which both parties bear an exchange risk, when, first, the professional party has greater means than the consumer to foresee the exchange risk and when, second, the risk borne by the professional party is subject to an upper limit while that borne by the consumer is not?

([1]) Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ 1993 L 95, p. 29).

Request for a preliminary ruling from the Tribunal de grande instance de Paris (France) lodged on 22 October 2019 — ZX v BNP Paribas Personal Finance SA

(Case C-778/19)

(2020/C 19/26)

Language of the case: French

Referring court

Tribunal de grande instance de Paris

Parties to the main proceedings

Applicant: ZX

Defendant: BNP Paribas Personal Finance SA

Questions referred

1. Does Directive 93/13, ([1]) interpreted in the light of the principle of effectiveness, preclude, in a case such as that in the main proceedings, the application of limitation rules, in the following cases: (a) for a declaration that a term is unfair; (b) for any restitutions; (c) where the consumer is the applicant; and (d) where the consumer is the defendant, including to a counter-claim?

2. If the answer to the first question is wholly or partly negative, does Directive 93/13, interpreted in the light of the principle of effectiveness, preclude, in a case such as that at issue in the main proceedings, the application of national case-law which fixes the starting-point of the limitation period at the date of acceptance of the loan offer, rather than at the date on which serious financial difficulties arise?

3. Do terms such as those at issue in the main proceedings, which provide in particular that the Swiss franc is the account currency and the euro the settlement currency, and have the effect that the exchange risk is borne by the borrower, come within the main subject matter of the agreement within the meaning of Article 4(2) of Directive 93/13, where there is no dispute as to the amount of the exchange charges and where there are terms providing for the possibility for the borrower, on fixed dates, to exercise an option to convert the loan into euros according to a predetermined formula?

4. Does Directive 93/13, interpreted in the light of the principle of effectivity of Community law, preclude national case-law in which a term or set of terms, such as those at issue in the main proceedings, are considered to be 'plain [and] intelligible' for the purposes of the directive, on the grounds that:

   — the preliminary loan offer sets out in detail the exchange transactions carried out during the life of the credit and makes clear that the euro/Swiss franc exchange rate will be that applicable two working days before the date of the event that determines the transaction and which is published on the website of the European Central Bank;

   — it is stated in the offer that the borrower agrees to the Swiss franc/euro and euro/Swiss franc exchange transactions necessary for the transaction and repayment of the credit, and that the lender will convert the balance of the monthly payments after payment of the charges associated with the credit into Swiss francs;

   — the offer states that, if the exchange transaction results in a sum lower than the amount payable in Swiss francs, the amortisation of the capital will be less rapid and any unpaid capital in respect of a repayment period will be entered on the debit side of the account in Swiss francs, and that it is made clear that the amortisation of the capital of the loan will change according to upwards or downwards variations in the exchange rate applied to the monthly payments that that change may result in the extension or reduction of the loan amortisation period and, where appropriate, alter the total repayment cost;

— the articles 'internal account in euros' and 'internal account in Swiss francs' describe the transactions carried out in each payment period to the credit and the debit of each account, and the contract explains in transparent terms the actual functioning of the foreign currency conversion mechanism in transparent terms; and although there is no express reference in the offer to the 'exchange risk' which is borne by the borrower since he does not receive income in the account currency, or any explicit reference to the 'interest rate risk'?

5. If the answer to the fourth question is in the affirmative, does Directive 93/13, interpreted in the light of the principle of effectiveness of Community law, preclude national case-law according to which a term or set of terms, such as those at issue in the main proceedings, are 'plain [and] intelligible' for the purposes of the directive, when in addition to the elements referred to in the fourth question there is only a simulation of a reduction of 5.37% of the payment currency by reference to the account currency, in an agreement having an initial duration of 25 years, without any reference to terms such as 'risk' or 'difficulty'?

6. Is the burden of proving the 'plain [and] intelligible' nature of a term for the purposes of Directive 93/13 borne, including in respect of the circumstances attending the conclusion of the contract, by the professional party or by the consumer?

7. If the burden of proving the plain and intelligible nature of the term is borne by the professional party, does Directive 93/13 preclude national case-law in which it was held that, in the presence of documents relating to sales techniques, it is for the borrowers to prove, first, that they were the addressees of the information contained in those documents and, second, that it was the bank that communicated that information to them, or, conversely, does it require that that evidence constitutes a presumption that the information contained in those documents was transmitted, including orally, to borrowers, a rebuttable presumption that it is for the professional party, which must assume responsibility for the information communicated by the intermediaries which it has chosen, to rebut?

8. May the existence of a significant imbalance be characterised in an agreement such as that at issue in the main proceedings in which both parties bear an exchange risk, when, first, the professional party has greater means than the consumer to foresee the exchange risk and when, second, the risk borne by the professional party is subject to an upper limit while that borne by the consumer is not?

([1]) Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ 1993 L 95, p. 29).

Request for a preliminary ruling from the Tribunal de grande instance de Paris (France) lodged on 22 October 2019 — AV v BNP Paribas Personal Finance SA, Procureur de la République

(Case C-779/19)

(2020/C 19/27)

Language of the case: French

Referring court

Tribunal de grande instance de Paris

Parties to the main proceedings

Applicant: AV

Defendants: BNP Paribas Personal Finance SA, Procureur de la République

Questions referred

1. Does Directive 93/13, ([1]) interpreted in the light of the principle of effectiveness, preclude, in a case such as that in the main proceedings, the application of limitation rules, in the following cases: (a) for a declaration that a term is unfair; (b) for any restitutions; (c) where the consumer is the applicant; and (d) where the consumer is the defendant, including to a counter-claim?

2. If the answer to the first question is wholly or partly negative, does Directive 93/13, interpreted in the light of the principle of effectiveness, preclude, in a case such as that at issue in the main proceedings, the application of national case-law which fixes the starting-point of the limitation period at the date of acceptance of the loan offer, rather than at the date on which serious financial difficulties arise?

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   — it is stated in the offer that the borrower agrees to the Swiss franc/euro and euro/Swiss franc exchange transactions necessary for the transaction and repayment of the credit, and that the lender will convert the balance of the monthly payments after payment of the charges associated with the credit into Swiss francs;

   — the offer states that, if the exchange transaction results in a sum lower than the amount payable in Swiss francs, the amortisation of the capital will be less rapid and any unpaid capital in respect of a repayment period will be entered on the debit side of the account in Swiss francs, and that it is made clear that the amortisation of the capital of the loan will change according to upwards or downwards variations in the exchange rate applied to the monthly payments that that change may result in the extension or reduction of the loan amortisation period and, where appropriate, alter the total repayment cost;

   — the articles 'internal account in euros' and 'internal account in Swiss francs' describe the transactions carried out in each payment period to the credit and the debit of each account, and the contract explains in transparent terms the actual functioning of the foreign currency conversion mechanism in transparent terms; and although there is no express reference in the offer to the 'exchange risk' which is borne by the borrower since he does not receive income in the account currency, or any explicit reference to the 'interest rate risk'?

5. If the answer to the fourth question is in the affirmative, does Directive 93/13, interpreted in the light of the principle of effectiveness of Community law, preclude national case-law according to which a term or set of terms, such as those at issue in the main proceedings, are 'plain [and] intelligible' for the purposes of the directive, when in addition to the elements referred to in the fourth question there is only a simulation of a reduction of 5.37% of the payment currency by reference to the account currency, in an agreement having an initial duration of 25 years, without any reference to terms such as 'risk' or 'difficulty'?

6. Is the burden of proving the 'plain [and] intelligible' nature of a term for the purposes of Directive 93/13 borne, including in respect of the circumstances attending the conclusion of the contract, by the professional party or by the consumer?

7. If the burden of proving the plain and intelligible nature of the term is borne by the professional party, does Directive 93/13 preclude national case-law in which it was held that, in the presence of documents relating to sales techniques, it is for the borrowers to prove, first, that they were the addressees of the information contained in those documents and, second, that it was the bank that communicated that information to them, or, conversely, does it require that that evidence constitutes a presumption that the information contained in those documents was transmitted, including orally, to borrowers, a rebuttable presumption that it is for the professional party, which must assume responsibility for the information communicated by the intermediaries which it has chosen, to rebut?

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([1]) Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ 1993 L 95, p. 29).

