

(c) If the previous question is answered in the negative, must the term 'specific purpose' be interpreted as meaning that the purpose must be exclusive or, on the contrary, that it permits the attainment of various differentiated aims, among which is also included the merely budgetary aim of obtaining financing for certain competences?

(d) If the answer to the previous question is that the attainment of various aims is permitted, what degree of relevance must be displayed by a particular objective, for the purposes of Article 3(2) of Directive 92/12, in order to fulfil the requirement that the levy should meet a 'specific purpose' in the sense accepted by the case-law of the Court of Justice and what would be the criteria for defining the principal purpose as compared with the ancillary purpose?

2. Does Article 3(2) of [Council Directive 92/12/EEC of 25 February 1992] and, in particular, the condition of complying with the tax rules applicable to excise duties or VAT for the determination of chargeability,

(a) preclude an indirect non-harmonised levy (such as the IVMDH) which becomes chargeable at the time of the retail sale of the fuel to the final consumer, in contrast to the harmonised levy (Impuesto sobre Hidrocarburos, which becomes chargeable when the products leave the last tax warehouse) or VAT (which, although also becoming chargeable at the time of the final retail sale, is payable at each stage of the production and distribution process), on the basis that it does not — to use the terms of the judgment in *EKW and Wein & Co* ⁽²⁾ (paragraph 47) — accord with the general scheme of one or other of the abovementioned taxation techniques as structured by the Community legislation?

(b) In the event that the foregoing question is answered in the negative, must the interpretation be that the said compliance condition is fulfilled, without the need for any coinciding of the effects of the chargeability, on account of the mere circumstance that the non-harmonised indirect levy (in this case, the IVMDH) does not disrupt — in the sense that it does not impede or render difficult — the normal functioning of the chargeability of excise duties or VAT?

Reference for a preliminary ruling from the Cour administrative (Luxembourg) lodged on 20 February 2012 — Adzo Domenyo Alopka, Jarel Mondoulou, Eja Mondoulou v Ministre du Travail, de l'Emploi et de l'Immigration

(Case C-86/12)

(2012/C 138/04)

Language of the case: French

Referring court

Cour administrative (Luxembourg)

Parties to the main proceedings

Applicants: Adzo Domenyo Alopka, Jarel Mondoulou, Eja Mondoulou

Defendant: Ministre du Travail, de l'Emploi et de l'Immigration

Questions referred

Is Article 20 TFEU — if necessary, read in conjunction with Articles 20, 21, 24, 33 and 34 of the Charter of Fundamental Rights, or with one or more of those provisions read separately or in conjunction — to be interpreted as precluding a Member State from refusing a third-country national, with sole responsibility for his or her infants who are citizens of the European Union, residence in the Member State of residence of the children, where they have been living with that person since birth, without having that nationality, while refusing the third-country national a residence permit, or even a work permit?

Are such decisions to be regarded as being in the nature of decisions depriving those children, in their country of residence, in which they have lived since birth, of effective enjoyment of the substance of the rights attaching to the status of citizen of the European Union also in the situation where their other direct ascendant, with whom they have never shared family life, is resident in another Member State of the European Union, of which that person is a national?

Reference for a preliminary ruling from the Cour administrative (Luxembourg) lodged on 20 February 2012 — Kreshnik Ymerag, Kasim Ymeraga, Afijete Ymeraga-Tafarshiku, Kushtrim Ymeraga, Labinot Ymeraga v Minister for Labour, Employment and Immigration

(Case C-87/12)

(2012/C 138/05)

Language of the case: French

Referring court

Cour administrative

⁽¹⁾ OJ 1992 L 76, p. 1.

⁽²⁾ Case C-437/97 *EKW and Wein & Co* [2000] ECR I-1157.