

3. On a proper construction of the Combined Nomenclature set out in Annex I to Regulation No 2658/87, in the versions resulting from Regulation No 1719/2005 and from Regulation No 1214/2007, a beverage with an alcoholic strength by volume of 13,4 % which is manufactured by adding sugar, aromatic substances, colouring and flavouring agents, thickening agents, preservatives and distilled alcohol to Ferm Fruit, where that distilled alcohol does not exceed, either in volume or percentage, 49 % of the alcohol present in that beverage, with the remaining 51 % resulting from a process of fermentation, falls under heading 2208 of that nomenclature.

⁽¹⁾ OJ C 65, 23.2.2015.

Judgment of the Court (Second Chamber) of 4 May 2016 (request for a preliminary ruling from the High Court of Justice of England and Wales, Queen's Bench Division (Administrative Court) — United Kingdom) — The Queen, on the application of: Philip Morris Brands SARL, Philip Morris Ltd, British American Tobacco UK Ltd v The Secretary of State for Health

(Case C-547/14) ⁽¹⁾

(Reference for a preliminary ruling — Approximation of laws — Directive 2014/40/EU — Articles 7, 18 and 24(2) and (3) — Articles 8(3), 9(3), 10(1)(a), (c) and (g), 13 and 14 — Manufacture, presentation and sale of tobacco products — Validity — Legal basis — Article 114 TFEU — Principle of proportionality — Principle of subsidiarity — Fundamental rights of the European Union — Freedom of expression — Charter of Fundamental Rights of the European Union — Article 11)

(2016/C 243/11)

Language of the case: English

Referring court

High Court of Justice of England and Wales, Queen's Bench Division (Administrative Court)

Parties to the main proceedings

Applicants: The Queen, on the application of: Philip Morris Brands SARL, Philip Morris Ltd, British American Tobacco UK Ltd

Defendant: The Secretary of State for Health

Interested parties and interveners: Imperial Tobacco Ltd, JT International SA, Gallaher Ltd, Tann UK Ltd, Tannpapier GmbH, V. Mane Fils, Deutsche Benkert GmbH & Co. KG, Benkert UK Ltd, Joh. Wilh. von Eicken GmbH

Operative part of the judgment

1. Article 24(2) of Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC must be interpreted as permitting Member States to maintain or introduce further requirements in relation to aspects of the packaging of tobacco products which are not harmonised by that directive.
2. Article 13(1) of Directive 2014/40 must be interpreted as prohibiting the display, on the labelling of unit packets and on the outside packaging, as well as on the tobacco product itself, of any information covered by that provision, even if the information concerned is factually accurate.

3. Consideration of the questions referred for a preliminary ruling by the High Court of Justice of England and Wales, Queen's Bench Division (Administrative Court) has disclosed no factor of such a kind as to affect the validity of Articles 7, 18 and 24(2) and (3) of Directive 2014/40 or that of the provisions of Chapter II of Title II of that directive.

⁽¹⁾ OJ C 56, 16.2.2015.

Judgment of the Court (Eighth Chamber) of 28 April 2016 (request for a preliminary ruling from the Administratīvā apgabaltiesa — Latvia) — SIA ‘Oniors Bio’ v Valsts ieņēmumu dienests

(Case C-233/15) ⁽¹⁾

(Reference for a preliminary ruling — Regulation (EEC) No 2658/87 — Common Customs Tariff — Tariff classification — Combined Nomenclature — Subheadings 1517 90 91 and 1518 00 31 — Mixture of fluid vegetable oil, unprocessed, non-volatile, composed of rapeseed oil (88 %) and sunflower oil (12 %))

(2016/C 243/12)

Language of the case: Latvian

Referring court

Administratīvā apgabaltiesa

Parties to the main proceedings

Applicant: SIA ‘Oniors Bio’

Defendant: Valsts ieņēmumu dienests

Operative part of the judgment

The Combined Nomenclature set out in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, in the version resulting from Commission Regulation (EU) No 1006/2011 of 27 September 2011, must be interpreted as meaning that, in order to determine whether a mixture of vegetable oils such as that at issue in the main proceedings must be classified as an edible mixture of vegetable oils under CN subheading 1517 90 91 or as an inedible mixture of vegetable oils under CN subheading 1518 00 31, all the factors relevant to the case must be taken into account, in so far as they relate to the objective characteristics and properties inherent in that product. Among the relevant factors which may justify the classification of such a mixture as ‘inedible’, account should be taken of the information provided by the producer of that mixture in the context of the customs declaration, according to which, because of the characteristics of the process for its production, the presence of noxious substances in that mixture cannot be excluded. In that regard, the fact that an analysis of samples taken from such a mixture of vegetable oils has not shown that it contains any noxious substance does not suffice, by itself, to call into question the classification of the mixture in question as ‘inedible’. Such a consequence presupposes the existence of other relevant evidence capable of calling into question the accuracy of the information relating to the process for the production of the mixture in question, provided by its producer and included in that declaration, in accordance with Articles 62, 68 and 71 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, as amended by Regulation (EC) No 648/2005 of the European Parliament and of the Council of 13 April 2005.

⁽¹⁾ OJ C 245, 27.7.2015.