genetically modified organisms and repealing Council Directive 90/220/EEC (OJ 2001 L 106, p. 1) and Articles 53 and 54 of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ 2002 L 31, p. 1) — Provisional suspension or prohibition on the use or sale of varieties of maize seed derived from a genetically modified maize line, after authorisation to place that product on the market — Power of the national authorities to adopt such measures — Concepts of 'risk' and 'serious risk' to the environment — Criteria for identifying the risk, evaluating its probability and assessing its effects

Operative part of the judgment

1. *In circumstances such as those of the disputes in the main proceedings, genetically modified organisms such as MON 810 maize, which were authorised as, inter alia, seeds for the purpose of planting under Council Directive 90/220/EEC of 23 April 1990 on the deliberate release into the environment of genetically modified organisms and which were notified as existing products in accordance with the conditions set out in Article 20 of Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed, and were subsequently the subject of a pending application for renewal of authorisation, may not have their use or sale provisionally suspended or prohibited, by a Member State, under Article 23 of Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220; such measures may, however, be adopted pursuant to Article 34 of Regulation No 1829/2003.*

2. *Article 34 of Regulation No 1829/2003 authorises a Member State to adopt emergency measures only in accordance with the procedural conditions set out in Article 54 of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety, compliance with which it is for the national court to ascertain.*

3. *With a view to the adoption of emergency measures, Article 34 of Regulation No 1829/2003 requires Member States to establish, in addition to urgency, the existence of a situation which is likely to constitute a clear and serious risk to human health, animal health or the environment.*

(1) OJ C 100, 17.4.2010.

Judgment of the Court (Fourth Chamber) of 8 September 2011 (reference for a preliminary ruling from the Rechtbank van Eerste Aanleg te Brussel (Belgium)) — Q-Beef NV (C-89/10), Frans Bosschaert (C-96/10) v Belgische Staat (C-89/10), Belgische Staat, Vleesgroothandel Georges Goossens en Zonen NV, Slachthuizen Goossens NV (C-96/10)

(Joined Cases C-89/10 and C-96/10) (1)

(National charges incompatible with EU law — Charges paid under a financial support scheme and levies declared contrary to EU law — Scheme replaced by another scheme found to be compatible — Recovery of charges improperly levied — Principles of equivalence and effectiveness — Duration of the limitation period — Day on which the time-limit starts to run — Claims to recover from the State and from individuals — Different time-limits)

(2011/C 311/11)

Language of the case: Dutch

Referring court

Rechtbank van Eerste Aanleg te Brussel

Parties to the main proceedings

Applicants: Q-Beef NV (C-89/10), Frans Bosschaert (C-96/10)

Defendants: Belgische Staat (C-89/10), Belgische Staat, Vleesgroothandel Georges Goossens en Zonen NV, Slachthuizen Goossens NV (C-96/10)

Re:

Reference for a preliminary ruling — Rechtbank van eerste aanleg te Brussel — Interpretation of the Community law on the principles of equivalence and effectiveness — National charges incompatible with Community law — Charges paid under a system of financial support and contributions which was declared contrary to Community law — System replaced by a new system held to be compatible — Reimbursement of charges levied but not due — Limitation period

Operative part of the judgment

1. *EU law does not preclude, in circumstances such as those in the main proceedings, the application of a five-year limitation period which is laid down in the national legal system for claims in respect of debts owed by the State to claims for the reimbursement of charges paid in breach of that law under a 'hybrid system of aid and charges'.*

2. *EU law does not preclude national legislation which, in circumstances such as those in the main proceedings, grants an individual a longer limitation period to recover charges from an individual acting as an intermediary, to whom he unwarrantedly paid the charges and who paid them on behalf of that first individual for the benefit of the State, whereas, if that first individual had paid those charges directly to the State, the action of that individual would have been restricted by a shorter time-limit, by way of derogation from the ordinary rules governing actions between private individuals for the recovery of sums paid but not due, on condition that the individuals acting as intermediaries may effectively bring actions against the State for sums which may have been paid on behalf of other individuals.*

3. *In circumstances such as those in the main proceedings, the Court's finding, in a judgment following a reference for a preliminary ruling, that the retroactive nature of a national law at issue is incompatible with EU law has no bearing on the starting date of the limitation period laid down by national law in respect of claims against the State.*

([1]) OJ C 113, 1.5.2010.