Request for a preliminary ruling from the Tribunal de grande instance de Paris (France) lodged on 22 October 2019 — BW, CX v BNP Paribas Personal Finance SA, Procureur de la République

(Case C-780/19)

(2020/C 19/28)

Language of the case: French

Referring court

Tribunal de grande instance de Paris

Parties to the main proceedings

Applicants: BW, CX

Defendants: BNP Paribas Personal Finance SA, Procureur de la République

Questions referred

1. Does Directive 93/13, ([1]) interpreted in the light of the principle of effectiveness, preclude, in a case such as that in the main proceedings, the application of limitation rules, in the following cases: (a) for a declaration that a term is unfair; (b) for any restitutions; (c) where the consumer is the applicant; and (d) where the consumer is the defendant, including to a counter-claim?

2. If the answer to the first question is wholly or partly negative, does Directive 93/13, interpreted in the light of the principle of effectiveness, preclude, in a case such as that at issue in the main proceedings, the application of national case-law which fixes the starting-point of the limitation period at the date of acceptance of the loan offer, rather than at the date on which serious financial difficulties arise?

3. Do terms such as those at issue in the main proceedings, which provide in particular that the Swiss franc is the account currency and the euro the settlement currency, and have the effect that the exchange risk is borne by the borrower, come within the main subject matter of the agreement within the meaning of Article 4(2) of Directive 93/13, where there is no dispute as to the amount of the exchange charges and where there are terms providing for the possibility for the borrower, on fixed dates, to exercise an option to convert the loan into euros according to a predetermined formula?

4. Does Directive 93/13, interpreted in the light of the principle of effectivity of Community law, preclude national case-law in which a term or set of terms, such as those at issue in the main proceedings, are considered to be 'plain [and] intelligible' for the purposes of the directive, on the grounds that:

— the preliminary loan offer sets out in detail the exchange transactions carried out during the life of the credit and makes clear that the euro/Swiss franc exchange rate will be that applicable two working days before the date of the event that determines the transaction and which is published on the website of the European Central Bank;

— it is stated in the offer that the borrower agrees to the Swiss franc/euro and euro/Swiss franc exchange transactions necessary for the transaction and repayment of the credit, and that the lender will convert the balance of the monthly payments after payment of the charges associated with the credit into Swiss francs;

— the offer states that, if the exchange transaction results in a sum lower than the amount payable in Swiss francs, the amortisation of the capital will be less rapid and any unpaid capital in respect of a repayment period will be entered on the debit side of the account in Swiss francs, and that it is made clear that the amortisation of the capital of the loan will change according to upwards or downwards variations in the exchange rate applied to the monthly payments that that change may result in the extension or reduction of the loan amortisation period and, where appropriate, alter the total repayment cost;

— the articles 'internal account in euros' and 'internal account in Swiss francs' describe the transactions carried out in each payment period to the credit and the debit of each account, and the contract explains in transparent terms the actual functioning of the foreign currency conversion mechanism in transparent terms; and although there is no express reference in the offer to the 'exchange risk' which is borne by the borrower since he does not receive income in the account currency, or any explicit reference to the 'interest rate risk'?

5. If the answer to the fourth question is in the affirmative, does Directive 93/13, interpreted in the light of the principle of effectiveness of Community law, preclude national case-law according to which a term or set of terms, such as those at issue in the main proceedings, are 'plain [and] intelligible' for the purposes of the directive, when in addition to the elements referred to in the fourth question there is only a simulation of a reduction of 5.37% of the payment currency by reference to the account currency, in an agreement having an initial duration of 25 years, without any reference to terms such as 'risk' or 'difficulty'?

6. Is the burden of proving the 'plain [and] intelligible' nature of a term for the purposes of Directive 93/13 borne, including in respect of the circumstances attending the conclusion of the contract, by the professional party or by the consumer?

7. If the burden of proving the plain and intelligible nature of the term is borne by the professional party, does Directive 93/13 preclude national case-law in which it was held that, in the presence of documents relating to sales techniques, it is for the borrowers to prove, first, that they were the addressees of the information contained in those documents and, second, that it was the bank that communicated that information to them, or, conversely, does it require that that evidence constitutes a presumption that the information contained in those documents was transmitted, including orally, to borrowers, a rebuttable presumption that it is for the professional party, which must assume responsibility for the information communicated by the intermediaries which it has chosen, to rebut?

8. May the existence of a significant imbalance be characterised in an agreement such as that at issue in the main proceedings in which both parties bear an exchange risk, when, first, the professional party has greater means than the consumer to foresee the exchange risk and when, second, the risk borne by the professional party is subject to an upper limit while that borne by the consumer is not?

([1]) Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ 1993 L 95, p. 29).

Request for a preliminary ruling from the Tribunal de grande instance de Paris (France) lodged on 22 October 2019 — DY, EX v BNP Paribas Personal Finance SA

(Case C-781/19)

(2020/C 19/29)

Language of the case: French

Referring court

Tribunal de grande instance de Paris

Parties to the main proceedings

Applicants: DY, EX

Defendant: BNP Paribas Personal Finance SA

Questions referred

1. Does Directive 93/13, ([1]) interpreted in the light of the principle of effectiveness, preclude, in a case such as that in the main proceedings, the application of limitation rules, in the following cases: (a) for a declaration that a term is unfair; (b) for any restitutions; (c) where the consumer is the applicant; and (d) where the consumer is the defendant, including to a counter-claim?

2. If the answer to the first question is wholly or partly negative, does Directive 93/13, interpreted in the light of the principle of effectiveness, preclude, in a case such as that at issue in the main proceedings, the application of national case-law which fixes the starting-point of the limitation period at the date of acceptance of the loan offer, rather than at the date on which serious financial difficulties arise?

3. Do terms such as those at issue in the main proceedings, which provide in particular that the Swiss franc is the account currency and the euro the settlement currency, and have the effect that the exchange risk is borne by the borrower, come within the main subject matter of the agreement within the meaning of Article 4(2) of Directive 93/13, where there is no dispute as to the amount of the exchange charges and where there are terms providing for the possibility for the borrower, on fixed dates, to exercise an option to convert the loan into euros according to a predetermined formula?

4. Does Directive 93/13, interpreted in the light of the principle of effectivity of Community law, preclude national case-law in which a term or set of terms, such as those at issue in the main proceedings, are considered to be 'plain [and] intelligible' for the purposes of the directive, on the grounds that:

   — the preliminary loan offer sets out in detail the exchange transactions carried out during the life of the credit and makes clear that the euro/Swiss franc exchange rate will be that applicable two working days before the date of the event that determines the transaction and which is published on the website of the European Central Bank;

   — it is stated in the offer that the borrower agrees to the Swiss franc/euro and euro/Swiss franc exchange transactions necessary for the transaction and repayment of the credit, and that the lender will convert the balance of the monthly payments after payment of the charges associated with the credit into Swiss francs;

   — the offer states that, if the exchange transaction results in a sum lower than the amount payable in Swiss francs, the amortisation of the capital will be less rapid and any unpaid capital in respect of a repayment period will be entered on the debit side of the account in Swiss francs, and that it is made clear that the amortisation of the capital of the loan will change according to upwards or downwards variations in the exchange rate applied to the monthly payments that that change may result in the extension or reduction of the loan amortisation period and, where appropriate, alter the total repayment cost;

— the articles 'internal account in euros' and 'internal account in Swiss francs' describe the transactions carried out in each payment period to the credit and the debit of each account, and the contract explains in transparent terms the actual functioning of the foreign currency conversion mechanism in transparent terms;

— and although there is no express reference in the offer to the 'exchange risk' which is borne by the borrower since he does not receive income in the account currency, or any explicit reference to the 'interest rate risk'?

5. If the answer to the fourth question is in the affirmative, does Directive 93/13, interpreted in the light of the principle of effectiveness of Community law, preclude national case-law according to which a term or set of terms, such as those at issue in the main proceedings, are 'plain [and] intelligible' for the purposes of the directive, when in addition to the elements referred to in the fourth question there is only a simulation of a reduction of 5.37% of the payment currency by reference to the account currency, in an agreement having an initial duration of 25 years, without any reference to terms such as 'risk' or 'difficulty'?

6. Is the burden of proving the 'plain [and] intelligible' nature of a term for the purposes of Directive 93/13 borne, including in respect of the circumstances attending the conclusion of the contract, by the professional party or by the consumer?

7. If the burden of proving the plain and intelligible nature of the term is borne by the professional party, does Directive 93/13 preclude national case-law in which it was held that, in the presence of documents relating to sales techniques, it is for the borrowers to prove, first, that they were the addressees of the information contained in those documents and, second, that it was the bank that communicated that information to them, or, conversely, does it require that that evidence constitutes a presumption that the information contained in those documents was transmitted, including orally, to borrowers, a rebuttable presumption that it is for the professional party, which must assume responsibility for the information communicated by the intermediaries which it has chosen, to rebut?

