

Judgment of the Court (Third Chamber) of 9 July 2009 — 3F, formerly Specialarbejderforbundet i Danmark (SID) v Commission of the European Communities, Kingdom of Denmark, Kingdom of Norway

(Case C-319/07 P) ⁽¹⁾

(Appeals — Tax relief measures for seafarers employed on board vessels registered in the Danish International Register — Commission decision not to raise objections — Action for annulment — Concept of party concerned — Trade union — Admissibility of the action)

(2009/C 205/03)

Language of the case: English

Parties

Appellant: 3F, formerly Specialarbejderforbundet i Danmark (SID) (represented by: A.P. Bentley QC and A. Worsøe, advokat)

Other parties to the proceedings: Commission of the European Communities (represented by: N. Khan and H. van Vliet, Agents), Kingdom of Denmark, Kingdom of Norway

Re:

Appeal against the order of the Second Chamber (Extended Composition) of the Court of First Instance of 23 April 2007 in Case T-30/03 *Specialarbejderforbundet Danmark (SID) v Commission of the European Communities* declaring inadmissible an action for the annulment of Commission Decision C(2002) 4370 final of 13 November 2002 to regard the tax reduction measures applicable to seafarers on board Danish vessels as State aid compatible with the common market — Concept of party concerned — Trade union

Operative part of the judgment

1. The order of the Court of First Instance of the European Communities of 23 April 2007 in Case T-30/03 *SID v Commission* is set aside in part, in so far as it did not address the arguments of 3F relating, first, to the competitive position of 3F in relation to other trade unions in the negotiation of collective agreements applicable to seafarers and, second, to the social aspects of the fiscal measures in relation to seafarers employed on board vessels registered in the Danish International Register of Shipping.
2. The plea of inadmissibility raised by the Commission of the European Communities before the Court of First Instance of the European Communities is rejected.
3. The case is remitted to the Court of First Instance of the European Communities for it to rule on the claim by 3F for the annulment of Commission Decision C(2002) 4370 final of 13 November 2002 not to raise objections to the Danish fiscal measures

applicable to seafarers employed on board vessels registered in the Danish International Register.

4. Costs are reserved.

⁽¹⁾ OJ C 211, 8.9.2007.

Judgment of the Court (Fourth Chamber) of 2 July 2009 (Reference for a preliminary ruling from the Corte d'appello di Torino — Italy) — Bavaria NV, Bavaria Italia s.r.l v Bayerischer Brauerbund eV

(Case C-343/07) ⁽¹⁾

(Reference for a preliminary ruling — Assessment of validity — Admissibility — Regulations (EEC) No 2081/92 and (EC) No 1347/2001 — Validity — Generic name — Coexistence of a trade mark and a protected geographical indication)

(2009/C 205/04)

Language of the case: Italian

Referring court

Corte d'appello di Torino

Parties to the main proceedings

Applicants: Bavaria NV, Bavaria Italia s.r.l

Defendant: Bayerischer Brauerbund eV

Re:

Reference for a preliminary ruling — Corte d'appello di Torino — Validity of Council Regulation (EC) No 1347/2001 of 28 June 2001 supplementing the Annex to Commission Regulation (EC) No 1107/96 on the registration of geographical indications and designations of origin under the procedure laid down in Article 17 of Council Regulation (EEC) No 2081/92 (OJ 2001 L 182, p. 3) — If valid, possibility of adverse effects, brought about by registration of the protected geographical indication 'Bayerisches Bier', on the validity or use of pre-existing marks of third parties in which the word 'Bavaria' appears.

Operative part of the judgment

1. Consideration of the first question asked by the referring court has not disclosed any factor liable to affect the validity of Council Regulation (EC) No 1347/2001 of 28 June 2001 supplementing the Annex to Commission Regulation (EC) No 1107/96 on the registration of geographical indications and designations of origin under the procedure laid down in Article 17 of Council Regulation (EEC) No 2081/92;

2. Regulation No 1347/2001 must be interpreted as having no adverse effects on the validity and the possibility of using, in one of the situations referred to in Article 13 of Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs, pre-existing trade marks of third parties in which the word 'Bavaria' appears and which were registered in good faith before the date on which the application for registration of the protected geographical indication 'Bayerisches Bier' was lodged, provided that those marks are not affected by the grounds for invalidity or revocation as provided for by Article 3(1)(c) and (g) and Article 12(2)(b) of First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks.

