

2. If question 1 is answered in the affirmative, with the result that the attachment requirement is generally deemed to be suitable for ensuring attainment of the integration objective, is it then possible, without infringing the restriction test and the requirement of proportionality:
- (i) to apply a practice under which, when the spouse with the residence permit in the Member State (the reference person) first came to Denmark at the age of 12-13 or later, in the assessment of the reference person's attachment to the Member State significant weight is attached to the following: whether the person either has had a long-term lawful period of residence of around 12 years in the Member State or has had a period of residence and stable employment in the Member State involving a significant degree of contact and communication with colleagues and any customers in the Member State's language, and which has continued without significant interruptions for at least four to five years, or has had a period of residence and stable employment not involving a significant degree of contact and communication with colleagues and customers in the Member State's language, which has continued without significant interruptions for at least seven to eight years;
 - (ii) to apply a practice under which it will weigh against fulfilment of the attachment requirement where the reference person has maintained a significant attachment to their home country by making frequent or long-term visits to the home country, whilst short-term holiday or educational stays will not weigh against granting a permit;
 - (iii) to apply a practice under which it will weigh heavily against fulfilment of the attachment requirement where there is a so-called 'married, divorced and remarried' situation?

⁽¹⁾ Judgment of the Court of 12th April 2016, ECLI:EU:C:2016:247.

⁽²⁾ Judgment of the Court of 10th July 2014, ECLI:EU:C:2014:2066.

Action brought on 8 February 2018 European Commission v Hellenic Republic

(Case C-91/18)

(2018/C 142/45)

Language of the case: Greek

Parties

Applicant: European Commission (represented by: A. Kyratsou and F. Tomat)

Defendant: Hellenic Republic

Form of order sought

— Declare that, by introducing and maintaining in force legislation

- i. which imposes on tsipouro/tsikoudià (pomace brandy) manufactured by 'systematic distillers' a rate of excise duty reduced by 50 % compared to the standard national rate, whereas alcoholic beverages imported from other Member States are subject to the standard rate of excise duty, the Hellenic Republic failed to fulfil its obligations under the combined provisions of Articles 19, 21 and 23(2) of Directive 92/83/EEC ⁽¹⁾ and Article 110 TFEU;
- ii. which imposes on tsipouro/tsikoudià manufactured by 'occasional' distillers a further reduced rate of excise, whereas alcoholic beverages imported from other Member States are subject to the standard rate of excise duty, the Hellenic Republic failed to fulfil its obligations under the combined provisions of Articles 19, 21 and 22(1) of Directive 92/83/EEC, ⁽²⁾ Article 3(1) of Directive 92/84/EEC and Article 110 TFEU 92/83/EEC;

— Order the Hellenic Republic to pay the costs.

Pleas in law and main arguments

On 24 September 2015, the Commission sent a reasoned opinion to the Greek authorities indicating that, by imposing on tsipouro/tsikoudià manufactured by 'permanent distillers' a rate of excise duty of reduced by 50 % compared to the standard national rate, whereas alcoholic beverages imported from other Member States are subject to the standard rate of excise duty, the Hellenic Republic failed to fulfil its obligations under the combined provisions of Articles 19, 21 and 23(2) of Directive 92/83/EEC, and under Article 110 of the Treaty on the Functioning of the European Union (TFUE) and that, secondly, by imposing on tsipouro/tsikoudià manufactured by 'occasional' small-scale distillers a further reduced rate of excise, whereas alcoholic beverages imported from other Member States are subject to the standard rate of excise duty, the Hellenic Republic had failed to fulfil its obligations under the combined provisions of Articles 19, 21 and 22(1) of Directive 92/83/EEC, Article 3(1) of Directive 92/84/EEC and Article 110 of the Treaty on the Functioning of the European Union (TFUE).

The provisions of EU law governing the harmonisation of the structures of excise duties on alcohol and alcoholic beverages do not provide for the application of a reduced rate of excise duty on tsipouro/tsikoudià. Furthermore, the imposition of a further reduced rate of excise duty on tsipouro/tsikoudià produced by 'occasional' small-scale distillers is contrary to the applicable provisions of Directive 92/83/EEC, in conjunction with the relevant provisions of Directive 92/84/EEC. Consequently, with regard to that measure, the current Greek legislation infringes those directives. Furthermore, that legislation infringes the first paragraph of Article 110 TFEU, as it imposes a more onerous tax on imported alcoholic beverages similar to tsipouro/tsikoudià, and infringes the second paragraph of Article 110 TFEU, as it indirectly protects tsipouro/tsikoudià with regard to other alcoholic beverages which are mainly imported from other Member States and are in competition with that local product.

⁽¹⁾ Council Directive 92/83/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages (OJ 1992 L 316, p. 21).

⁽²⁾ Council Directive 92/84/EEC of 19 October 1992 on the approximation of the rates of excise duty on alcohol and alcoholic beverages (OJ 1992 L 316, p. 29).

Request for a preliminary ruling from the Oberlandesgericht Köln (Germany) lodged on 13 February 2018 — Klaus Manuel Maria Brisch

(Case C-102/18)

(2018/C 142/46)

Language of the case: German

Referring court

Oberlandesgericht Köln

Parties to the main proceedings

Applicant: Klaus Manuel Maria Brisch

Question referred

Is the use of the form as set out in Annex 4 as Form IV, established in accordance with the advisory procedure under Article 81(2) of the EU Succession Regulation,⁽¹⁾ mandatory or merely optional for the purposes of an application for a European Certificate of Succession under Article 65(2) of the EU Succession Regulation, in accordance with Article 1(4) of the Implementing Regulation for the EU Succession Regulation?⁽²⁾

⁽¹⁾ Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession (OJ 2012 L 201, p. 107).

⁽²⁾ Commission Implementing Regulation (EU) No 1329/2014 of 9 December 2014 establishing the Forms referred to in Regulation (EU) No 650/2012 of the European Parliament and of the Council on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession (OJ 2014 L 359, p. 30).