8. May the existence of a significant imbalance be characterised in an agreement such as that at issue in the main proceedings in which both parties bear an exchange risk, when, first, the professional party has greater means than the consumer to foresee the exchange risk and when, second, the risk borne by the professional party is subject to an upper limit while that borne by the consumer is not?

([1]) Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ 1993 L 95, p. 29).

Request for a preliminary ruling from the Tribunal de grande instance de Paris (France) lodged on 22 October 2019 — FA v BNP Paribas Personal Finance SA, Procureur de la République

(Case C-782/19)

(2020/C 19/30)

Language of the case: French

Referring court

Tribunal de grande instance de Paris

Parties to the main proceedings

Applicant: FA

Defendants: BNP Paribas Personal Finance SA, Procureur de la République

Questions referred

1. Does Directive 93/13, ([1]) interpreted in the light of the principle of effectiveness, preclude, in a case such as that in the main proceedings, the application of limitation rules, in the following cases: (a) for a declaration that a term is unfair; (b) for any restitutions; (c) where the consumer is the applicant; and (d) where the consumer is the defendant, including to a counter-claim?

2. If the answer to the first question is wholly or partly negative, does Directive 93/13, interpreted in the light of the principle of effectiveness, preclude, in a case such as that at issue in the main proceedings, the application of national case-law which fixes the starting-point of the limitation period at the date of acceptance of the loan offer, rather than at the date on which serious financial difficulties arise?

3. Do terms such as those at issue in the main proceedings, which provide in particular that the Swiss franc is the account currency and the euro the settlement currency, and have the effect that the exchange risk is borne by the borrower, come within the main subject matter of the agreement within the meaning of Article 4(2) of Directive 93/13, where there is no dispute as to the amount of the exchange charges and where there are terms providing for the possibility for the borrower, on fixed dates, to exercise an option to convert the loan into euros according to a predetermined formula?

4. Does Directive 93/13, interpreted in the light of the principle of effectivity of Community law, preclude national case-law in which a term or set of terms, such as those at issue in the main proceedings, are considered to be 'plain [and] intelligible' for the purposes of the directive, on the grounds that:

   — the preliminary loan offer sets out in detail the exchange transactions carried out during the life of the credit and makes clear that the euro/Swiss franc exchange rate will be that applicable two working days before the date of the event that determines the transaction and which is published on the website of the European Central Bank;

   — it is stated in the offer that the borrower agrees to the Swiss franc/euro and euro/Swiss franc exchange transactions necessary for the transaction and repayment of the credit, and that the lender will convert the balance of the monthly payments after payment of the charges associated with the credit into Swiss francs;

   — the offer states that, if the exchange transaction results in a sum lower than the amount payable in Swiss francs, the amortisation of the capital will be less rapid and any unpaid capital in respect of a repayment period will be entered on the debit side of the account in Swiss francs, and that it is made clear that the amortisation of the capital of the loan will change according to upwards or downwards variations in the exchange rate applied to the monthly payments that that change may result in the extension or reduction of the loan amortisation period and, where appropriate, alter the total repayment cost;

   — the articles 'internal account in euros' and 'internal account in Swiss francs' describe the transactions carried out in each payment period to the credit and the debit of each account, and the contract explains in transparent terms the actual functioning of the foreign currency conversion mechanism in transparent terms; and although there is no express reference in the offer to the 'exchange risk' which is borne by the borrower since he does not receive income in the account currency, or any explicit reference to the 'interest rate risk'?

5. If the answer to the fourth question is in the affirmative, does Directive 93/13, interpreted in the light of the principle of effectiveness of Community law, preclude national case-law according to which a term or set of terms, such as those at issue in the main proceedings, are 'plain [and] intelligible' for the purposes of the directive, when in addition to the elements referred to in the fourth question there is only a simulation of a reduction of 5.37% of the payment currency by reference to the account currency, in an agreement having an initial duration of 25 years, without any reference to terms such as 'risk' or 'difficulty'?

6. Is the burden of proving the 'plain [and] intelligible' nature of a term for the purposes of Directive 93/13 borne, including in respect of the circumstances attending the conclusion of the contract, by the professional party or by the consumer?

7. If the burden of proving the plain and intelligible nature of the term is borne by the professional party, does Directive 93/13 preclude national case-law in which it was held that, in the presence of documents relating to sales techniques, it is for the borrowers to prove, first, that they were the addressees of the information contained in those documents and, second, that it was the bank that communicated that information to them, or, conversely, does it require that that evidence constitutes a presumption that the information contained in those documents was transmitted, including orally, to borrowers, a rebuttable presumption that it is for the professional party, which must assume responsibility for the information communicated by the intermediaries which it has chosen, to rebut?

8. May the existence of a significant imbalance be characterised in an agreement such as that at issue in the main proceedings in which both parties bear an exchange risk, when, first, the professional party has greater means than the consumer to foresee the exchange risk and when, second, the risk borne by the professional party is subject to an upper limit while that borne by the consumer is not?

([1]) Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ 1993 L 95, p. 29).

Request for a preliminary ruling from the Audiencia Provincial de Barcelona (Spain) lodged on 22 October 2019 — Comité Interprofessionnel du Vin de Champagne v GB

(Case C-783/19)

(2020/C 19/31)

Language of the case: Spanish

Referring court

Audiencia Provincial de Barcelona

Parties to the main proceedings

Applicant: Comité Interprofessionnel du Vin de Champagne

Defendant: GB

Questions referred

1. Does the scope of protection of a designation of origin make it possible to protect that designation of origin not only as against similar products but also as against any services which may be associated with the direct or indirect distribution of those products?

2. Does the risk of infringement by evocation, to which the articles in question of the Community regulations ([1]) ([2]) refer, necessitate in the first instance a nominal analysis, to determine the effect that this has on the average consumer, or, in order to examine that risk of infringement by evocation, is it necessary to establish first of all that the products at issue are the same or similar or are complex products whose components include a product protected by a designation of origin?

3. Must the risk of infringement by evocation be defined using objective criteria when the names are exactly the same or highly similar or must that risk be calibrated by reference to the products and services which evoke and are evoked in order to conclude that the risk of evocation is tenuous or irrelevant?

4. In cases where there is a risk of evocation or exploitation, is the protection provided for in the legislation referred to specific protection related to the special features of the products concerned or must the protection be connected to the provisions on unfair competition?

(1) Article 13 of Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs (OJ 2006 L 93, p. 12).
(2) Article 103 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ 2013 L 347, p. 671).

Request for a preliminary ruling from the Riigikohus (Estonia) lodged on 29 October 2019 — XX v Tartu Vangla

(Case C-795/19)

(2020/C 19/32)

Language of the case: Estonian

Referring court

Riigikohus

Parties to the main proceedings

Applicant: XX

Defendant: Tartu Vangla

Question referred

Should Article 2(2), read in combination with Article 4(1), of Council Directive 2000/78/EC (1) of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, be interpreted as precluding provisions of national law which provide that impaired hearing below the prescribed standard constitutes an absolute impediment to work as a prison officer and that the use of corrective aids to assess compliance with the requirements is not permitted?

(1) OJ 2000 L 303, p. 16.

Request for a preliminary ruling from the Okresný súd Košice I (Slovakia) lodged on 30 October 2019 — NI, OJ, PK v Sociálna poisťovňa

(Case C-799/19)

(2020/C 19/33)

Language of the case: Slovak

Referring court

Okresný súd Košice I

Parties to the main proceedings

Applicant: NI, OJ, PK

Defendant: Sociálna poisťovňa

Questions referred

1. Must Article 3 of Directive 2008/94/EC ([1]) of the European Parliament and of the Council of 22 October 2008 on the protection of employees in the event of the insolvency of their employer be interpreted as meaning that the concept of 'employees' outstanding claims resulting from contracts of employment' also covers non-material damage suffered as a result of the death of an employee caused by an accident at work?

2. Must Article 2 of Directive 2008/94/EC of the European Parliament and of the Council of 22 October 2008 on the protection of employees in the event of the insolvency of their employer be interpreted as meaning that where an action for enforcement has been brought against an employer in connection with a judicially recognised claim for compensation for non-material damage suffered as a result of the death of an employee caused by an accident at work, but the claim is deemed irrecoverable in the enforcement proceedings on the ground that the employer has no funds at its disposal, the employer in question is also deemed insolvent?

([1]) OJ 2008 L 283, p. 36.