Judgment of the Court (Grand Chamber) of 6 September 2011 (reference for a preliminary ruling from the Tribunale di Venezia — Italy) — Ivana Scattolon v Ministero dell'Istruzione, dell'Università e della Ricerca

(Case C-108/10) ([1])

(Social policy — Directive 77/187/EEC — Maintenance of the rights of workers in the event of a transfer of an undertaking — Meaning of 'undertaking' and 'transfer' — Transferor and transferee governed by public law — Application, from the date of transfer, of the collective agreement in force with the transferee — Salary treatment — Whether length of service completed with the transferor to be taken into account)

(2011/C 311/12)

Language of the case: Italian

Referring court

Tribunale Ordinario di Venezia

Parties to the main proceedings

Applicant: Ivana Scattolon

Defendant: Ministero dell'Istruzione, dell'Università e della Ricerca

Re:

Reference for a preliminary ruling — Tribunale Ordinario di Venezia — Scope of Council Directives 77/187/EEC of 14 February 1977 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses (OJ 1977 L 61, p. 26) and 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses (OJ 2001 L 82, p. 16) — Interpretation of Article 3(1) of Directive 77/187/EEC — Transfer of local authority cleaning staff from a local authority to the State — Safeguarding of rights, including length of service with the local authority

Operative part of the judgment

1. *The takeover by a public authority of a Member State of staff employed by another public authority and entrusted with the supply to schools of auxiliary services including, in particular, tasks of maintenance and administrative assistance constitutes a transfer of an undertaking falling within Council Directive 77/187/EEC of 14 February 1977 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses, where that staff consists in a structured group of employees who are protected as workers by virtue of the domestic law of that Member State.*

2. *Where a transfer within the meaning of Directive 77/187 leads to the immediate application to the transferred workers of the collective agreement in force with the transferee, and where the conditions for remuneration are linked in particular to length of service, Article 3 of that directive precludes the transferred workers from suffering, in comparison with their situation immediately before the transfer, a substantial loss of salary by reason of the fact that their length of service with the transferor, equivalent to that completed by workers in the service of the transferee, is not taken into account when determining their starting salary position with the latter. It is for the national court to examine whether, at the time of the transfer at issue in the main proceedings, there was such a loss of salary.*

([1]) OJ C 134, 22.5.2010.

Judgment of the Court (First Chamber) of 8 September 2011 (reference for a preliminary ruling from the Conseil d'État — Belgium) — European Air Transport SA v Collège d'environnement de la Région de Bruxelles-Capitale, Région de Bruxelles-Capitale

(Case C-120/10) ([1])

(Air transport — Directive 2002/30/EC — Noise-related operating restrictions at Community airports — Noise level limits that must be observed when overflying built-up areas near an airport)

(2011/C 311/13)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: European Air Transport SA

Defendants: Collège d'environnement de la Région de Bruxelles-Capitale, Région de Bruxelles-Capitale

Re:

Reference for a preliminary ruling — Conseil d'État — Interpretation of Articles 2(e), 4(4) and 6(2) of Directive 2002/30/EC of the European Parliament and of the Council of 26 March 2002 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports (OJ 2002 L 85, p. 40) — Limits on noise levels to be complied with by aircraft over-flying urban territories located near an airport — Concept of 'operating restrictions' — Restrictions adopted in connection with aircraft which are marginally compliant — Whether it is possible to impose such restrictions on the basis of the noise level as measured on the ground — Effect of the Convention on International Civil Aviation (Chicago Convention)