

Parties to the main proceedings

Applicants: Directeur général des douanes et droits indirects (Director-General of Customs and Indirect Taxes), Chef de l'agence de poursuites de la Direction nationale du renseignement et des enquêtes douanières (Head of the Investigation Agency of the National Directorate of Customs Information and Inquiries)

Defendant: Harry Winston SARL

Questions referred

1. Is Article 206 of Council Regulation No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽¹⁾ to be interpreted as meaning that the theft, in the circumstances of the present case, of goods held under the customs warehousing procedure constitutes the irretrievable loss of the goods and a case of force majeure, with the consequence that, in that situation, no customs debt on importation is deemed to have been incurred?
2. Is the theft of goods held under the customs warehousing procedure such as to give rise to the chargeable event and to cause the value added tax to become chargeable pursuant to Article 71 of [Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax]? ⁽²⁾

⁽¹⁾ OJ 1992 L 302, p. 1.

⁽²⁾ OJ 2006 L 347, p. 1.

Reference for a preliminary ruling from the Latvijas Republikas Augstākās tiesas Senāts (Latvia) lodged on 1 June 2012 — Vitālijs Drozdovs v AAS 'Baltikums'

(Case C-277/12)

(2012/C 235/18)

Language of the case: Latvian

Referring court

Latvijas Republikas Augstākās tiesas Senāts

Parties to the main proceedings

Applicant: Vitālijs Drozdovs

Defendant: AAS 'Baltikums'

Questions referred

1. Is compensation for non-material damage included in the amount of compulsory protection for personal injuries laid down in Article 3 of Council Directive 72/166/EEC ⁽¹⁾ of 24 April 1972, the First Directive on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles, and to the enforcement of the obligation to insure against such liability, and in [Article 1(2)] of Council Directive 84/5/EEC ⁽²⁾ of 30 December 1983, the Second Directive on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles?

2. If the first question is answered in the affirmative, must Article 3 of Council Directive 72/166/EEC of 24 April 1972, the First Directive on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles, and to the enforcement of the obligation to insure against such liability, and [Article 1(2)] of Council Directive 84/5/EEC of 30 December 1983, the Second Directive on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles, be interpreted as meaning that those provisions preclude legislation of a Member State whereby civil liability applicable in that State — the maximum amount of compensation for non-material damage — is limited by the establishment of a limit that is substantially lower than the limit laid down for the insurer's liability in the directives and in national law?

⁽¹⁾ OJ 1972 L 103, p. 1.

⁽²⁾ OJ 1984 L 8, p. 17.

Appeal brought on 6 June 2012 by the Council of the European Union against the judgment of the General Court (Fourth Chamber) delivered on 21 March 2012 in Joined Cases T-439/10 and T-440/10 Fulmen and Mahmoudian v Council

(Case C-280/12 P)

(2012/C 235/19)

Language of the case: French

Parties

Appellant: Council of the European Union (represented by: M. Bishop and R. Liudvinaviciute, acting as Agents)

Other parties to the proceedings: Fulmen, Fereydoun Mahmoudian, European Commission

Form of order sought

- Set aside the judgment of the General Court (Fourth Chamber) delivered on 21 March 2012 in Joined Cases T-439/10 and T-440/10;
- Give a final ruling on the dispute and dismiss the actions brought by Fulmen and Mr Mahmoudian against the measures of the Council at issue;
- Order Fulmen and Mr Mahmoudian to pay the costs incurred by the Council at first instance and in connection with the present appeal.

Pleas in law and main arguments

The Council submits that the judgment of the General Court in the abovementioned cases is marred by errors of law and that that judgment should therefore be set aside by the Court.

The Council maintains that the General Court erred in law in holding that it had to adduce evidence to substantiate its statement of the reasons for the imposition of restrictive measures against the company Fulmen, namely that that company was involved in the installation of electrical equipment on the Qom/Fordoo (Iran) nuclear site.

In that regard, the Council submits, first, that the General Court erred in law in holding that it had to require the Member State which proposed designating Fulmen to present evidence and information although that evidence comes from confidential sources. Secondly, the Council submits that the General Court erred in law in holding that that Court could take account of confidential evidence which is not communicated to the lawyers of the parties concerned, although Article 67(3) of the Rules of Procedure of the General Court does not provide for that possibility.

Reference for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 6 June 2012 — Trento Sviluppo Srl and Centrale Adriatica Soc. coop. v AGCM

(Case C-281/12)

(2012/C 235/20)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Appellants: Trento Sviluppo srl, Centrale Adriatica Soc. coop.

Respondent: Autorità Garante della Concorrenza e del Mercato (AGCM)

Question referred

Is Article 6(1) of Directive 2005/29/EC, ⁽¹⁾ as regards the part in which the Italian-language version uses the words 'e in ogni caso', to be understood as meaning that, in order for the existence of a misleading commercial practice to be established, it is sufficient if even only one of the elements referred to in the first part of that paragraph is present, or that, in order for the existence of such a commercial practice to be established, it is also necessary for the additional element to be present, that is to say, the commercial practice must be likely to interfere with a transactional decision adopted by a consumer?

⁽¹⁾ Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council (OJ 2005 L 149, p. 22).

Reference for a preliminary ruling from the Conseil d'État (Belgium) lodged on 7 June 2012 — Aboubacar Diakite v Commissaire général aux réfugiés et aux apatrides

(Case C-285/12)

(2012/C 235/21)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: Aboubacar Diakite

Defendant: Commissaire général aux réfugiés et aux apatrides

Question referred

Must Article 15(c) of Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees, or as persons who otherwise need international protection and the content of the protection granted, ⁽¹⁾ be interpreted as meaning that that provision offers protection only in a situation of 'internal armed conflict', as interpreted by international humanitarian law and, in particular, by reference to Common Article 3 of the four Geneva Conventions of 12 August 1949 (for the Amelioration of the Conditions of the Wounded and Sick in Armed Forces in the Field, for the Amelioration of the Conditions of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, on the Treatment of Prisoners of War, and on the Protection of Civilian Persons in Time of War, respectively)?

If the concept of 'internal armed conflict' referred to in Article 15(c) of Directive 2004/83 is to be given an interpretation independent of Common Article 3 of the four Geneva Conventions of 12 August 1949, what, in that case, are the criteria for determining whether such an 'internal armed conflict' exists?

⁽¹⁾ OJ 2004 L 304, p. 12.

Order of the President of the Fifth Chamber of the Court of 7 March 2012 — European Commission v Republic of Poland

(Case C-542/10) ⁽¹⁾

(2012/C 235/22)

Language of the case: Polish

The President of the Fifth Chamber has ordered that the case be removed from the register.

⁽¹⁾ C 30, 29.1.2011.