

Other parties to the proceedings: Département du Loiret, Scott SA (represented by: J. Lever QC, J. Gardner and G. Peretz, Barristers, instructed by R. Griffith and M. Papadakis, Solicitors)

Re:

Appeal against the judgment of 29 March 2007 of the Court of First Instance (First Chamber) in Case T-369/00 *Département du Loiret v Commission*, by which the Court annulled Commission Decision 2002/14/EC of 12 July 2000 on the State aid granted by France to Scott Paper SA/Kimberly-Clark (OJ 2002 L 12, p. 1) in so far as it concerns the aid granted in the form of the preferential price for a property referred to in Article 1 thereof — Method for calculating interest due on sums unlawfully received: simple or compound interest rates? — Reasons for the choice of that method and reversal of the burden of proof — Point in time at which the existence of an unlawful advantage falls to be determined

Operative part of the judgment

The Court:

1. Sets aside the judgment of the Court of First Instance of the European Communities of 29 March 2007 in Case T-369/00 *Département du Loiret v Commission* [2007] ECR II-851;
2. Refers the case back to the Court of First Instance of the European Communities;
3. Reserves the costs.

⁽¹⁾ OJ C 211, 8.9.2007.

Judgment of the Court (Second Chamber) of 11 December 2008 (reference for a preliminary ruling from the Landgericht Regensburg — Germany) — Criminal proceedings against Klaus Bourquain

(Case C-297/07) ⁽¹⁾

(Convention implementing the Schengen Agreement — Article 54 — ‘Ne bis in idem’ principle — Scope — Conviction in absentia in respect of the same acts — Concept of ‘finally disposed of’ — Procedural rules of national law — Concept of ‘penalty which can no longer be enforced’)

(2009/C 32/08)

Language of the case: German

Referring court

Landgericht Regensburg

Defendant in the criminal proceedings

Klaus Bourquain

Re:

Reference for a preliminary ruling — Landgericht Regensburg — Interpretation of Article 54 of the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders (OJ 2000 L 239, p. 19) — Interpretation of *ne bis in idem* principle — Conviction in absentia in respect of same acts — No enforcement and conviction subsequently covered by general amnesty

Operative part of the judgment

The Court:

The *ne bis in idem* principle, enshrined in Article 54 of the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders, signed in Schengen (Luxembourg) on 19 June 1990, is applicable to criminal proceedings instituted in a Contracting State against an accused whose trial for the same acts as those for which he faces prosecution was finally disposed of in another Contracting State, even though, under the law of the State in which he was convicted, the sentence which was imposed on him could never, on account of specific features of procedure such as those referred to in the main proceedings, have been directly enforced.

⁽¹⁾ OJ C 211, 8.9.2007.

Judgment of the Court (Second Chamber) of 11 December 2008 — Commission of the European Communities v Freistaat Sachsen

(Case C-334/07 P) ⁽¹⁾

(Appeal — State aid — Proposed scheme for aid to small and medium-sized enterprises — Compatibility with the common market — Criteria for assessing State aid — Application *ratione temporis* — Proposed scheme notified before the entry into force of Regulation (EC) No 70/2001 — Decision subsequent to entry into force thereof — Legitimate expectations — Legal certainty — Complete notifications)

(2009/C 32/09)

Language of the case: German

Parties

Appellant: Commission of the European Communities (represented by: K. Gross, acting as Agent)

Other party to the proceedings: Freistaat Sachsen (represented by: Th. Lübbig, Rechtsanwalt)