

Other party to the proceedings: Council of the European Union (represented by: A. Westerhof Löfflerová and A. de Gregorio Merino, agents)

Intervener in support of the defendant: European Commission (represented by: A. Szmytkowska and I. Galindo Martín, agents)

Operative part of the order

- 1) *The appeal is dismissed as manifestly unfounded.*
- 2) *Pesqueras Riveirenses SL and Others shall bear their own costs and pay those incurred by the Council of the European Union.*
- 3) *The European Commission shall bear its own costs.*

⁽¹⁾ OJ C 159, 26.5.2014.

Appeal brought on 2 September 2014 by Fundação Calouste Gulbenkian against the judgment of the General Court (Sixth Chamber) delivered on 26 June 2014 in Case T-541/11: Fundação Calouste Gulbenkian v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-414/14 P)

(2015/C 198/21)

Language of the case: English

Parties

Appellant: Fundação Calouste Gulbenkian (represented by: G. Macias Bonilla, G. Marín Raigal, P. López Ronda, lawyers)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs), Micael Gulbenkian

By order of 26 February 2015 the Court of Justice (Eighth Chamber) has dismissed the appeal and ordered Fundação Calouste Gulbenkian to bear its own costs.

Request for a preliminary ruling from the Bayerischer Verwaltungsgerichtshof (Germany) lodged on 6 March 2015 — Breitsamer und Ulrich GmbH & Co. KG v Landeshauptstadt München

(Case C-113/15)

(2015/C 198/22)

Language of the case: German

Referring court

Bayerischer Verwaltungsgerichtshof

Parties to the main proceedings

Applicant: Breitsamer und Ulrich GmbH & Co. KG

Defendant: Landeshauptstadt München

Questions referred

1. Are individual portions of honey which are packaged in bulk in a carton containing all the labelling elements, including the indication of the country of origin, and which are not sold as individual portions to final consumers nor supplied individually to mass caterers, 'prepackaged foodstuff' or 'prepacked food' within the meaning of Article 1(3)(b) of Directive 2000/13/EC ⁽¹⁾ and Article 2(2)(e) of Regulation (EU) No 1169/2011 ⁽²⁾ respectively, for which there is a corresponding labelling requirement, or are such portions of honey not subject to the labelling requirements for prepackaged foodstuff/prepacked foods due to their not being offered for sale as a single item?
2. Is the answer different if those individual portions are supplied in mass catering establishments not only in meals that are paid for as a whole but are also sold individually?

⁽¹⁾ Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs, OJ 2000 L 109, p. 29.

⁽²⁾ Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004, OJ 2011 L 304, p. 18.

**Request for a preliminary ruling from the Landgericht Köln (Germany) lodged on 9 March 2015 —
Reha Training Gesellschaft für Sport- und Unfallrehabilitation mbH v Gesellschaft für musikalische
Aufführungs- und mechanische Vervielfältigungsrechte (GEMA)**

(Case C-117/15)

(2015/C 198/23)

Language of the case: German

Referring court

Landgericht Köln

Parties to the main proceedings

Applicant: Reha Training Gesellschaft für Sport- und Unfallrehabilitation mbH

Defendant: Gesellschaft für musikalische Aufführungs- und mechanische Vervielfältigungsrechte (GEMA)

Questions referred

1. Is the question as to whether there is a 'communication to the public' within the meaning of Article 3(1) of Directive 2001/29 ⁽¹⁾ and/or within the meaning of Article 8(2) of Directive 2006/115 ⁽²⁾ always to be determined in accordance with the same criteria, namely that:
 - a user acts, in full knowledge of the consequences of its action, to provide access to the protected work to third parties which the latter would not have without that user's intervention;
 - the term 'public' refers to an indeterminate number of potential recipients of the service and, in addition, must consist of a fairly large number of persons, in which connection the indeterminate nature is established when 'persons in general' — and therefore not persons belonging to a private group — are concerned, and 'a fairly large number of persons' means that a certain *de minimis* threshold must be exceeded and that groups of persons concerned which are too small or insignificant therefore do not satisfy the criterion; in this connection not only is it relevant to know how many persons have access to the same work at the same time but it is also relevant to know how many of them have access to it in succession;