Request for a preliminary ruling from the Högsta förvaltningsdomstolen (Sweden) lodged on 4 November 2019 — Danske Bank A/S v Skatteverket

(Case C-812/19)

(2020/C 19/34)

Language of the case: Swedish

Referring court

Högsta förvaltningsdomstolen

Parties to the main proceedings

Applicant: Danske Bank A/S, Danmark, Sverige Filial

Defendant: Skatteverket

Question referred

Does a Swedish branch of a bank established in another Member State constitute an independent taxable person where the principal establishment supplies services to the branch and imputes the costs thereof to the branch, if the principal establishment is part of a VAT group in the other Member State, while the Swedish branch is not a member of any Swedish VAT group? ([1])

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

Request for a preliminary ruling from the cour d'appel d'Aix-en-Provence (France) lodged on 5 November 2019 — MN

(Case C-813/19)

(2020/C 19/35)

Language of the case: French

Referring court

Cour d'appel d'Aix-en-Provence

Parties to the main proceedings

Applicants: MN

Other parties: RJA, RJO, FD, BG, PG, KL, LK, MJ, NI, OH

Questions referred

1. Do the conditions for issuing a European arrest warrant by the French prosecuting authorities, as provided for in Articles 695-16 et seq. of the Code de procédure pénale (Code of criminal procedure), fully satisfy the requirements for effective judicial protection within the meaning of EU law?

2. Do the French prosecuting authorities fulfil the requirements for classification as an 'issuing judicial authority' within the meaning of Article 6(1) of Council Framework Decision 2002/584/JHA of 13 June 2002? ([1])

([1]) Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ 2002 L 190, p. 1)

Action brought on 8 November 2019 — European Commission v Hungary

(Case C-821/19)

(2020/C 19/36)

Language of the case: Hungarian

Parties

Applicant: European Commission (represented by: M. Condou-Durande, J. Tomkin and A. Tokár, Agents)

Defendant: Hungary

Form of order sought

The Commission claims that the Court of Justice should:

(a) declare that:

— by adding a new ground of inadmissibility of asylum applications to those expressly established in Directive 2013/32/EU in relation to the inadmissibility of asylum applications, Hungary has failed to fulfil its obligations under Article 33(2) of that directive;

— by adopting measures which criminalise organising activity carried out in order to enable asylum proceedings to be brought in respect of persons who do not meet the criteria established in national asylum law, and which prescribe the adoption of restrictive measures with regard to persons accused or convicted of such an offence, Hungary has failed to fulfil its obligations under Article 8(2), Article 12(1)(c) and Article 22(1) of Directive 2013/32/EU, and under Article 10(4) of Directive 2013/33/EU; and

(b) order Hungary to pay the costs.

Pleas in law and main arguments

Since the sudden increase in the number of asylum applications in 2015, Hungary has amended its asylum system a number of times. In 2018, substantive amendments were made to Hungarian legislation on the right to asylum. On 20 June 2018, the Hungarian Parliament passed the az egyes törvényeknek a jogellenes bevándorlás elleni intézkedésekkel kapcsolatos módosításáról szóló, 2018. Évi VI. törvény (Law VI of 2018, amending certain laws in relation to measures against illegal immigration) and the seventh amendment to the Hungarian Constitution. That set of legislative measures is also known as the 'Stop Soros' Law. Those amendments further restricted the range of persons eligible for asylum, given that, in accordance with the amendment to the Law on the right to asylum, applications are to be deemed inadmissible when applicants have arrived in the territory of Hungary via a country in which they have not been exposed to persecution or faced the direct threat of persecution. The Büntető Törvénykönyv (Criminal Code) was also amended in the same vein. It thus criminalised organising activity aimed at making it possible for asylum proceedings to be brought for persons who are not persecuted on grounds of race, nationality, membership of a particular social group, religious belief or political opinion, or who do not have a well-founded fear of direct persecution in their country of origin, country of habitual residence, or other country via which they arrived [in Hungary].

Taking the view that the legislation adopted in 2018 is contrary to EU law, the Commission initiated an infringement procedure against Hungary. Given that Hungary's contentions during the earlier administrative procedure have not dispelled the Commission's doubts, the latter has decided to bring the matter before the Court of Justice.

Appeal brought on 20 November 2019 by Achemos Grupė UAB, Achema AB against the judgment of the General Court (Seventh Chamber) delivered on 12 September 2019 in Case T-417/16: Achemos Grupė and Achema AB v Commission

(Case C-847/19 P)

(2020/C 19/37)

Language of the case: English

Parties

Appellants: Achemos Grupė UAB, Achema AB (represented by: R. Martens, avocat, V. Ostrovskis, advokatas)

Other parties to the proceedings: European Commission, Republic of Lithuania, Klaipėdos Nafta AB

Form of order sought

The appellants claim that the Court should:

— set aside points 1 and 2 of the operative part of the judgment under appeal;

— refer the case back to the General Court,

— or, in the alternative, rule itself on the action at first instance and annul, in its entirety, the contested decision ([1]);

— order the European Commission to pay all costs.

Pleas in law and main arguments

1. First plea in law: infringement of Article 263 TFEU read in conjunction with Article 256(1) TFEU and of the duty to state reasons, because the General Court committed an error of law by omitting to appraise the information on which the Commission relied in order to adopt its decision, whereas an adequate review of the legality of the Commission's decision by the General Court implies a review whether the information relied on by the Commission is factually accurate, reliable and consistent.

2. Second plea in law: infringement of Article 41(1) of the Charter of Fundamental Rights of the European Union, the right of sound administration and Article 12 of Council Regulation (EU) 2015/1589 ([2]) read in conjunction with Article 5 of that regulation, because the General Court committed an error of law by accusing the appellants of not informing the Commission during the Commission's preliminary examination, whereas by virtue of the duty to conduct a diligent and impartial examination and the right of sound administration it is the Commission that has the duty to ensure that it has at its disposal the most complete and reliable information possible.

3. Third plea in law: infringement of Article 296(2) TFEU, Article 41(1) and (2)(c) of the Charter of Fundamental Rights of the European Union and the duty to state reasons, because the General Court did not clearly and unequivocally state why the LNG project could be exempted from Article 14 of Directive 2004/18/EC ([3]) and be directly awarded to Klaipėdos Nafta, whereas in conformity with its duty to state reasons the General Court should disclose its reasoning in such a way as to enable the appellants to ascertain the reasons for the decision taken.

([1]) Commission Decision C(2013) 7884 final of 20 November 2013, whereby State aid SA.36740 (2013/NN) granted by Lithuania to Klaipėdos Nafta was declared compatible with the internal market (OJ 2016, C 161, p. 1).
([2]) Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ 2015, L 248, p. 9).
([3]) Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJ 2004, L 134, p. 114).

Action brought on 21 November 2019 — European Commission v Hellenic Republic

(Case C-849/19)

(2020/C 19/38)

Language of the case: Greek

Parties

Applicant: European Commission (represented by: A. Bouchagiar, C. Hermes)

Defendant: Hellenic Republic

Form of order sought

The applicant claims that the Court should:

— declare that the Hellenic Republic has failed to fulfil its obligations under Articles 4(4) and 6(1) of Directive 92/43/EEC ([1]) and under the Treaty on the Functioning of the European Union by not adopting within the prescribed periods all the necessary measures for establishing appropriate conservation objectives and appropriate conservation measures in relation to the 239 Sites of Community Importance (SCIs) which are on Greek territory and are included in Commission Decision 2006/613/EC ([2]) of 19 July 2006;

— order the Hellenic Republic to pay the costs.

Pleas in law and main arguments

The European Commission submits that the Hellenic Republic has not established appropriate conservation objectives within the prescribed periods in relation to the 239 Sites of Community Importance which are on Greek territory.

Also, the European Commission submits that the Hellenic Republic has not established appropriate conservation measures within the prescribed periods in relation to the 239 Sites of Community Importance which are on Greek territory.

For those reasons, the Hellenic Republic has infringed Articles 4(4) and 6(1) of Directive 92/43/EEC and the Treaty on the Functioning of the European Union.

([1]) Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ 1992 L 206, p. 7).

([2]) Commission Decision 2006/613/EC of 19 July 2006 adopting, pursuant to Council Directive 92/43/EEC, the list of sites of Community importance for the Mediterranean biogeographical region (OJ 2006 L 259, p. 1).

Action brought on 25 November 2019 — European Commission v Hungary

(Case C-856/19)

(2020/C 19/39)

Language of the case: Hungarian

Parties

Applicant: European Commission (represented by: C. Perrin and A. Sipos, acting as Agents)

Defendant: Hungary

Form of order sought

The Commission claims that the Court should:

— declare that Hungary has failed to fulfil its obligations under Article 10(2) and (3) of Council Directive 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco, ([1]) by levying, after the expiration of the transitional period granted until 31 December 2017, an overall excise duty of less than 60 % of the weighted average retail selling price of cigarettes released for consumption and levying an excise duty of less than EUR 115 per 1 000 cigarettes.

