Questions referred

1. May Articles 22 of Council Regulation (EC) No 1257/1999 ([1]) and [68] of Commission Regulation No 817/2004 ([2]) be interpreted as meaning that, in the case of specific programmes for grassland by way of agri-environmental aid under the first article mentioned, the checks on the data contained in the ENAR (Egységes Nyilvántartási és Azonosítási Rendszer — Integrated Identification and Registration System), pursuant to Article 68 of Regulation No 817/2004, must also be extended to area aid specifying a certain density of livestock?

2. May the above provisions be interpreted as meaning that cross-checks under the integrated administration and control system must be carried out also in cases where the precondition for aid is the density of livestock, although the aid is not for animals?

3. May those provisions be interpreted as meaning that, in assessing area aid, the competent authority may or must check whether the conditions for aid are met, independently of the ENAR?

4. On the basis of the interpretation of the above provisions, what monitoring obligation arises for the competent authority from the requirement in the above Community provisions for checks and cross-checks? May the monitoring be limited exclusively to review of the data contained in the ENAR?

5. Do those provisions impose an obligation on the national authority to provide information concerning the preconditions for aid (for example, registration in the ENAR)? If so, in what way and to what extent?

([1]) Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations (OJ 1999 L 160, p. 80).

([2]) Commission Regulation(EC) No 817/2004 of 29 April 2004 laying down detailed rules for the application of Council Regulation (EC) No 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) (OJ 2004 L 153, p. 30).

Action brought on 20 January 2010 — European Commission v Kingdom of Denmark

(Case C-33/10)

(2010/C 113/24)

Language of the case: Danish

Parties

Applicant: European Commission (represented by: A. Alcover San Pedro, H. Støvlbæk, acting as Agents)

Defendant: Kingdom of Denmark

Form of order sought

— Declare that, by not adopting all the measures necessary to ensure that by, 30 October 2007, all permits were reconsidered and, where necessary, updated, the Kingdom of Denmark has failed to comply with its obligations under Article 5(1) of Directive 2008/1/EC ([1]) of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control;

— order Kingdom of Denmark to pay the costs.

Pleas in law and main arguments

Article 5(1) of the Directive requires all Member States to enact measures with a view to implementing a permit and/or review procedure for existing installations by 30 October 2007. That time-limit applies without exception and the Directive does not allow the Member States to rely on exceptional circumstances as grounds for not complying with the obligation.

It is not sufficient that measures have been adopted in Denmark with a view to ensuring closure of all cases relating to compliance with Article 5(1) of the Directive by the end of 2009. Nor can delays resulting from the municipal reform of 1 January 2007 be accorded any weight in the assessment of whether Denmark has complied with its obligations under Article 5(1). The time-limit laid down for legalising installations expired on 30 October 2007 and was notified to Member States as early as 22 September 2005. Denmark has thus had a number of years in which to adopt the necessary measures to comply with the Directive.

Denmark has not contested its failure to implement requirements for the granting of permits for existing installations. It is thus uncontested that a significant number of the eight Danish installations are operated without permits under the Directive, contrary to Article 5(1) of the Directive.

(1) OJ 2008 L 24, p. 8.

Appeal brought on 1 February 2010 by Agencja Wydawnicza Technopol sp. z o.o. against the judgment of the General Court (Second Chamber) delivered on 19 November 2009 in Case T-298/06: gencja Wydawnicza Technopol sp. z o.o. v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-51/10 P)

(2010/C 113/25)

Language of the case: English

Parties

Appellant: Agencja Wydawnicza Technopol sp. z o.o. (represented by: A. von Mühlendahl, H. Hartwig, Rechtsanwälte)

Other party to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Form of order sought

The appellant claims that the Court should:

— Annul the Judgment of the Court of First Instance of 19 November 2009 in Case T-298/2006

— Refer the case back to the General Court

— Order OHMI to bear the costs of the proceedings before the Court of Justice

Pleas in law and main arguments

The Appellant claims that the Court of First Instance violated Article 7 (1) (c) CTMR (1) in the it applied erroneous legal criteria in determining that the Appellant's mark was not registrable.

The Appellant further claims that the Court of First Instance violated Article 7 (1) (c) CTMR or Article 76 CTMR, or both of these provisions, in not taken proper account of the practice of OHMI as regards registration of marks consisting of numerals or indication the content of publications.

(1) Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark
OJ L 11, p. 1

Reference for a preliminary ruling from the Bundesverwaltungsgericht (Germany) lodged on 2 February 2010 — Land Hessen v Franz Mücksch OHG, Intervener: Merck KG aA

(Case C-53/10)

(2010/C 113/26)

Language of the case: German

Referring court

Bundesverwaltungsgericht

Parties to the main proceedings

Applicant: Land Hessen

Defendant: Franz Mücksch OHG

Intervener: Merck KG aA

Questions referred

1. Is Article 12(1) of Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances, (1) most recently amended by Regulation (EC) No 1137/2008 of the European Parliament and of the Council of 22 October 2008 (2) — the Seveso II Directive — to be interpreted as meaning that the Member States' obligations contained therein, in particular the obligation to ensure that their land-use policies and the procedures for implementing those policies take account of the need, in the long term, to maintain appropriate distances between the establishments covered by the directive and buildings of public use, are addressed to planners who have to take decisions on land-use by weighing up the public and private interests affected, or are they also addressed to the planning permission authorities who have to take a non-discretionary decision on the authorisation of a project in an already built-up area?