

2. Alternatively, should it be accepted that the services in question are to be taxed, pursuant to Article 44 of Directive 2006/112, at the place where the customer for whom the services are supplied has established his business on a permanent basis or has a fixed establishment or, in the absence of such a place, at the place where he has his permanent address or usually resides?

(¹) OJ 2006 L 347, p. 1.

Reference for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 30 March 2012 — Salzgitter Mannesmann Handel GmbH v SC Laminorul SA

(Case C-157/12)

(2012/C 184/06)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: Salzgitter Mannesmann Handel GmbH

Defendant: SC Laminorul SA

Questions referred

Does Article 34(4) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (¹) (OJ 2001 L 12, p. 1) ('Regulation No 44/2001') also cover cases of irreconcilable judgments given in the same Member State (State of origin)?

(¹) OJ 2001 L 12, p. 1.

Appeal brought on 11 April 2012 by Verenigde Douaneagenten BV against the judgment delivered by the General Court (Seventh Chamber) on 10 February 2012 in Case T-32/11 Verenigde Douaneagenten v Commission

(Case C-173/12 P)

(2012/C 184/07)

Language of the case: Dutch

Parties

Appellant: Verenigde Douaneagenten BV (represented by: S.H.L. Moolenaar, lawyer)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

- Set aside the judgment of the General Court in accordance with the pleas put forward in this appeal;
- Order the Commission to pay the costs.

Pleas in law and main arguments

1. The *first two pleas* concern errors of law, in so far as the General Court held that the respondent was right to conclude that the EUR.1 movement certificates were issued on the basis of an incorrect account of the facts provided by the exporter.

The General Court relies in this respect on several letters, sent to the Departement van Economische Zaken (Department of Economic Affairs), dating from over two and a half years before the actual export which are open to a number of interpretations, as well as on an inadvertent incorrect interpretation of the cumulation rules; the General Court disregards the fact that these rules are regarded by the authorities themselves as very complex.

In addition, the General Court fails to have regard to the fact that the Netherlands customs authorities declared in the proceedings before the Gerechtshof te Amsterdam that they were unable to prove that the issue of the certificates in question in relation to the EUR.1 certificates is attributable to the incorrect account of the facts provided by the exporter.

2. The *third, fourth and fifth pleas* concern errors of law, in so far as the General Court held that the Curaçao customs authorities did not know or could not have known that the goods in question were not eligible for preferential treatment at the time of issue of the EUR.1 movement certificates.

In the appellant's submission, in its findings, the General Court fails to have regard to the fact that the Departement of Economic Affairs in Curaçao did at least one check on the location of the exporter before the issue of the EUR.1 movement certificates. In addition, the General Court fails to have regard to the fact that, when issuing an EUR.1 movement certificate, the customs authorities in Curaçao check the origin of the sugar in question in conjunction with the processing thereof so as to verify the rules chosen.

The General Court also fails to have regard to the fact that the EUR.1 movement certificates were issued by the customs authorities on the basis of certificates of Form A origin ('Form A'), pursuant to which it is not possible to issue an EUR.1 movement certificate.

When the raw materials enter Curaçao, those customs authorities take delivery of the Form As. The appellant cannot be blamed for the fact that these very forms were lost in a fire in the archives of the customs authorities in Curaçao. Since the archives have been destroyed, it is no longer possible to determine which documents were present in the customs authorities' file.

In the appellant's submission, the General Court's conclusion that the administrator would have given these documents to the respondent's mission if the documents had been present in the administration is not sound. That consideration alone cannot lead to the conclusion that the Form As were not present there, in the light of all the foregoing considerations.

Reference for a preliminary ruling from the Cour de cassation (France) lodged on 16 April 2012 — Association de médiation sociale v Union locale des syndicats CGT, Hichem Laboubi, Union départementale CGT des Bouche-du-Rhône, Confédération générale du travail (CGT)

(Case C-176/12)

(2012/C 184/08)

Language of the case: French

Referring court

Cour de cassation

Parties to the main proceedings

Applicant: Association de médiation sociale

Defendants: Union locale des syndicats CGT, Hichem Laboubi, Union départementale CGT des Bouche-du-Rhône, Confédération générale du travail (CGT)

Questions referred

1. May the fundamental right of workers to information and consultation, recognised by Article 27 of the Charter of Fundamental Rights of the European Union, and as specified in the provisions of Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community, ⁽¹⁾ be invoked in a dispute between private individuals in order to assess the compliance of a national measure implementing the directive?

2. In the affirmative, may those same provisions be interpreted as precluding a national legislative provision which excludes from the calculation of staff numbers in the undertaking, in particular to determine the legal thresholds for putting into place bodies representing staff, workers with the following contracts: apprentice, contrat initiative-emploi, contrat d'accompagnement dans l'emploi and contrat de professionnalisation?

⁽¹⁾ Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community — Joint declaration of the European Parliament, the Council and the Commission on employee representation (OJ 2002 L 80, p. 29).

Appeal brought on 16 April 2012 by The Dow Chemical Company against the judgment of the General Court (Seventh Chamber) delivered on 2 February 2012 in Case T-77/08: The Dow Chemical Company v European Commission

(Case C-179/12 P)

(2012/C 184/09)

Language of the case: English

Parties

Appellant: The Dow Chemical Company (represented by: D. Schroeder and R. Polley, Rechtsanwälte)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

- Set aside the General Court's judgment in Case T-77/08 insofar as it dismisses its request to annul the Commission's decision of 5 December 2007 in Case COMP/38629 as amended by Commission decision C(2008) 2974 final of 23 June 2008 insofar as it relates to the Appellant;
- Annul the Commission's decision of 5 December 2007 in Case COMP/38629 as amended by Commission decision C(2008) 2974 final of 23 June 2008 insofar as it relates to the Appellant;
- In the alternative, set aside the General Court's judgment in case T-77/08 insofar as it dismisses its request to substantially reduce the fine imposed on it;