— order Hungary to pay the costs.

Pleas in law and main arguments

Pursuant to Article 10(2) of Council Directive 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco, as of 1 January 2014, the overall excise duty on cigarettes is to represent at least 60 % of the weighted average retail selling price of cigarettes released for consumption, unless the excise duty levied amounts to at least EUR 115 per 1 000 cigarettes. Since Hungary levies an excise duty of less than EUR 115 per 1 000 cigarettes, that Member State is required to establish an excise duty at a rate equivalent to or greater than 60 % of the weighted average price.

The third subparagraph of Article 10(2) of Directive 2011/64/EU granted Hungary and seven other Member States a transitional period until 31 December 2017 in order to reach that rate of excise duty. Under Article 10(2) and (3) of Directive 2011/64/EU, those Member States were required to reach the abovementioned excise duty thresholds by the end of that period.

The Commission claims that, at the end of the transitional period, Hungary did not reach the excise duty thresholds set out in Article 10(2) and (3) of Directive 2011/64/EU and that, as of 31 December 2017, that Member State continues to levy an excise duty that is below the thresholds established in that directive.

(1) Council Directive 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco (OJ 2011 L 176, p. 24).

Order of the President of the Court of 10 July 2019 — European Commission v Kingdom of Spain, intervener: French Republic

(Case C-569/17) (1)

(2020/C 19/40)

Language of the case: Spanish

The President of the Court has ordered that the case be removed from the register.

(1) OJ C 392, 20.11.2017.

Order of the President of the Sixth Chamber of the Court of 14 August 2019 — Nestlé Unternehmungen Deutschland GmbH v Lotte Co. Ltd, European Union Intellectual Property Office (EUIP)

(C-580/18 P) (1)

(2020/C 19/41)

Language of the case: German.

The President of the Sixth Chamber has ordered that the case be removed from the register.

(1) OJ C 25, 21.1.2019.

Order of the President of the Court of 29 August 2019 (request for a preliminary ruling from the Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD) — Portugal) — Totalmédia — Marketing Directo e Publicidade S.A. v Autoridade Tributária e Aduaneira

(Case C-751/18) ([1])

(2020/C 19/42)

Language of the case: Portuguese

The President of the Court has ordered that the case be removed from the register.

([1]) OJ C 82, 4.3.2019.

Order of the President of the Court of 16 July 2019 (request for a preliminary ruling from the Tribunale ordinario di Roma — Italy) — Società Italiana degli Autori ed Editori (S.I.A.E.) v Soundreef Ltd

(Case C-781/18) ([1])

(2020/C 19/43)

Language of the case: Italian

The President of the Court has ordered that the case be removed from the register.

([1]) OJ C 112, 25.3.2019.

Order of the President of the Court of 11 July 2019 (request for a preliminary ruling from the l'Amtsgericht Düsseldorf — Germany) — flightright GmbH/Eurowings GmbH

(C-180/19) ([1])

(2020/C 19/44)

Language of the case: German

The President of the Court has ordered that the case be removed from the register.

([1]) OJ C 246, 22.7.2019.

Order of the President of the Court of 19 July 2019 (request for a preliminary ruling from the Juzgado de Primera Instancia e Instrucción de Ceuta — Spain) — HC, ID v Banco Bilbao Vizcaya Argentaria, S.A.

(Case C-247/19) ([1])

(2020/C 19/45)

Language of the case: Spanish

The President of the Court has ordered that the case be removed from the register.

([1]) OJ C 246, 22.7.2019.

Order of the President of the Court of 29 August 2019 (request for a preliminary ruling from the Korkein hallinto-oikeus — Finland) — Proceedings brought by Nobina Finland Oy

(Case C-327/19) ([1])

(2020/C 19/46)

Language of the case: Finnish

The President of the Court has ordered that the case be removed from the register.

([1]) OJ C 220, 1.7.2019.

Order of the President of the Court of 26 August 2019 (request for a preliminary ruling from the Amtsgericht Düsseldorf — Germany) — EUflight.de GmbH v Eurowings GmbH

(Case C-345/19) ([1])

(2020/C 19/47)

Language of the case: Germany

The President of the Court has ordered that the case be removed from the register.

([1]) OJ C 255, 29.7.2019.

Order of the President of the Court of 22 July 2019 (request for a preliminary ruling from the Amtsgericht Hamburg — Germany) — GE v Société Air France

(Case C-370/19) ([1])

(2020/C 19/48)

Language of the case: Germany

The President of the Court has ordered that the case be removed from the register.

([1]) OJ C 280, 19.8.2019.

GENERAL COURT

Judgment of the General Court of 26 November 2019 — Belgium v Commission

(Case T-287/16 RENV) ([1])

(EAGF and EAFRD — Expenditure excluded from financing — Expenditure incurred by Belgium — Export refunds — No recovery resulting from negligence attributable to a body of a Member State — Non-exhaustion of all possible remedies — Proportionality)

(2020/C 19/49)

Language of the case: French

Parties

Applicant: Kingdom of Belgium (represented by: J.-C. Halleux and M. Jacobs and C. Pochet, acting as Agents, and by É. Grégoire and J. Mariani, lawyers)

Defendant: European Commission (represented by: A. Bouquet and P. Ondrůšek, acting as Agents)

Re:

Application based on Article 263 TFEU and seeking annulment of Commission Implementing Decision (EU) 2016/417 of 17 March 2016 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) (OJ 2016 L 75, p. 16), in so far as it excludes from that financing in relation to the Kingdom of Belgium the amount of EUR 9 601 619,00.

Operative part of the judgment

The Court:

1. *Annuls Commission Implementing Decision (EU) 2016/417 of 17 March 2016 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), in so far as it excludes from that financing in relation to the Kingdom of Belgium the amount of EUR 9 601 619,00;*

2. *Orders the European Commission to pay the costs relating to the proceedings before the General Court and the Court of Justice.*

([1]) OJ C 270, 25.7.2016.

Judgment of the General Court of 20 November 2019 — Missir Mamachi di Lusignano and Others v Commission

(Case T-502/16) ([1])

(Civil service — Officials — Murder of an official and his wife — Obligation to ensure the safety of staff in the service of the European Union — Liability of the institution for non-material damage suffered by the family members of a deceased official — Mother, brother and sister of the official — Action for damages — Admissibility — Standing to bring proceedings under Article 270 TFEU — Person covered by the Staff Regulations — Reasonable period of time)

(2020/C 19/50)

Language of the case: Italian

Parties

Applicants: Stefano Missir Mamachi di Lusignano (Shanghai, China) and the six other applicants whose names are listed in the annex to the judgment (represented by: F. Di Gianni, G. Coppo and A. Scalini, lawyers)

Defendant: European Commission (represented initially by: B. Eggers, G. Gattinara and D. Martin, and subsequently by G. Gattinara and R. Striani, acting as Agents)

Re:

Action under Article 270 TFEU seeking, in essence, an order that the Commission pay to the heirs and successors of Mr Alessandro Missir Mamachi di Lusignano, to the heirs and successors of Mr Livio Missir Mamachi di Lusignano, to Ms Anne Jeanne Cécile Magdalena Maria Sintobin, to Mr Stefano Missir Mamachi di Lusignano and to Ms Maria Letizia Missir Mamachi di Lusignano various sums by way of compensation for non-material damage arising from the murder of Mr Alessandro Missir Mamachi di Lusignano and his wife on 18 September 2006 in Rabat (Morocco), where Mr Alessandro Missir Mamachi di Lusignano was present for professional reasons.

Operative part of the judgment

The Court:

1. *Declares that there is no longer any need to rule on the claims that the European Commission be ordered to pay, by way of compensation for non-material damage, EUR 463 050 to each heir and successor of Mr Alessandro Missir Mamachi di Lusignano, EUR 574 000 to the same heirs and successors and EUR 308 700 to the heirs and successors of Mr Livio Missir Mamachi di Lusignano;*

2. *Orders the Commission to pay on a joint and several basis the amount of EUR 50 000 to Ms Anne Jeanne Cécile Magdalena Maria Sintobin, in respect of the non-material damage suffered by her;*

3. *Orders the Commission to pay on a joint and several basis the amount of EUR 10 000 to Ms Maria Letizia Missir Mamachi di Lusignano, in respect of the non-material damage suffered by her;*

4. *Orders the Commission to pay on a joint and several basis the amount of EUR 10 000 to Mr Stefano Missir Mamachi di Lusignano, in respect of the non-material damage suffered by him;*

5. *Orders that default interest is to be added to the compensation referred to in paragraphs 2 to 4 above, for the period from delivery of this judgment until payment in full, at a rate two percentage points above that set by the European Central Bank for main refinancing operations;*

6. *Dismisses the action as to the remainder;*

7. *Orders the Commission to pay the costs.*

([1]) OJ C 26, 26.1.2013 (case initially registered before the European Union Civil Service Tribunal under Case No F-132/12) and transferred to the General Court of the European Union on 1 September 2016.

