

Re:

Reference for a preliminary ruling *College van Beroep voor het Bedrijfsleven* — Interpretation of Article 3a of Commission Regulation (EC) No 795/2004 of 21 April 2004 laying down detailed rules for the implementation of the single payment scheme provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers (OJ 2004 L 141, p.1) and of Article 2 of Commission Regulation (EC) No 2419/2001 of 11 December 2001 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes established by Council Regulation (EEC) No 3508/92 — Integrated administration and control system for certain aid schemes — Single payment scheme — Fixing of the reference amount — Reductions and exclusions.

Operative part of the judgment

Article 3a of Commission Regulation (EC) No 795/2004 of 21 April 2004 laying down detailed rules for the implementation of the single payment scheme provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers, as amended by Commission Regulation (EC) No 1974/2004 of 29 October 2004, must be interpreted as meaning that reductions and exclusions based on Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal are not to be taken into account in the calculation provided for in Article 37(1) of Regulation No 1782/2003.

⁽¹⁾ OJ C 197, 2.8.2008.

Judgment of the Court (Fifth Chamber) of 18 June 2009
(reference for a preliminary ruling from the *Gerechtshof te Amsterdam* (Netherlands)) — *Kloosterboer Services BV v Inspecteur van de Belastingdienst/Douane Rotterdam*

(Case C-173/08) ⁽¹⁾

(Common Customs Tariff — Tariff headings — Cooling systems for computers composed of a heat sink and a fan — Classification in the Combined Nomenclature)

(2009/C 180/31)

Language of the case: Dutch

Referring court

Gerechtshof te Amsterdam

Parties to the main proceedings

Applicant: Kloosterboer Services BV

Defendant: Inspecteur van de Belastingdienst/Douane Rotterdam, kantoor Laan op Zuid

Re:

Reference for a preliminary ruling — *Gerechtshof te Amsterdam* — Interpretation of Commission Regulation (EC) No 384/2004 of 1 March 2004 concerning the classification of certain goods in the Combined Nomenclature (OJ 2004 L 64, p. 21) — Classification of cooling systems for computers composed of a 'heat sink' and a fan

Operative part of the judgment

Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, as amended by Commission Regulation (EC) No 1789/2003 of 11 September 2003, must be interpreted as meaning that goods, such as those at issue in the main proceedings, made up of a heat sink and a fan and which are solely intended to be incorporated in a computer must be classified under subheading 8473 30 90 of the Combined Nomenclature in Annex I to that regulation.

⁽¹⁾ OJ C 183, 19.7.2008.

Judgment of the Court (Fourth Chamber) of 4 June 2009
(Reference for a preliminary ruling from the *Budaörsi Városi Bíróság* (Hungary)) — *Pannon GSM Zrt v Erzsébet Sustikné Gyórfi*

(Case C-243/08) ⁽¹⁾

(Directive 93/13/EEC — Unfair terms in consumer contracts — Legal effects of an unfair term — Power of and obligation on the national court to examine of its own motion the unfairness of a term conferring jurisdiction — Criteria for assessment)

(2009/C 180/32)

Language of the case: Hungarian

Referring court

Budaörsi Városi Bíróság

Parties to the main proceedings

Applicant: Pannon GSM Zrt

Defendant: Erzsébet Sustikné Győrfi

Re:

Reference for a preliminary ruling — Budaörsi Városi Bíróság — Interpretation of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ 1993 L 95, p. 29) — Clause conferring jurisdiction on a court in the territorial jurisdiction of which the seller or supplier has his principal place of business — Power of the national court to examine of its own motion, and in the context of the examination of its own jurisdiction, whether the clause conferring jurisdiction is unfair — Criteria to be applied in determining whether the clause is unfair

Operative part of the judgment

1. Article 6(1) of Council Directive 93/13/EEC of 5 April 1993, on unfair terms in consumer contracts, must be interpreted as meaning that an unfair contract term is not binding on the consumer, and it is not necessary, in that regard, for that consumer to have successfully contested the validity of such a term beforehand.
2. The national court is required to examine, of its own motion, the unfairness of a contractual term where it has available to it the legal and factual elements necessary for that task. Where it considers such a term to be unfair, it must not apply it, except if the consumer opposes that non-application. That duty is also incumbent on the national court when it is ascertaining its own territorial jurisdiction.
3. It is for the national court to determine whether a contractual term, such as that which is the subject-matter of the dispute in the main proceedings, satisfies the criteria to be categorised as unfair within the meaning of Article 3(1) of Directive 93/13. In so doing, the national court must take account of the fact that a term, contained in a contract concluded between a consumer and a seller or supplier, which has been included without being individually negotiated and which confers exclusive jurisdiction on the court in the territorial jurisdiction of which the seller or supplier has his principal place of business may be considered to be unfair.

(¹) OJ C 247, 27.9.2008.

Judgment of the Court (First Chamber) of 4 June 2009 (reference for a preliminary ruling from the Cour de cassation (France)) — Société Moteurs Leroy Somer v Société Dalkia France, Société Ace Europe

(Case C-285/08) (¹)

(Liability for defective products — Directive 85/374/EEC — Scope — Damage to an item of property intended for professional use and employed for that purpose — National system permitting the injured person to seek compensation for such damage, where he simply proves the damage, the defect and the causal link — Compatibility)

(2009/C 180/33)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Applicant: Société Moteurs Leroy Somer

Defendants: Société Dalkia France, Société Ace Europe

Re:

Reference for a preliminary ruling — Cour de cassation (France) — Interpretation of Articles 9 and 13 of Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products (OJ 1985 L 210, p. 29) — Material scope of application of the directive — Lawfulness of a national system of liability permitting compensation to be obtained for damage to an item of property intended for professional use and employed for that purpose — Damage to a hospital generator due to the fact that an alternator overheated.

Operative part of the judgment

Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products must be interpreted to mean that it does not preclude the interpretation of domestic law or the application of settled domestic case-law according to which an injured person can seek compensation for damage to an item of property intended for professional use and employed for that purpose, where that injured person simply proves the damage, the defect in the product and the causal link between that defect and the damage.

(¹) OJ C 223, 30.08.2008.