

Parties to the main proceedings

Applicant: Soledad Duarte Hueros

Defendants: Autociba SA, Automóviles Citroën España SA

Re:

Request for a preliminary ruling — Juzgado de Primera Instancia — Badajoz — Interpretation of Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees (OJ 1999 L 171, p. 12) — Rights of the consumer — Product with a minor lack of conformity — No repair of that product — Application for rescission of the sale — Not permissible — No alternative claim seeking an appropriate reduction in the price — Whether a national court can consider of its own motion an appropriate reduction in the price.

Operative part of the judgment

Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees must be interpreted as precluding legislation of a Member State, such as that at issue in the main proceedings, which does not allow the national court hearing the dispute to grant of its own motion an appropriate reduction in the price of goods which are the subject of a contract of sale in the case where a consumer who is entitled to such a reduction brings proceedings which are limited to seeking only rescission of that contract and such rescission cannot be granted because the lack of conformity in those goods is minor, even though that consumer is not entitled to refine his initial application or to bring a fresh action to that end.

⁽¹⁾ OJ C 98, 31.3.2012.

Judgment of the Court (Fourth Chamber) of 19 September 2013 — European Federation of Ink and Ink Cartridge Manufacturers (EFIM) v European Commission, Lexmark International Technology SA

(Case C-56/12 P) ⁽¹⁾

(Appeal — Competition — Abuse of dominant position — Ink cartridge market — Decision rejecting a complaint — Lack of Community interest — Low probability of proving the existence of an infringement of Article 82 EC — Degree of seriousness of the infringement alleged)

(2013/C 344/33)

Language of the case: German

Parties

Appellant: European Federation of Ink and Ink Cartridge Manufacturers (EFIM) (represented by: D. Ehle, Rechtsanwalt)

Other parties to the proceedings: European Commission (represented by: A. Antoniadis and C. Hödlmayr, acting as Agents, and W. Berg, Rechtsanwalt), Lexmark International Technology SA

Re:

Appeal brought against the judgment of the General Court (Fifth Chamber) of 24 November 2011 in Case T-296/09 *EFIM v Commission* by which the General Court dismissed an application for annulment of Commission Decision C(2009) 4125 of 20 May 2009 rejecting complaint COMP/C-3/39.391 concerning alleged infringements of Articles 81 EC and 82 EC by Hewlett-Packard, Lexmark, Canon and Epson in the market for ink cartridges — Powers of the Commission — Obligations regarding the investigation of complaints — No Community interest — Proportionality — Failure to state reasons — Infringement of the rights of the defence — Commission Notice on the handling of complaints

Operative part of the judgment

The Court:

1. Dismisses the appeal;
2. Orders European Federation of Ink and Ink Cartridge Manufacturers (EFIM) to pay the costs.

⁽¹⁾ OJ C 118, 21.4.2012.

Judgment of the Court (First Chamber) of 3 October 2013 (request for a preliminary ruling from the Bundesgerichtshof — Germany) — BKK Mobil Oil Körperschaft des öffentlichen Rechts v Zentrale zur Bekämpfung unlauteren Wettbewerbs eV

(Case C-59/12) ⁽¹⁾

(Directive 2005/29/EC — Unfair commercial practices — Scope — Misleading information circulated by a health insurance fund which is part of the statutory social security system — Fund established as a public law body)

(2013/C 344/34)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: BKK Mobil Oil Körperschaft des öffentlichen Rechts

Defendant: Zentrale zur Bekämpfung unlauteren Wettbewerbs eV

Re:

Request for a preliminary ruling — Bundesgerichtshof — Interpretation of Article 3(1) of Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council (the 'Unfair Commercial Practices Directive') (OJ 2005 L 149, p. 22) in conjunction with Article 2(d) of the same directive — Scope — 'Commercial practices' and 'trader' — Advertisements of a statutory health insurance fund containing misleading information in relation to the drawbacks flowing from a potential change of health insurance fund for its clients.

Operative part of the judgment

Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council (the 'Unfair Commercial Practices Directive'), must be interpreted to the effect that a public law body charged with a task of public interest, such as the management of a statutory health insurance fund, falls within the persons covered by the directive.

⁽¹⁾ OJ C 138, 12.5.2012.

Judgment of the Court (Second Chamber) of 10 October 2013 (request for a preliminary ruling from the Cour administrative — Luxembourg) — Adzo Domenyo Alokpa, Jarel Moudoulou, Eja Moudoulou v Ministre du Travail, de l'Emploi et de l'Immigration

(Case C-86/12) ⁽¹⁾

(Citizenship of the Union — Articles 20 TFEU and 21 TFEU — Directive 2004/38/EC — Right of residence of a third-country national who is a direct relative in the ascending line of Union citizens who are minor children — Union citizens born in a Member State other than that of which they are nationals and who have not made use of their right of freedom of movement — Fundamental rights)

(2013/C 344/35)

Language of the case: French

Referring court

Cour administrative

Parties to the main proceedings

Applicants: Adzo Domenyo Alokpa, Jarel Moudoulou, Eja Moudoulou

Defendant: Ministre du Travail, de l'Emploi et de l'Immigration

Re:

Request for a preliminary ruling — Cour administrative — Interpretation of Article 20 TFEU and of Articles 20, 21, 24, 33 and 34 of the Charter of Fundamental Rights — Refusal by a Member State to grant a right of residence to a third-country national who is the direct ascendant of infants who are citizens of the European Union, with the nationality of one of the Member States, and for whom he or she has sole responsibility — No shared family life with another direct ascendant of the children, who is resident in another Member State — Scope of the refusals to allow residence, to grant a residence permit and to grant a work permit — Implications for the genuine enjoyment of the rights attaching to the status of citizen of the Union

Operative part of the judgment

In a situation such as that at issue in the main proceedings, Articles 20 TFEU and 21 TFEU must be interpreted as meaning that they do not preclude a Member State from refusing to allow a third-country national to reside in its territory, where that third-country national has sole responsibility for her minor children who are citizens of the European Union, and who have resided with her in that Member State since their birth, without possessing the nationality of that Member State and making use of their right to freedom of movement, in so far as those Union citizens do not satisfy the conditions set out in 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) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC, or such a refusal does not deprive those citizens of effective enjoyment of the substance of the rights conferred by virtue of the status of European Union citizenship, a matter which is to be determined by the referring court.

⁽¹⁾ OJ C 138, 12.5.2012.