Judgment of the General Court of 27 November 2019 –Izuzquiza and Semsrott v Frontex

(Case T-31/18) ([1])

(Access to documents — Regulation (EC) No 1049/2001 — Documents relating to a naval operation carried out by Frontex in the central Mediterranean in 2017 — Vessels deployed — Refusal of access — Article 4(1)(a) of Regulation No 1049/2001 — Exception relating to the protection of the public interest in the field of public security)

(2020/C 19/51)

Language of the case: English

Parties

Applicants: Luisa Izuzquiza (Madrid, Spain) and Arne Semsrott (Berlin, Germany) (represented by: S. Hilbrans, R. Callsen, lawyers, and J. Pobjoy, Barrister)
Defendant: European Border and Coast Guard Agency (Frontex) (represented by: H. Caniard and T. Knäbe, acting as Agents, and by B. Wägenbaur and J. Currall, lawyers)

Re:

Action under Article 263 TFEU for annulment of Frontex Decision CGO/LAU/18911c/2017 of 10 November 2017 refusing access to documents containing information on the name, flag and type of each vessel deployed by Frontex in the central Mediterranean under Joint Operation Triton between 1 June and 30 August 2017.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Ms Luisa Izuzquiza and Mr Arne Semsrott to pay the costs.*

([1]) OJ C 112, 26.3.2018.

Judgment of the General Court of 21 November 2019 — K.A. Schmersal Holding v EUIPO — Tecnium (tec.nicum)

(Case T-527/18) ([1])

(EU trade mark — Opposition proceedings — Application for EU figurative mark tec.nicum — Earlier national figurative mark TECNIUM — Relative ground for refusal — Likelihood of confusion — Similarity of the services — Similarity of the signs — Article 8(1)(b) of Regulation (EU) 2017/1001 — Genuine use of the earlier mark — Point (a) of the second subparagraph of Article 18(1) and Article 47(2) and (3) of Regulation 2017/1001 — Form differing in elements which do not alter the distinctive character — Evidence submitted for the first time before the General Court)

(2020/C 19/52)

Language of the case: English

Parties

Applicant: K.A. Schmersal Holding GmbH & Co. KG (Wuppertal, Germany) (represented by: A. Haudan, lawyer)
Defendant: European Union Intellectual Property Office (represented by: J. Ivanauskas and H. O'Neill, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Tecnium, SL (Manresa, Spain) (represented by: E. Sugrañes Coca, lawyer)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 21 June 2018 (Case R 2427/2017-5), relating to opposition proceedings between Tecnium and K.A. Schmersal Holding.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders K.A. Schmersal Holding GmbH & Co. KG to pay the costs.*

([1]) OJ C 381, 22.10.2018.

Judgment of the General Court of 28 November 2019 — Wywiał-Prząda v Commission

(Case T-592/18) ([1])

(Civil service — Contract staff — Remuneration — Decision refusing to grant expatriation allowance — Article 4(1)(a) of Annex VII to the Staff Regulations — Work done for another State — Diplomatic status — Five-year reference period)

(2020/C 19/53)

Language of the case: French

Parties

Applicant: Katarzyna Wywiał-Prząda (Wezembeek-Oppem, Belgium) (represented by: S. Orlandi and T. Martin, lawyers)

Defendant: European Commission (represented by: T. Bohr and D. Milanowska, acting as Agents)

Re:

Action under Article 270 TFEU for the annulment of Commission Decision of 23 November 2017 by which the applicant was refused expatriation allowance.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Ms Katarzyna Wywiał-Prząda to pay the costs.*

([1]) OJ C 427, 26.11.2018.

Judgment of the General Court of 28 November 2019 — August Wolff v EUIPO Faes Farma (DermoFaes Atopimed)

(Case T-642/18) ([1])

(EU trade mark — Opposition proceedings — Application for EU word mark DermoFaes Atopimed — Earlier EU word mark Dermowas — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EU) 2017/1001)

(2020/C 19/54)

Language of the case: English

Parties

Applicant: Dr. August Wolff GmbH & Co. KG Arzneimittel (Bielefeld, Germany) (represented by: A. Thünken, lawyer)
Defendant: European Union Intellectual Property Office (represented by: J. Ivanauskas and H. O'Neill, Agents)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Faes Farma, SA (Lamiaco-Leioa, Spain) (represented by: A. Vela Ballesteros and S. Fernandez Malvar, lawyers)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 11 July 2018 (Case R 1365/2017-2) relating to opposition proceedings between Dr. August Wolff and Faes Farma.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Dr. August Wolff GmbH & Co. KG Arzneimittel to bear its own costs and to pay the costs incurred by the European Union Intellectual Property Office (EUIPO) and by Faes Farma, SA, including those necessarily incurred by Faes Farma, SA, before the Board of Appeal of EUIPO*

([1]) OJ C 4, 7.1.2019.

Judgment of the General Court of 28 November 2019 — August Wolff v EUIPO — Faes Farma (DermoFaes)

(Case T-643/18) ([1])

(EU trade mark — Opposition proceedings — Application for EU word mark DermoFaes — Earlier EU word mark Dermowas — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EU) 2017/1001)

(2020/C 19/55)

Language of the case: English

Parties

Applicant: Dr. August Wolff GmbH & Co. KG Arzneimittel (Bielefeld, Germany) (represented by: A. Thünken, lawyer)

Defendant: European Union Intellectual Property Office (represented by: J. Ivanauskas and H. O'Neill, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Faes Farma, SA (Lamiaco-Leioa, Spain) (represented by: A. Vela Ballesteros and S. Fernandez Malvar, lawyers)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 14 June 2018 (Case R 1842/2017-2) relating to opposition proceedings between Dr. August Wolff and Faes Farma.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Dr. August Wolff GmbH & Co. KG Arzneimittel to bear its own costs and to pay the costs incurred by the European Union Intellectual Property Office (EUIPO) and by Faes Farma, SA, including those necessarily incurred by Faes Farma, SA, before the Board of Appeal of EUIPO.*

(1) OJ C 16, 14.1.2019.

Judgment of the General Court of 20 November 2019 — Werner v EUIPO — Merck (fLORAMED)

(Case T-695/18) (1)

(EU trade mark — Opposition proceedings — Application for the EU figurative mark fLORAMED — Earlier EU word mark MEDIFLOR — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EU) 2017/1001)

(2020/C 19/56)

Language of the case: German

Parties

Applicant: Stefan Werner (Baldham, Germany) (represented by: T Büttner, lawyer)

Defendant: European Union Intellectual Property Office (represented by: S. Hanne, acting as Agent)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Merck KGaA (Darmstadt, Germany) (represented by: U. Pfleghar, M. Best, M. Giannakoulis and S. Schäffner, lawyers)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 17 September 2018 (Case R 197/2018-2), relating to opposition proceedings between Merck and Mr Werner.

Operative part of the judgment

The Court:

1. *dismisses the action;*

2. *orders Mr Stefan Werner to pay the costs.*

(1) OJ C 25, 21.1.2019.

Judgment of the General Court of 26 November 2019 — Wyld v EUIPO — Kaufland Warenhandel (wyld)

(Case T-711/18) ([1])

(EU trade mark — Opposition proceedings — Application for EU word mark wyld — Earlier international word mark WILD CRISP — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EU) 2017/1001 — Rejection in part of the application for registration)

(2020/C 19/57)

Language of the case: German

Parties

Applicant: Wyld GmbH (Munich, Germany) (represented by: M. Douglas, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO) (represented by: M. Fischer, acting as Agent)

Other party to the proceedings before the Board of Appeal: Kaufland Warenhandel GmbH & Co. KG (Neckarsulm, Germany)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 24 September 2018 (Case R 2621/2017-2), relating to opposition proceedings betweenKaufland Warenhandel and Wyld.

Operative part of the judgment

The Court:

1. *Dismisses the action;*

2. *Orders Wyld GmbH to pay the costs.*

([1]) OJ C 35, 28.1.2019.

