Request for a preliminary ruling from the Administrativen sad Sofia-grad (Bulgaria) lodged on 12 July 2018 — GVC Services (Bulgaria) EOOD v Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika' Sofia

(Case C-458/18)

(2018/C 341/09)

Language of the case: Bulgarian

Referring court

Administrativen sad Sofia-grad

Parties to the main proceedings

Applicant: GVC Services (Bulgaria) EOOD

Defendant: Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika' Sofia

Questions referred

1. Should Article 2(a)(i) of, in conjunction with Annex I, Part A(ab), to, Directive 2011/96/EU ([1]) be interpreted as meaning that the expression 'companies incorporated under the law of the United Kingdom' also covers companies incorporated in Gibraltar?

2. Should Article 2(a)(iii) of, in conjunction with Annex I, Part B, to, Directive 2011/96/EU be interpreted as meaning that the expression 'corporation tax in the United Kingdom' also covers the corporation tax that has to be paid in Gibraltar?

([1]) Council Directive 2011/96/EU of 30 November 2011 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States (OJ 2011 L 345, p. 8).

Appeal brought on 13 July 2018 by Changmao Biochemical Engineering Co. Ltd against the judgment of the General Court (Eighth Chamber, Extended Composition) delivered on 3 May 2018 in Case T-431/12: Distillerie Bonollo and Others v Council of the European Union

(Case C-461/18 P)

(2018/C 341/10)

Language of the case: English

Parties

Appellant: Changmao Biochemical Engineering Co. Ltd (represented by: K. Adamantopoulos, P. Billiet, lawyers)

Other parties to the proceedings: Distillerie Bonollo SpA, Industria Chimica Valenzana (ICV) SpA, Distillerie Mazzari SpA, Caviro Distillerie Srl, Comercial Química Sarasa, SL, Council of the European Union, European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgment of the General Court of the European Union of 3 May 2018 in Case T-431/12 in its entirety; and

— order the applicatns before the General Court to pay the appellant's costs of this appeal as well as those of the proceedings before the General Court in Case T-431/12.

Pleas in law and main arguments

The appellant advances a single plea in support of the appeal. Accordingly, the contested judgment is vitiated by a manifest error in the application of the law in determining that Article 11(9) of Council Regulation (EC) No 1225/2009 ([1]) of 30 November 2009 on protection against dumped imports from countries not members of the European Community, pursuant to which Regulation 626/2012 ([2]) was adopted, 'the Basic Regulation') does not allow the EU Institutions to construct the normal value of the product concerned in dumping margin calculations during a partial interim antidumping review, if, during the original antidumping investigation, the EU Institutions had used instead actual domestic sales for this purpose.

1. The appellant submits, first, that constructing normal value does not constitute a different methodology to establishing normal value by reference to actual domestic sales as they both aim at best establishing normal value taking into account the specific characteristic of each case; and cost/price data evolving over time. Indeed, Articles 2(1)-2(6) of the Basic Regulation provide for several circumstances justifying the use of constructed normal value as opposed to using actual domestic sales for dumping margin calculation purposes on a case-by-case basis. Limiting the discretion of EU Institutions to construct normal value in a partial interim review, where they had used actual domestic sales for the same purpose in earlier investigations, deprives the EU Institutions of the ability to have recourse to various alternatives set out in Article 2 of the Basic Regulation. Given the substantial cost differences between tartaric acid produced naturally or synthetically, constructing analogue normal value in Argentina in Regulation 626/2012 best reflected the fact that the Argentinian analogue producer manufactured tartaric acid using the natural method which is materially more expensive than the synthetic method used by the appellant.

2. Second, the appellant submits in support of its plea that, in the original antidumping investigation, two categories of exporters were identified: co-operating exporters such as the appellant that were granted market economy treatment ('MET') pursuant to Article 2(7)(b) of the Basic Regulation; and non-co-operating producers that were not granted MET and with regard to which the EU Instituions appled the 'best information available' methodology pursuant to Article 18 of the Basic Regulation. During the partial interim review that resulted in the adoption of Regulation 626/2012, the cooperating producers such as the appellant were denied MET by the EU Institutions and their normal value was established pursuant to Article 2(7)(a) of the Basic Regulation by reference to Argentina, the analogue country chosen by the Commission. This category of exporters was not present during the original investigation. Therefore, even if Article 11(9) of the Basic Regulation were to be construed as preventing the EU Institutions from using constructed normal values as opposed to actual domestic sales in an interim partial review, quod non, it would still not prevent the EU Institutions from using constructed normal value with regard to a new class of exporters, notable cooperating but not grated MET, which emerged for the first time at the interim partial review.

3. Finally, several findings of the contested judgment run counter to established EU and WTO case law regarding the establishment of normal value as well as ensuring fair price comparisons and respecting the exporters' rights of defense.

([1]) OJ 2009, L 343, p. 51.

([2]) Council Implementing Regulation (EU) No 626/2012 of 26 June 2012 amending Implementing Regulation (EU) No 349/2012 imposing a definitive anti-dumping duty on imports of tartaric acid originating in the People's Republic of China (OJ 2012, L 182, p. 1).

Request for a preliminary ruling from the Městský soud v Praze (Czech Republic) lodged on 30 July 2018 — CS and Others v České aerolinie a.s.

(Case C-502/18)

(2018/C 341/11)

Language of the case: Czech

Referring court

Městský soud v Praze