

2. Orders HDI International to compensate the damage caused to the European Parliament as a result of the wrongful termination of contract no. 5.013.347;
3. Holds that the sum due as compensation for the damage which HDI International caused the European Parliament is obtained by multiplying the sum of EUR 389 291,73 by the percentage of premiums which HDI International would have received out of the total of those which the European Parliament should have paid the four co-assurors in respect of the guarantees for the year 2002 and by deducting from the product thus obtained the sum which that institution should have paid HDI International in respect of the cover for its assets in France against all material damage for the year 2002;
4. Holds that the sums due to the European Parliament by HDI International generate interest with effect from 4 April 2002 at the statutory rate applicable in France;
5. Orders HDI International to pay the costs.

⁽¹⁾ OJ C 144, 15.06.2002.

JUDGMENT OF THE COURT

(Third Chamber)

of 9 June 2005

in Case C-287/02: Kingdom of Spain v Commission of the European Communities ⁽¹⁾

(EAGGF — Clearance of accounts — 2001 financial year — Detailed implementing rules)

(2005/C 193/04)

(Language of the case: Spanish)

In Case C-287/02: Kingdom of Spain (Agent: L. Fraguas Gadea) v Commission of the European Communities (Agents: M. Niejahr and S. Pardo Quintillán) — action for annulment under Article 230 EC, brought on 9 August 2002 — the Court (Third Chamber), composed of A. Rosas, President of the Chamber, A. Borg Barthet, J.-P. Puissechot, S. von Bahr and J. Malenovský (Rapporteur), Judges; F.G. Jacobs, Advocate General; R. Grass, Registrar, gave a judgment on 9 June 2005, in which it:

1. Annuls Commission Decision 2002/461/EC of 12 June 2002 on the clearance of the accounts of Member States' expenditure financed by the European Agricultural Guidance and Guarantee Fund (EAGGF), Guarantee Section, for the 2001 financial year in so far as Annex I thereto includes in the amount recoverable from the Kingdom of Spain a financial correction of the accounts of the Castilla-La Mancha paying agency corresponding to the amount of the compensatory allowances;
2. Dismisses the remainder of the action;
3. Orders the Kingdom of Spain and the Commission of the European Communities to bear their own costs.

⁽¹⁾ OJ C 233, 28.9.2002.

JUDGMENT OF THE COURT OF JUSTICE

(Grand Chamber)

of 16 June 2005

in Case C-105/03, Reference for a preliminary ruling from the Tribunale di Firenze (Italy), in criminal proceedings against Maria Pupino ⁽¹⁾

(Police and judicial cooperation in criminal matters — Articles 34 EU and 35 EU — Framework Decision 2001/220/JHA — Standing of victims in criminal proceedings — Protection of vulnerable persons — Hearing of minors as witnesses — Effects of a framework decision)

(2005/C 193/05)

(Language of the case: Italian)

In Case C-105/03: reference for a preliminary ruling under Article 35 EU, by the judge in charge of preliminary enquiries at the Tribunale di Firenze (Italy), made by decision of 3 February 2003, received at the Court on 5 March 2003, in criminal proceedings against Maria Pupino — the Court (Grand Chamber), composed of V. Skouris, President, P. Jann, C.W.A. Timmermans, A. Rosas, R. Silva de Lapuerta and A. Borg Barthet, Presidents of Chambers, N. Colneric, S. von Bahr, J.N. Cunha Rodrigues (Rapporteur), P. Küris, E. Juhász, G. Arestis and M. Ilesič, Judges; J. Kokott, Advocate General, L. Hewlett, Principal Administrator, for the Registrar, gave a judgment on 16 June 2005, the operative part of which is as follows:

1. Articles 2, 3 and 8(4) of Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings must be interpreted as meaning that the national court must be able to authorise young children, who, as in this case, claim to have been victims of maltreatment, to give their testimony in accordance with arrangements allowing those children to be guaranteed an appropriate level of protection, for example outside the trial and before it takes place.

2. The national court is required to take into consideration all the rules of national law and to interpret them, so far as possible, in the light of the wording and purpose of the Framework Decision.

(¹) OJ C 146 of 21.06.2003

JUDGMENT OF THE COURT OF JUSTICE

(First Chamber)

of 9 June 2005

in Joined Cases C-211/03, C-299/03 and C-316/03 to C-318/03 (References for a preliminary ruling from the Oberverwaltungsgericht für das Land Nordrhein-Westfalen): HLH Warenvertriebs GmbH, Orthica BC v Federal Republic of Germany (¹)

(Free movement of goods — Distinction between medicinal products and food additives — Product marketed as a food additive in the Member State of origin but treated as a medicinal product in the Member State of import — Marketing authorisation)

(2005/C 193/06)

(Language of the case: German)

In Joined Cases C-211/03, C-299/03 and C-316/03 to C-318/03: references for a preliminary ruling under Article 234 EC, by the Oberverwaltungsgericht für das Land Nordrhein-Westfalen (Germany), by decisions of 7 May and of 4, 3, 7 and 8 July 2003 respectively, received at the Court on 15 May and 11 and 24 July 2003, in the proceedings pending before that court between **HLH Warenvertriebs GmbH** (C-211/03), **Orthica BV** (C-299/03 and C-316/03 to C-318/03) and the **Federal Republic of Germany**, intervener: **Vertreter des**

öffentlichen Interesses beim Oberverwaltungsgericht für das Land Nordrhein-Westfalen, the Court (First Chamber) composed of P. Jann, President of the Chamber, N. Colneric, J.N. Cunha Rodrigues (Rapporteur), M. Ilešić and E. Levits, Judges; L.A. Geelhoed, Advocate General, K. Sztranc, Administrator, for the Registrar, gave a judgment on 9 June 2005, the operative part of which is as follows:

1. The classification of a product as a medicinal product or as a foodstuff must take account of all the characteristics of the product, established both in the initial stage of the product and where it is mixed, in accordance with the method by which it is used, with water or with yoghurt.

2. 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 constitutes an additional set of rules in relation to Directive 2002/46/EC of the European Parliament and of the Council of 10 June 2002 on the approximation of the laws of the Member States relating to food supplements, the application of which is precluded to the extent to which a Community rule, such as that directive, contains specific provisions for certain categories of foodstuffs.

3. Only the provisions of Community law specific to medicinal products apply to a product which satisfies equally well the conditions for classification as a foodstuff and the conditions for classification as a medicinal product.

4. The pharmacological properties of a product are the factor on the basis of which the authorities of the Member States must ascertain, in the light of the potential capacities of the product, whether it may, for the purposes of the second subparagraph of Article 1(2) of Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use, be administered to human beings with a view to making a medical diagnosis or to restoring, correcting or modifying physiological functions in human beings. The risk that the use of a product may entail for health is an autonomous factor that must also be taken into consideration by the competent national authorities in the context of the classification of the product as a medicinal product.

5. A product which constitutes a medicinal product within the meaning of Directive 2001/83 may be imported into another Member State only upon acquisition of a marketing authorisation issued in accordance with the provisions of that directive, even where it is lawfully marketed as a foodstuff in another Member State.