Order of the General Court of 14 November 2019 — Growth Energy and Renewable Fuels Association v Council

(Case T- 276/13 RENV) ([1])

(Dumping — Imports of bioethanol originating in the United States — Definitive anti-dumping duty — Repeal of the contested act — No longer any legal interest in bringing proceedings — No need to adjudicate)

(2020/C 19/58)

Language of the case: English

Parties

Applicants: Growth Energy (Washington, DC, United States) and Renewable Fuels Association (Washington) (represented by: P. Vander Schueren and M. Peristeraki, lawyers)

Defendant: Council of the European Union (represented by: S. Boelaert, acting as Agent, and by N. Tuominen, lawyer)

Interveners in support of the defendant: European Commission (represented by: T. Maxian Rusche and M. França, acting as Agents), ePURE, de Europese Producenten Unie van Hernieuwbare Ethanol (represented by: O. Prost and A. Massot, lawyers)

Re:

Application pursuant to Article 263 TFEU for the annulment in part of Council Implementing Regulation (EU) No 157/2013 of 18 February 2013 imposing a definitive anti-dumping duty on imports of bioethanol originating in the United States of America (OJ 2013 L 49, p. 10), in so far as it concerns the applicants and their members

Operative part of the order

1. *There is no longer any need to adjudicate on the action.*

2. *Growth Energy and Renewable Fuels Association, the Council of the European Union, the European Commission and ePure, de Europese Producenten Unie van Hernieuwbare Ethanol shall bear their own costs.*

([1]) OJ C 226, 3.8.2013.

Order of the General Court of 21 November 2019 — ZI v Commission

(Case T-618/18) ([1])

(Civil service — Officials — Cover by the Joint Sickness Insurance Scheme — Affiliation of the official's spouse — No interest in bringing proceedings — Inadmissibility)

(2020/C 19/59)

Language of the case: French

Parties

Applicant: ZI (represented by: J.-N. Louis, lawyer)

Defendant: European Commission (represented by: T. Bohr and L. Vernier, acting as Agents)

Interveners in support of the defendant: European Parliament (represented by J. Van Pottelberge and J. Steele, acting as Agents) and Council of the European Union (represented by R. Meyer and M. Alver, acting as Agents)

Re:

Application under Article 263 TFEU seeking annulment of the decision of 4 December 2017 of the Commission's 'Office for the Administration and Payment of Individual Entitlements' (PMO) refusing to grant the applicant's husband affiliation to the Joint Sickness Insurance Scheme of the European Union.

Operative part of the order

1. *The action is dismissed.*

2. *ZI shall bear the costs.*

([1]) OJ C 455, 17.12.2018.

Order of the President of the General Court of 26 September 2019 — Taminco v Commission

(Case T-740/18 R)

(Application for interim measures — Plant protection products — Regulation (EC) No 1107/2009 — Active substance thiram — Conditions of approval for placing on the market — Application for suspension of operation — Lack of urgency)

(2020/C 19/60)

Language of the case: English

Parties

Applicant: Taminco BVBA (Ghent, Belgium) (represented by: C. Mereu and S. Englebert, lawyers)

Defendant: European Commission (represented by: G. Koleva, A. Lewis and I. Naglis, acting as Agents)

Re:

Application based on Articles 278 and 279 TFEU, seeking suspension of the operation of Commission Implementing Regulation (EU) 2018/1500 of 9 October 2018 concerning the non-renewal of approval of the active substance thiram, and prohibiting the use and sale of seeds treated with plant protection products containing thiram, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending Commission Implementing Regulation (EU) No 540/2011 (OJ 2018 L 254, p. 1).

Operative part of the order

1. *The application for interim measures is dismissed.*

2. *The costs are reserved.*

Order of the General Court of 14 November 2019 — Flovax v EUIPO — Dagniaux and Gervais Danone (GLACIER DAGNIAUX DEPUIS 1923)

(Case T-147/19) ([1])

(EU trade mark — Application for a declaration of invalidity — Application for European Union figurative mark GLACIER DAGNIAUX DEPUIS 1923 — Revocation of the contested decision — Action which has become devoid of purpose — No need to adjudicate)

(2020/C 19/61)

Language of the case: French

Parties

Applicant: Flovax Sàrl (Doncols, Luxembourg) (represented by: C.-S. Marchiani, lawyer)

Defendant: European Union Intellectual Property Office (represented by: S. Pétrequin and J. Crespo Carrillo, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO: Dagniaux (Roubaix, France)

Other party to the proceedings before the Board of Appeal of EUIPO intervening before the General Court: Compagnie Gervais Danone (Paris, France) (represented by: S. Havard Duclos, lawyer)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 18 May 2018 (Joined Cases R 2210/2016-1 and R 2211/2016-1), relating to invalidity proceedings between, on the one hand, Compagnie Gervais Danone and, on the other hand, Flovax and Dagniaux.

Operative part of the order

1. *There is no longer any need to adjudicate on the action.*

2. *The European Union Intellectual Property Office (EUIPO) shall pay the costs.*

([1]) OJ C 148, 29.4.2019.

Order of the General Court of 18 November 2019 — Dickmanns v EUIPO

(Case T-181/19) ([1])

(Civil Service — Members of the temporary staff — Fixed-term contract with a termination clause — Clause terminating the contract in the event that the name of the agent is not included on the reserve list of a competition — Purely confirmatory act — Time limit for complaints — Inadmissibility)

(2020/C 19/62)

Language of the case: German

Parties

Applicant: Sigrid Dickmanns (Gran Alacant, Spain) (represented by: H. Tettenborn, lawyer)

Defendant: European Union Intellectual Property Office (represented by: A. Lukosiūtė, acting as Agent, and by B. Wägenbaur, lawyer)

Re:

Application based on Article 270 TFEU and seeking, first, annulment of the decision of EUIPO of 4 June 2018 rejecting the applicant's requests to remove the termination clause in Article 5 of her contract, reclassify her contract as a contract of indefinite duration, withdraw, if necessary, the decision of 14 December 2017 and grant a second contract extension beyond 30 September 2018 or, at least, include her in the procedure for a second renewal of temporary agent contracts in accordance with the guidelines for the renewal of temporary agent contracts of 28 January 2016 and, second, compensation for the harm allegedly suffered by the applicant.

Operative part of the order

1. *The action is dismissed as inadmissible.*

2. *The European Union Intellectual Property Office shall bear its own costs and pay those incurred by Sigrid Dickmanns.*

([1]) OJ C 206, 17.6.2019.

Order of the President of the General Court of 26 September 2019 — Sipcam Oxon v Commission

(Case T-518/19 R)

(Application for interim measures — Plant protection products — Regulation (EC) No 1107/2009 — Active substance chlorothalonil — Conditions of approval for placing on the market — Application for suspension of operation — Lack of urgency)

(2020/C 19/63)

Language of the case: English

Parties

Applicant: Sipcam Oxon SpA (Milan, Italy) (represented by: C. Mereu and P. Sellar, lawyers)

Defendant: European Commission (represented by: I. Naglis and A. Dawes, acting as Agents)

Re:

Application based on Articles 278 and 279 TFEU, seeking suspension of the operation of Commission Implementing Regulation (EU) 2019/677 of 29 April 2019 concerning the non-renewal of the approval of the active substance chlorothalonil, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending Commission Implementing Regulation (EU) No 540/2011 (OJ 2019 L 114, p. 15).

Operative part of the order

1. *The application for interim measures is dismissed.*

2. *The costs are reserved.*

Order of the President of the General Court of 26 September 2019 — Medac Gesellschaft für klinische Spezialpräparate v Commission

(Case T-549/19 R)

(Application for interim measures — Orphan medicinal product — Application to suspend operation of a measure — No urgency)

(2020/C 19/64)

Language of the case: German

Parties

Applicant: Medac Gesellschaft für klinische Spezialpräparate mbH (Wedel, Germany) (represented by: P. von Czettritz, lawyer)

Defendant: European Commission (represented by: J. F. Brakeland, L. Haasbeek and C. Hermes, acting as Agents)

Re:

Application under Articles 278 and 279 TFEU to suspend the operation of Article 5 of Commission Implementing Decision C (2019) 4858 final of 20 June 2019 granting marketing authorisation under Regulation No 726/2004 of the European Parliament and of the Council for 'Trecondi-treosulfan', a medicinal product for human use.

