

4. If the term ‘employer’s operational centre where the driver is normally based’, used in Article 9(3) of [Regulation No 561/2006], cannot be defined as the place to which the driver is actually attached, in other words, the road passenger transport undertaking’s facilities or parking area, or another geographical point defined as the starting location of the route, from which the driver usually carries out his or her service and to which he or she returns at the end of that service, in the normal exercise of his or her functions and without complying with specific instructions from his or her employer, should the definition of that term in [Regulation No 561/2006] be treated as a measure regarding working conditions, in respect of which the two sides of industry are able to lay down, by collective bargaining or otherwise, provisions more favourable to workers, in the light of recital 5 of the regulation?

(¹) Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85 (OJ 2006 L 102, p. 1).

**Request for a preliminary ruling from the Svea hovrätt (Mark- och miljööverdomstolen) (Sweden)
lodged on 17 March 2023 — Naturvårdsverket v Nouryon Functional Chemicals AB**

(Case C-166/23, Nouryon Functional Chemicals)

(2023/C 189/30)

Language of the case: Swedish

Referring court

Svea hovrätt (Mark- och miljööverdomstolen)

Parties to the main proceedings

Appellant: Naturvårdsverket

Respondent: Nouryon Functional Chemicals AB

Questions referred

1. Is the exemption for units for the incineration of hazardous waste in clause 5 of Annex I to the Emission Allowance Trading Directive – (¹) that all units in which fuels are combusted are to be included in the greenhouse gas emissions permit, other than units for the incineration of hazardous waste — applicable to all units which incinerate hazardous waste, or must there be some qualifying factor in order for the exemption to be applied? If such a factor is necessary, is the purpose of the unit thus to be decisive for application of the exemption, or can other factors also be relevant?
2. If the unit’s purpose is decisive to the assessment, is the exemption still to be applied to a unit which incinerates hazardous waste but which has a main purpose other than that incineration?
3. If the exemption applies only to a unit which has as its main purpose the incineration of hazardous waste, which criteria are to be used in the assessment of the purpose?
4. If, in an assessment, it is decisive whether the unit is to be regarded as an integral part of an activity in an installation for which a permit is required under the directive — for example, as set out in section 3.3.3 of the Commission Guidance — which requirements are thus to be set in order for the unit to be regarded as an integral part thereof? Can it be required, for example, that the production must be impossible or not allowed without the unit (see Commission Guidance, page 14, footnote 14), or can it be sufficient for the unit to be technically linked to the installation and accept hazardous waste only from that installation?

(¹) Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ 2003 L 275, p. 32).