

Order of the Court of 28 September 2006 — Unilever Bestfoods (Ireland) Ltd, formerly Van den Bergh Foods Ltd v Commission of the European Communities, Masterfoods Ltd, Richmond Ice Cream Ltd, formerly Richmond Frozen Confectionery Ltd

(Case C-552/03 P) ⁽¹⁾

(Appeal — Articles 85 and 86 of the EC Treaty (now Articles 81 EC and 82 EC) — Ice creams for immediate consumption — Supply of freezer cabinets to retailers — Exclusivity clause — Right to a fair hearing — Burden of proof)

(2006/C 294/31)

Language of the case: English

Parties

Applicant: Unilever Bestfoods (Ireland) Ltd (formerly Van den Bergh Foods Ltd) (represented by: M. Nicholson and M. Rowe, Solicitors, M. Biesheuvel and M. De Grave, advocaten)

Other parties to the proceedings: Commission of the European Communities (represented by: W. Wils, B. Doherty and A. Whelan, Agents), Masterfoods Ltd (represented by: P. Collins and M. Levitt, Solicitors), Richmond Ice Cream Ltd, formerly Richmond Frozen Confectionery Ltd (represented by: I. Forrester QC)

Re:

Appeal against the judgment of the Court of First Instance (Fifth Chamber) of 23 October 2003 in Case T-65/98 Van den Bergh Foods Ltd (formerly HB Ice Cream Limited) v Commission — Dismissal of an action for annulment of Commission Decision of 11 March 1998 relating to a proceeding under Articles 85 and 86 of the EC Treaty (Case Nos IV/34.073, IV/34.395 and IV/35.496 — Van den Bergh Foods Limited) prohibiting the practice of making freezer cabinets available to retailers exclusively for the storage of ice creams produced by the applicant

Operative part of the order

1. *The appeal is dismissed.*
2. *Unilever Bestfoods (Ireland) Ltd shall pay the costs.*

⁽¹⁾ OJ C 59, 6.03.2004.

Order of the Court (Sixth Chamber) of 13 July 2006 (reference for a preliminary ruling from the Korsholms tingsrätt — Finland) — Teemu Hakala v Oy L. Simons Transport Ab

(Case C-93/05) ⁽¹⁾

(Second subparagraph of Article 104(3) of the Rules of Procedure — Question the answer to which admits of no reasonable doubt — Regulation (EEC) No 3820/85 — Harmonisation of certain social legislation relating to road transport — Payments to wage-earning drivers related to distances covered — Prohibition of such a pay scheme unless it does not endanger road safety)

(2006/C 294/32)

Language of the case: Swedish

Referring court

Korsholms tingsrätt

Parties to the main proceedings

Applicant: Teemu Hakala

Defendant: Oy L. Simons Transport Ab

Re:

Reference for a preliminary ruling — Korsholms tingsrätt — Interpretation of Article 10 of Council Regulation (EEC) No 3820/85 of 20 December 1985 on the harmonisation of certain social legislation relating to road transport (OJ 1985 L 370, p. 1) — Payments to a wage-earning driver based on distances covered

Operative part of the order

A pay scheme based on distances covered is contrary to Article 10 of Council Regulation (EEC) No 3820/85 of 20 December 1985 on the harmonisation of certain social legislation relating to road transport, unless such a scheme is of a kind as not to endanger road safety. It is for the national court to ascertain, in view of all the circumstances of the case in the main proceedings, whether that is the case.

⁽¹⁾ OJ C 143, 11.06.2005