Operative part of the order

The Court orders:

1. *The application for interim measures is refused.*

2. *Costs are reserved.*

Order of the President of the General Court of 26 September 2019 — Microes Food Safety v Commission

(Case T-568/19 R)

(Application for interim measures — Bacteriophage — Listeria — ListexTM P100 — Inadmissibility)

(2020/C 19/65)

Language of the case: English

Parties

Applicant: Microes Food Safety BV (Wageningen, Netherlands) (represented by: S. Pappas, lawyer)

Defendant: European Commission (represented by: B. Eggers, W. Farrell and I. Galindo Martín, Agents)

Re:

Application pursuant to Articles 278 and 279 TFEU seeking the suspension of the alleged decision by the European Commission of 17 June 2019 by which it allegedly prohibited the placing on the market of Listex™ P100 for use as a processing aid on animal derived Ready-To-Eat-Food.

Operative part of the order

1. *The application for interim measures is dismissed.*

2. *The costs are reserved*

Action brought on 23 October 2019 – Northgate and Northgate Europe v Commission

(Case T-719/19)

(2020/C 19/66)

Language of the case: English

Parties

Applicants: Northgate plc (Darlington, United Kingdom), and Northgate Europe Ltd (Darlington) (represented by: J. Lesar, Solicitor, and K. Beal, QC)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul the decision adopted by the European Commission on 2 April 2019 on the State Aid SA.44896 implemented by the United Kingdom concerning CFC Group Financing Exemption ('GFE') in so far as it applies to the applicants;

— order the defendant to meet the applicants' costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicants rely on eight pleas in law.

1. First plea in law, alleging that the European Commission wrongly applied Article 107(1) TFEU and/or made a manifest error of appraisal or assessment in its selection of the reference framework for the analysis of the tax regime. The Commission should have treated the reference framework as the UK's corporation tax regime, not simply the Controlled Foreign Companies (CFC) regime itself.

2. Second plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU and/or made a manifest error of appraisal or assessment by adopting a flawed approach to the analysis of the CFC regime. The Commission at recitals (124) to (126) of the contested decision wrongly treated the provisions of Chapter 9 of Part 9A of the Taxation (International and Other Provisions) Act 2010 as a form of derogation from a general charge to tax found in Chapter 5 thereof.

3. Third plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU when finding at recitals (127) to (151) of the contested decision that the selectivity criterion was fulfilled in that undertakings in factually and legally comparable positions were treated differently.

4. Fourth plea in law, alleging that the 75 % exemption under section 371ID of the Taxation (International and Other Provisions) Act 2010 is justified by the nature and overall structure of the tax system.

5. Fifth plea in law, alleging that the imposition of a tax burden on CFCs meeting the exemptions laid down in the said Chapter 9 as a class would breach the applicants' freedom of establishment contrary to Article 49 TFEU.

6. Sixth plea in law, alleging that there was a manifest error of appraisal or assessment in relation to the 75 % exemption and fixed ratio issue.

7. Seventh plea in law, alleging that the Commission's decision fails to comply with the general EU law principle of non-discrimination or equality.

8. Eighth plea in law, alleging that the Commission erred in law in applying by analogy or placing undue reliance upon the terms of Council Directive (EU) 2016/1164, ([1]) which was not applicable ratione temporis.

([1]) Council Directive (EU) 2016/1164, of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (OJ 2016 L 193, p. 1).

Action brought on 25 October 2019 – LSEGH (Luxembourg) and London Stock Exchange Group Holdings (Italy) v Commission

(Case T-726/19)

(2020/C 19/67)

Language of the case: English

Parties

Applicants: LSEGH (Luxembourg) Ltd (London, United Kingdom), and London Stock Exchange Group Holdings (Italy) Ltd (London,) (represented by: O. Brouwer, A. Pliego Selie, and A. von Bonin, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul the defendant's decision of 2 April 2019 on the State aid SA.44896 implemented by the United Kingdom concerning CFC Group Financing Exemption, C(2019) 2526 Final; and

— order the Commission to pay the applicants' costs pursuant to Article 134 of the Rules of Procedure of the General Court, including the costs of any intervening parties.

Pleas in law and main arguments

In support of the action, the applicants rely on four pleas in law.

1. First plea in law, alleging that the Commission erred in law and/or made manifest errors of assessment and failed to adequately state reasons in the identification in the contested decision of the reference system.

2. Second plea in law, alleging that the Commission erred in law and/or made manifest errors of assessment and failed to adequately state reasons in wrongly characterising, in the contested decision, the Group Financing Exemption as a derogation from the normal operation of the reference system.

3. Third plea in law, alleging that the Commission erred in law and/or made manifest errors of assessment in finding, in the contested decision, that the Group Financing Exemption discriminates between economic operators.

4. Fourth plea in law, alleging that the Commission erred in law and/or made manifest errors of assessment, in the contested decision, in concluding that the Group Financing Exemption is not justified by the nature or overall structure of the reference system.

Action brought on 29 October 2019 — PL v Commission

(Case T-728/19)

(2020/C 19/68)

Language of the case: French

Parties

Applicant: PL (represented by: J.-N. Louis, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the decisions of the Commission of 13 August and 26 September 2019 refusing in part access to the documents referred to in the applicant's application and confirmative application of 4 December 2018, registered on 28 February 2019, on the basis of the exception laid down in Article 4(1)(b) of Regulation (EC) No 1049/2001 relating to privacy and the integrity of the individual;

— order the European Commission to bear the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law.

1. First plea in law, alleging infringement of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43).

2. Second plea in law, alleging infringement of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ 2001 L 8, p. 1).

3. Third plea in law, alleging breach of Article 41 of the Charter of Fundamental Rights of the European Union.

4. Fourth plea in law, alleging infringement of the obligation to state reasons.

Action brought on 29 October 2019 – Arris Global v Commission

(Case T-731/19)

(2020/C 19/69)

Language of the case: English

Parties

Applicant: Arris Global Ltd (London, United Kingdom) (represented by: J. Lesar, Solicitor, and K. Beal, QC)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the decision adopted by the European Commission on 2 April 2019 on the State Aid SA.44896 implemented by the United Kingdom concerning CFC Group Financing Exemption ('GFE') in so far as it applies to the applicant;

— order the defendant to meet the applicant's costs of these proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on nine pleas in law.

1. First plea in law, alleging that the Commission wrongly applied Article 107(1) TFEU and/or made a manifest error of appraisal or assessment in its selection of the reference framework for the analysis of the tax regime. The Commission should have treated the reference framework as the UK's corporation tax regime, not simply the Controlled Foreign Companies (CFC) regime itself.

2. Second plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU and/or made a manifest error of appraisal or assessment by adopting a flawed approach to the analysis of the CFC regime. The Commission at recitals (124) to (126) of the contested decision wrongly treated the provisions of Chapter 9 of Part 9A of the Taxation (International and Other Provisions) Act 2010 as a form of derogation from a general charge to tax found in Chapter 5 thereof.

3. Third plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU when finding at recitals (127) to (151) of the contested decision that the selectivity criterion was fulfilled in that undertakings in factually and legally comparable positions were treated differently.

4. Fourth plea in law, alleging that the 75 % exemption under section 371ID of the Taxation (International and Other Provisions) Act 2010 is justified by the nature and overall structure of the tax system.

5. Fifth plea in law, alleging that the imposition of a tax burden on CFCs meeting the exemptions laid down in the said Chapter 9 as a class would breach the applicant's freedom of establishment contrary to Article 49 TFEU.

6. Sixth plea in law, alleging that there was a manifest error of appraisal or assessment in relation to the 75 % exemption and fixed ratio issue.

7. Seventh plea in law, alleging that the Commission's decision fails to comply with the general EU law principle of non-discrimination or equality.

8. Eighth plea in law, alleging that the Commission erred in law in applying by analogy or placing undue reliance upon the terms of Council Directive (EU) 2016/1164, ([1]) which was not applicable ratione temporis.

9. Ninth plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU by finding at recital (176) of the contested decision that a class of beneficiaries exists (of which the applicant was one) and that it had obtained any aid which needed to be recovered under Article 2(1) of the contested decision.

([1]) Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (OJ 2016 L 193, p. 1).

Order of the General Court of 18 November 2019 — Lantmännen and Lantmännen Agroetanol v Commission

(Case T-79/19) ([1])

(2020/C 19/70)

Language of the case: English

The President of the Eighth Chamber has ordered that the case be removed from the register.

([1]) OJ C 131, 8.4.2019.

Order of the General Court of 12 November 2019 — DK v GSA

(Case T-537/19) ([1])

(2020/C 19/71)

Language of the case: French

The President of the Seventh Chamber has ordered that the case be removed from the register.

([1]) OJ C 328, 30.9.2019.

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