

**Reference for a preliminary ruling from the Oberlandesgericht Celle (Germany) lodged on 15 October 2010 — Joseba Andoni Aguirre Zarraga v Simone Pelz**

(Case C-491/10)

(2010/C 346/57)

*Language of the case: German*

**Referring court**

Oberlandesgericht Celle

**Parties to the main proceedings**

*Applicant:* Joseba Andoni Aguirre Zarraga

*Defendant:* Simone Pelz

**Questions referred**

1. Where the judgment to be enforced issued in the Member State of origin contains a serious infringement of fundamental rights, does the court of the Member State of enforcement exceptionally itself enjoy a power to examine the matter, pursuant to an interpretation of Article 42 of the Brussels IIa Regulation <sup>(1)</sup> in conformity with the Charter on Fundamental Rights?
2. Is the court of the Member State of enforcement obliged to enforce notwithstanding the fact that, according to the case-file, the certificate issued by the court of the Member State of origin under Article 42 of the Brussels IIa Regulation is clearly inaccurate?

<sup>(1)</sup> Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000; OJ L 338, 23.12.2003, p. 1

**Reference for a preliminary ruling from the Ufficio del Giudice di Pace di Venafro (Italy) lodged on 15 October 2010 — Criminal proceedings against Aldo Patriciello**

(Case C-496/10)

(2010/C 346/58)

*Language of the case: Italian*

**Referring court**

Ufficio del Giudice di Pace di Venafro

**Party to the main proceedings**

Aldo Patriciello

**Question referred**

Do the facts construed in abstracto as a criminal offence committed by Aldo Patriciello (a Member of the European Parliament, described in the indictment and in favour of whom the European Parliament adopted a decision on 5 May

2009 to defend immunity), categorised as insulting behaviour under Article 594 of the Penal Code, correspond to the expression of an opinion in the performance of parliamentary duties for the purposes of Article 9 of the Protocol?

**Reference for a preliminary ruling from the Commissione Tributaria Centrale — Sezione di Bologna (Italy) lodged on 19 October 2010 — Ufficio IVA di Piacenza v Belvedere Costruzioni Srl**

(Case C-500/10)

(2010/C 346/59)

*Language of the case: Italian*

**Referring court**

Commissione Tributaria Centrale — Sezione di Bologna

**Parties to the main proceedings**

*Applicant:* Ufficio IVA di Piacenza

*Defendant:* Belvedere Costruzioni Srl

**Question referred**

Does Article 10 of the EC Treaty, now Article 4 of the Treaty on European Union, read in conjunction with Articles 2 and 22 of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes, preclude [legislation such as] the legislation of the Italian State laid down in Article 3(2a) of Decree-Law No 40 of 25 March 2010, converted into Law No 73 of 22 May 2010, under which the court with jurisdiction in tax matters may not rule on the existence of an alleged tax debt which the Tax Authority has sought, in due time, to recover by appealing against an unfavourable decision and which thus in effect provides for the VAT debt at issue to be wholly waived in cases where the courts have ruled both at first instance and at the first level of appeal that such a debt does not exist, without the taxable person in favour of whom the waiver has operated having to pay even a fraction of the debt at issue?

**Reference for a preliminary ruling from the Tribunale di Santa Maria Capua Vetere (Italy) lodged on 19 October 2010 — Public Prosecutor's Office v Raffaele Russo**

(Case C-501/10)

(2010/C 346/60)

*Language of the case: Italian*

**Referring court**

Tribunale di Santa Maria Capua Vetere

**Parties to the main proceedings**

*Applicant:* Public Prosecutor's Office

*Defendant:* Raffaele Russo

**Questions referred**

Can freedom of establishment and freedom to provide services be restricted in a national system founded on the grant of a limited number of licences and consequently of police authorisations which, inter alia:

1. tends generally to protect holders of licences issued at an earlier period following a tendering procedure which unlawfully excluded some operators;
2. actually safeguards acquired rights (prohibiting new licensees from locating their kiosks within a specified distance of those already in existence);
3. provides that the licence may lapse, including where the licence holder carries on, even indirectly, cross-border gaming activities analogous to those under the licence, with the consequent forfeiture of appreciable guarantee deposits?

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**Reference for a preliminary ruling from the Raad van State (Netherlands) lodged on 20 October 2010 — Staatssecretaris van Justitie v M. Singh**

(Case C-502/10)

(2010/C 346/61)

*Language of the case: Dutch*

**Referring court**

Raad van State

**Parties to the main proceedings**

*Appellant:* Staatssecretaris van Justitie

*Other party:* M. Singh

**Question referred**

Is the concept of formally limited residence permit within the meaning of Article 3(2)(e) of Council Directive 2003/109/EC <sup>(1)</sup> of 25 November 2003 concerning the status of third-country nationals who are long-term residents to be interpreted as including a fixed-period residence permit which, under Netherlands law, does not offer any prospect of a residence permit of indefinite duration, even if, under Netherlands law, the period of validity of the fixed-period residence permit can in principle be extended indefinitely and also if a particular group of people, such as spiritual leaders and religious teachers, are thereby excluded from the application of the Directive?

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<sup>(1)</sup> OJ 2004 L 16, p. 44.

**Reference for a preliminary ruling from the Varhoven administrativen sad (Bulgaria) lodged on 20 October 2010 — Evroetil AD v Direktor na Agentsia 'Mitnitsi'**

(Case C-503/10)

(2010/C 346/62)

*Language of the case: Bulgarian*

**Referring court**

Varhoven administrativen sad

**Parties to the main proceedings**

*Applicant:* Evroetil AD

*Defendant:* Direktor na Agentsia 'Mitnitsi'

**Questions referred**

1. Is Article 2(2)(a) of Directive 2003/30/EC of the European Parliament and of the Council of 8 May 2003 on the promotion of the use of biofuels or other renewable fuels for transport <sup>(1)</sup> to be interpreted as meaning that the definition of bioethanol refers to products such as that in question (covers products such as that in question), which has the following characteristics and qualities:

— it is produced from biomass,

— the production takes place by means of a special technology, which is described in the technical specifications for the production of bioethanol drafted by the appellant Evroetil AD, and which differs from the technology for the production of agricultural ethyl alcohol according to the technical specifications drafted by that producer,

— it contains more than 98.5 % alcohol and the following substances, which render it unsuitable for consumption: higher alcohols — 714.49 to 8 311 mg/dm<sup>3</sup>; aldehyde — 238.16 to 411 mg/dm<sup>3</sup>; ester (ethyl acetate) — 1 014 to 8 929 mg/dm<sup>3</sup>,

— it complies with the requirements of the European standard prEN 15376 for bioethanol as fuel,

— it is intended for use as fuel and is, by its addition to A95-petrol, actually used as fuel and sold at petrol stations,

— it is not denatured in a special denaturing procedure.

2. Is Article 2(2)(a) of Directive 2003/30 to be interpreted as meaning that the product in question can be classified as bioethanol only where it is actually used as biofuel, or is it sufficient that it is intended for use as biofuel and/or is actually suitable for use as biofuel?