

2. The transport by a private individual of 3 000 litres of heating oil in three 'intermediate bulk containers' on board a van constitutes an atypical mode of transport within the meaning of Article 9(3) of Directive 92/12, as amended by Directive 92/108.
3. Article 7(4) of Directive 92/12, as amended by Directive 92/108, does not preclude the legislation of a Member State of destination in which excise duty is chargeable, as allowed under Article 9(3) of that directive, from imposing on any private individual who has personally acquired, for his own use, heating oil in another Member State where it has been made available for consumption, and transported the product himself to the Member State of destination by means of an atypical mode of transport, within the meaning of Article 9(3), to have lodged a guarantee to ensure payment of the excise duties and to have an accompanying document as well as a document confirming lodgement of the guarantee of payment of the excise duties.

(¹) OJ C 271, 29.10.2005.

Judgment of the Court (First Chamber) of 15 November 2007 (reference for a preliminary ruling from the Tribunal Supremo (Spain)) — International Mail Spain SL v Administración del Estado, Correos

(Case C-162/06) (¹)

(Directive 97/67/EC — Common rules for the development of the internal market in postal services — Liberalisation of postal services — Possibility to reserve cross-border post to the universal postal service provider 'to the extent necessary to ensure the maintenance of universal service')

(2008/C 8/06)

Language of the case: Spanish

Referring court

Tribunal Supremo (Spain)

Parties to the main proceedings

Appellant: International Mail Spain SL

Respondents: Administración del Estado, Correos

Re:

Reference for a preliminary ruling — Tribunal Supremo — Interpretation of Article 7(2) of Directive 97/67/EC of the

European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service, prior to its amendment by Directive 2002/39/EC of the European Parliament and of the Council of 10 June 2002 (OJ 1998 L 15, p. 14) — Postal services reserved to universal service providers — Cross-border mail — Assessment criteria — Account taken solely of the effect on the financial equilibrium of the universal service provider

Operative part of the judgment

Article 7(2) of Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service must be interpreted as allowing Member States to reserve cross-border mail to the universal postal service provider only in so far as they establish

— that, in the absence of such a reservation, achievement of that universal service would be precluded, or

— that that reservation is necessary to enable that service to be carried out under economically acceptable conditions.

(¹) OJ C 143, 17.6.2006.

Judgment of the Court (Fifth Chamber) of 15 November 2007 — Commission of the European Communities v Kingdom of Spain

(Case C-59/07) (¹)

(Failure of a Member State to fulfil obligations — Directive 2003/109/EC — Status of third-country nationals who are long-term residents — Failure to transpose within the prescribed period)

(2008/C 8/07)

Language of the case: Spanish

Parties

Applicant: Commission of the European Communities (represented by: M. Condou-Durande and A. Alcover San Pedro, Agents)

Defendant: Kingdom of Spain (represented by: F. Díez Moreno, Agent)

Re:

Failure of the Member State to fulfil obligations — Failure to adopt, within the prescribed period, the provisions necessary to comply with Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJ 2004 L 16, p. 44).

Operative part of the judgment

The Court:

1. Declares that, by failing to adopt the laws, regulations and administrative provisions necessary to comply with Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, the Kingdom of Spain has failed to fulfil its obligations under that directive;
2. Orders the Kingdom of Spain to pay the costs.

(¹) OJ C 69, 24.3.2007.

Reference for a preliminary ruling from the Raad van State (Netherlands) lodged on 17 October 2007 — M. and N. Elgafaji v Staatssecretaris van Justitie

(Case C-465/07)

(2008/C 8/08)

Language of the case: Dutch

Referring court

Raad van State/Netherlands

Parties to the main proceedings

Appellants: M. Elgafaji, N. Elgafaji and Staatssecretaris van Justitie

Questions referred

1. Is Article 15(c) of Council Directive 2004/83/EC (¹) 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 to be interpreted as offering protection only in a situation on which Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms, as interpreted in the case-law of the European Court of Human Rights, also has a bearing, or

does Article 15(c), in comparison with Article 3 of the Convention, offer supplementary or other protection?

2. If Article 15(c) of the Directive, in comparison with Article 3 of the Convention, offers supplementary or other protection, what are the criteria in that case for determining whether a person who claims to be eligible for subsidiary protection status runs a real risk of serious and individual threat by reason of indiscriminate violence within the terms of Article 15(c) of the Directive, read in conjunction with Article 2(e) thereof?

(¹) OJ L 304, p. 12.

Reference for a preliminary ruling from the Landesarbeitsgericht Düsseldorf (Germany), lodged on 22 October 2007 — Dietmar Klarenberg v Ferrotron Technologies GmbH

(Case C-466/07)

(2008/C 8/09)

Language of the case: German

Referring court

Landesarbeitsgericht Düsseldorf

Parties to the main proceedings

Applicant: Dietmar Klarenberg

Defendant: Ferrotron Technologies GmbH

Question referred

Is a part of an undertaking or business only transferred to another employer within the meaning of Article 1(1)(a) and (b) of Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses (¹), if the new employer operates the part of an undertaking or business as an organisationally autonomous part of an undertaking or business?

(¹) OJ L 82, 12.3.2001, p. 16.