(¹) OJ C 247, 20.10.2007.

Judgment of the Court (Grand Chamber) of 7 July 2009 — Commission of the European Communities v Hellenic Republic

(Case C-369/07) (¹)

(Failure of a Member State to fulfil obligations — State aid — Measures for compliance with a judgment of the Court — Article 228 EC — Financial penalties — Penalty payment — Lump sum payment)

(2009/C 205/05)

Language of the case: Greek

Parties

Applicant: Commission of the European Communities (represented by: E. Righini, I. Hadjiyiannis and D. Triantafyllou, Agents)

Defendant: Hellenic Republic (represented by: A. Samoni-Rantou and P. Mylonopoulos, Agents, and V. Christianos and P. Anestis, dikigoroi)

Re:

Failure of a Member State to fulfil obligations — Article 228 EC — Non-compliance with the judgment of the Court of 12 May 2005 in Case C-415/03 — Infringement of Articles 3 and 4 of Commission Decision 2003/372/EC of 11 December 2002 on aid granted by Greece to Olympic Airways (OJ 2003 L 132, p. 1) — Failure to take measures to recover aid incompatible with the Treaty and aid granted unlawfully — Application for imposition of a penalty payment

Operative part of the judgment

The Court:

1. Declares that, by failing to adopt, by the date on which the period prescribed in the reasoned opinion expired, the measures necessary to comply with the judgment in Case C-415/03 Commission v Greece concerning repayment of the aid found to be unlawful and incompatible with the common market in accordance with Article

3 of Commission Decision 2003/372/EC of 11 December 2002 on aid granted by Greece to Olympic Airways, the Hellenic Republic has failed to fulfil its obligations under that decision and under Article 228(1) EC.

2. Orders the Hellenic Republic to pay to the Commission of the European Communities, into the 'European Community own resources' account, a penalty payment of EUR 16 000 for each day of delay in adopting the measures necessary to comply with the judgment in Case C-415/03 Commission v Greece, from one month after the day on which judgment is delivered in the present case until the day on which the judgment in Case C-415/03 is complied with.

3. Orders the Hellenic Republic to pay to the Commission of the European Communities, into the 'European Community own resources' account, a lump sum of EUR 2 million.

4. Orders the Hellenic Republic to pay the costs.

(¹) OJ C 269, 10.11.2007.

Judgment of the Court (Fourth Chamber) of 9 July 2009 — Commission of the European Communities v Kingdom of Spain

(Case C-397/07) (¹)

(Failure of a Member State to fulfil obligations — Indirect taxes on the raising of capital — Capital companies — Directive 69/335/EEC — Articles 2(1) and (3), 4(1) and 7 — Capital duty — Exemption — Conditions — Transfer of effective centre of management or of registered office from one Member State to another Member State — Capital duty on the capital allocated to commercial activities pursued in a Member State by branches or permanent establishments of companies established in another Member State)

(2009/C 205/06)

Language of the case: Spanish

Parties

Applicant: Commission of the European Communities (represented by: E. Gippini Fournier and M. Afonso, Agents)

Defendant: Kingdom of Spain (represented by: B. Plaza Cruz and M. Muñoz Pérez, Agents)

Re:

Failure by a Member State to fulfil its obligations — Infringement of Council Directive 69/335/EEC of 17 June 1969 concerning indirect taxes on the raising of capital (OJ, English Special Edition 1969 (II), p. 412) — Transfer of the registered office of a company — National law providing for the taxation of a transfer of registered office to the extent that the company involved is not subject to capital duty in the Member State of origin — Conditions for application of obligatory exemptions