

Pleas in law and main arguments

The period for transposing Article 5 of Directive 1999/74/EC expired on 10 January 2012.

⁽¹⁾ Council Directive 1999/74/EC of 19 July 1999 laying down minimum standards for the protection of laying hens (OJ L 203, 3.8.1999, p. 53).

Request for a preliminary ruling from the Cour d'appel de Mons (Belgium) lodged on 25 June 2013 — Ville de Mons v KPN Group Belgium SA

(Case C-346/13)

(2013/C 252/35)

Language of the case: French

Referring court

Cour d'appel de Mons

Parties to the main proceedings

Appellant: Ville de Mons

Respondent: KPN Group Belgium SA

Question referred

Does Article 13 of Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services [(the 'Authorisation Directive')] ⁽¹⁾ preclude local authorities from introducing a tax, for budgetary or other reasons, on the economic activity of telecommunications operators, in the form of the presence on their territory of GSM pylons, masts or antennas used for the purposes of that activity?

⁽¹⁾ OJ 2002 L 108, p. 21.

Request for a preliminary ruling from the Augstākās tiesas Senāts (Latvia) lodged on 25 June 2013 — Antonio Gramsci Shipping Corp., and Others v Aivars Lembergs

(Case C-350/13)

(2013/C 252/36)

Language of the case: Latvian

Referring court

Augstākās tiesas Senāts

Parties to the main proceedings

Appellants: Antonio Gramsci Shipping Corp., Apollo Holdings Corp., Arctic Seal Shipping Co. Ltd, Atlantic Leader Shipping

Co. Ltd, Cape Wind Trading Co. Ltd, Clipstone Navigation SA, Dawnlight Shipping Co. Ltd, Dzons Rids Shipping Corp., Faroship Navigation Co. Ltd, Gaida Shipping Corp., Gevostar Shipping Co. Ltd, Hose Marti Shipping Corp., Imanta Shipping Co. Ltd, Kemeru Navigation Corp., Klements Gotvalds Shipping Corp., Latgale Shipping Co. Ltd, Limetree Shipping Co. Ltd, Majori Shipping Co. Ltd, Noella Maritime Co. Ltd, Razna Shipping Corp., Sagewood Trading Inc., Samburga Shipping Co. Ltd, Saturn Trading Corp., Taganroga Shipping Corp., Talava Shipping Co. Ltd, Tangent Shipping Co. Ltd, Viktorio Shipping Corp., Wilcox Holding Ltd, Zemgale Shipping Co. Ltd, Zoja Shipping Co. Ltd

Respondent: Aivars Lembergs

Questions referred

1. Must Article 34(1) of the Brussels I Regulation ⁽¹⁾ be interpreted as meaning that, in the context of proceedings for the recognition of a foreign judgment, infringement of the rights of persons who are not parties to the main proceedings may constitute grounds for applying the public policy clause contained in Article 34(1) of the Brussels I Regulation and for refusing to recognise the foreign judgment in so far as it affects persons who are not parties to the main proceedings?
2. If the first question is answered in the affirmative, must Article 47 of the Charter be interpreted as meaning that the principle of the right to a fair trial set out therein allows proceedings for the adoption of provisional protective measures to limit the economic rights of a person who has not been a party to the proceedings, if provision is made to the effect that any person who is affected by the decision on the provisional protective measures is to have the right at any time to request the court to vary or discharge the judgment, in a situation in which it is left to the applicants to notify the decision to the persons concerned?

⁽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 Retten i Kolding (Denmark) lodged on 27 June 2013 — FOA, acting on behalf of Karsten Kaltoft v Billund Kommune

(Case C-354/13)

(2013/C 252/37)

Language of the case: Danish

Referring court

Retten i Kolding

Parties to the main proceedings

Applicant: FOA, acting on behalf of Karsten Kaltoft

Defendant: Billund Kommune

Questions referred

1. Is it contrary to EU law as expressed, for example, in Article 6 of the EU Charter of Fundamental Rights, generally or particularly for a public-sector employer to discriminate on grounds of obesity in the labour market?
2. If there is an EU prohibition on discrimination on grounds of obesity, is it directly applicable as between a Danish citizen and his employer, a public authority?
3. Should the Court find that there is a prohibition under EU law on discrimination on grounds of obesity in the labour market generally or in particular for public-sector employers, is the assessment as to whether action has been taken contrary to a potential prohibition on discrimination on grounds of obesity in that case to be conducted with a shared burden of proof, with the result that the actual implementation of the prohibition in cases where proof of such discrimination has been made out requires that the burden of proof be placed on the respondent/defendant employer (see recital 18 in the preamble to Council Directive 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on sex ⁽¹⁾)?
4. Can obesity be deemed to be to be a handicap covered by the protection provided for in Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation ⁽²⁾ and, if so, which criteria will be decisive for the assessment as to whether a person's obesity means specifically that that person is protected by the prohibition on discrimination on grounds of handicap as laid down in that directive?

⁽¹⁾ OJ 1998 L 14, p. 6.

⁽²⁾ OJ 2000 L 303, p. 16.

Appeal brought on 1 July 2013 by Metropolis Inmobiliarias y Restauraciones, SL against the judgment of the General Court (Eighth Chamber) delivered on 25 April 2013 in Case T-284/11: Metropolis Inmobiliarias y Restauraciones, SL v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-374/13 P)

(2013/C 252/38)

Language of the case: English

Parties

Appellant: Metropolis Inmobiliarias y Restauraciones, SL (represented by: J. Carbonell Callicó, abogado)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs), MIP Metro Group Intellectual Property GmbH & Co. KG

Form of order sought

The appellant claims that the Court should:

- Set aside the decision of the General Court of 25 April 2013 in case T-284/11, granting in consequence the registration of the Community Trademark Application n° 7 112 113 'METROINVEST' to distinguish services in class 36.
- Order the other parties to bear the costs of the procedure.

Pleas in law and main arguments

The Appellant raises a single plea alleging the:

- **Infringement of the Art. 8.1 b) of Regulation no 207/2009** ⁽¹⁾

However this plea consists of four parts, which are the following:

- Error on the part of the General Court and on the part of OHIM in assessing the comparison of the signs.
- The General Court has not taken into account the applicable case law regarding the global assessment of the likelihood of confusion.
- Lack of coherence with other Office resolutions in which the same parts, and related trademarks are involved.
- Pacific coexistence between other trademarks, which include the word METRO in different classes, and also in class 36.

⁽¹⁾ Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark
OJ L 78, p. 1

Action brought on 2 July 2013 — European Commission v Republic of Bulgaria

(Case C-376/13)

(2013/C 252/39)

Language of the case: Bulgarian

Parties

Applicant: European Commission (represented by: G. Braun, G. Koleva, L. Malferrari)