

Parties to the main proceedings

Applicant: Skarb Państwa — Wojewoda Dolnośląski

Defendant: Gmina Trzebnica

Questions referred

1. Do contributions in kind which a beneficiary receives on account of penalties or indemnities in connection with the non-performance or late performance of an obligation constitute receipts within the meaning of Rule No 2 of Commission Regulation (EC) No 448/2004 of 10 March 2004 amending Regulation (EC) No 1685/2000 laying down detailed rules for the implementation of Council Regulation (EC) No 1260/1999 as regards the eligibility of expenditure of operations co-financed by the Structural Funds and withdrawing Regulation (EC) No 1145/2003? ⁽¹⁾
2. If Question 1 is answered in the affirmative:
 - (a) Can losses or additional costs incurred by the beneficiary in connection with the non-performance or late performance of a contract by a contractor be deducted from receipts in the form of penalties?
 - (b) Does a contribution in kind by the contractor consisting in the performance for the beneficiary of other works which are in no way linked to the object of the financing and which release the contractor from the obligation to pay the contractual penalty (*datio in solutum*) constitute a receipt within the meaning of Rule No 2 of Commission Regulation (EC) No 448/2004 of 10 March 2004 amending Regulation (EC) No 1685/2000 laying down detailed rules for the implementation of Council Regulation (EC) No 1260/1999 as regards the eligibility of expenditure of operations co-financed by the Structural Funds and withdrawing Regulation (EC) No 1145/2003?
3. If the answers to Questions 1 and 2a are in the affirmative, is the amount of the receipt obtained by the beneficiary to be taken to be the amount of the contractual penalty imposed on the contractor or the value of the contribution in kind?
4. Can the amount of the receipts obtained by the beneficiary during the period of the assistance be deducted from the co-financing after the closure of the assistance within the meaning of Rule No 2 of Commission Regulation (EC) No 448/2004 of 10 March 2004 amending Regulation (EC) No 1685/2000 laying down detailed rules for the implementation of Council Regulation (EC) No 1260/1999 as regards the eligibility of expenditure of operations co-financed by the Structural Funds and withdrawing Regulation (EC) No 1145/2003?
5. If Question 4 is answered in the affirmative, can the amount of the receipts obtained by the beneficiary be deducted from the co-financing where those receipts were not notified to the Commission by the Member State before the closure of the assistance?

⁽¹⁾ OJ 2004 L 72, p. 66.

Request for a preliminary ruling from the Naczelny Sąd Administracyjny (Poland) lodged on 20 January 2017 — Dyrektor Izby Celnej w Poznaniu v Kompania Piwowarska S.A. w Poznaniu

(Case C-30/17)

(2017/C 161/09)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Appellant: Dyrektor Izby Celnej w Poznaniu

Respondent: Kompania Piwowarska S.A. w Poznaniu

Question referred

In the light of Article 3(1) and the objectives of Council Directive 92/83/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages, ⁽¹⁾ in the determination of the basis of assessment for flavoured beers using the Plato scale, must the extract resulting from the flavourings added following the completion of fermentation be added to the real extract of the finished product or is the extract resulting from the added substances to be disregarded?

⁽¹⁾ OJ 1992 L 316, p. 21.

Request for a preliminary ruling from the Sąd Rejonowy Poznań-Grunwald i Jeżyce w Poznaniu (Poland) lodged on 7 February 2017 — Grzegorz Chudaś and Irena Chudaś v DA Deutsche Allgemeine Versicherung Aktiengesellschaft AG

(Case C-66/17)

(2017/C 161/10)

Language of the case: Polish

Referring court

Sąd Rejonowy Poznań-Grunwald i Jeżyce w Poznaniu

Parties to the main proceedings

Applicants: Grzegorz Chudaś and Irena Chudaś

Defendant: DA Deutsche Allgemeine Versicherung Aktiengesellschaft AG

Question referred

Should Article 4(1) of Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims ⁽¹⁾ ... ('Regulation No 805/2004'), read in conjunction with Article 7 of that regulation, be interpreted as meaning that a European Enforcement Order certificate may be issued in respect of a decision concerning reimbursement of the costs of proceedings contained in a judgment in which a court has established the existence of a right?

⁽¹⁾ OJ 2004 L 143, p. 15.

Request for a preliminary ruling from the Curtea de Apel Suceava (Romania) lodged on 14 February 2017 — Zabrus Siret SRL v Direcția Generală Regională a Finanțelor Publice Iași — Administrația Județeană a Finanțelor Publice Suceava

(Case C-81/17)

(2017/C 161/11)

Language of the case: Romanian

Referring court

Curtea de Apel Suceava

Parties to the main proceedings

Appellant: Zabrus Siret SRL

Respondent: Direcția Generală Regională a Finanțelor Publice Iași — Administrația Județeană a Finanțelor Publice Suceava