

3. Does Article 1(2)(d) of the Regulation [permit] the possibility of refusal of an application for a declaration of enforceability on the basis of the certificate issued by the court of origin, if it is apparent from the judgment in respect of which the certificate was issued that there is an arbitration clause?

(¹) Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1).

Reference for a preliminary ruling from High Court of Justice Queen's Bench Division (Administrative Court) (United Kingdom) made on 23 September 2011 — Fruition Po Limited v Minister for Sustainable Farming and Food and Animal Health

(Case C-500/11)

(2011/C 370/28)

Language of the case: English

Referring court

High Court of Justice Queen's Bench Division (Administrative Court)

Parties to the main proceedings

Applicant: Fruition Po Limited

Defendant: Minister for Sustainable Farming and Food and Animal Health

Questions referred

1. In circumstances where

- (a) a Member State was considering recognition of a body as a producer organisation under Article 11 of Council Regulation 2200/96 (¹);
- (b) the body had aims and rules of association complying with the requirements of Article 11;
- (c) producer members of the body received all the services required to be provided to them by a producer organisation under Article 11; and
- (d) the body had engaged contractors to provide a substantial proportion of such services

was Article 11 to be interpreted, consistently with the principle of legal certainty, as requiring the body to have a degree of control over the contractors?

2. If the answer to question 1 is 'yes', what degree of control was Article 11 to be interpreted as requiring?

3. In particular, did the body have the degree of control, if any, required by Article 11 in circumstances

(a) where the contractors were:

- 1. a company 93 % of the shares in which were held by members of the body; and

2. a company 50 % of the shares in which were held by the first company and whose constitution provided that decisions taken by the company should be taken on the basis of unanimity;

(b) neither company was subject to a contractual obligation to comply with the body's instructions to them in relation to the activities in question; but

(c) as a consequence of the shareholding structure described above, the body and the contractors operated on the basis of consensus?

4. Is it relevant to the determination of the above questions that:

(a) Article 6(2) of Commission Regulation 1432/03 (²), laying down detailed rules for the application of Council Regulation 2200/96 regarding the conditions for recognition of producer organisations, expressly provided at the relevant time that 'Member States shall determine the conditions' on which producer organisations could entrust to third parties the performance of its tasks;

(b) the Member State referred to in question 1 had at the relevant time failed to determine such conditions?

(¹) Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organization of the market in fruit and vegetables OJ L 297, p. 1

(²) Commission Regulation (EC) No 1432/2003 of 11 August 2003 laying down detailed rules for the application of Council Regulation (EC) No 2200/96 regarding the conditions for recognition of producer organisations and preliminary recognition of producer groups OJ L 203, p. 18

Reference for a preliminary ruling from the Giudice di Pace di Lecce (Italy) lodged on 13 October 2011 — Criminal proceedings against Abdoul Khadre Mbaye

(Case C-522/11)

(2011/C 370/29)

Language of the case: Italian

Referring court

Giudice di Pace di Lecce

Party to the main proceedings

Abdoul Khadre Mbaye

Questions referred

1. Does Article 2(2)(b) of Directive 2008/115/EC (¹) preclude the possible application of that directive even when the national legislation (Article 10a of Legislative Decree 286/98) penalises an illegal entry or stay by expulsion as an alternative to criminal law sanctions?