

**Parties to the main proceedings**

*Applicant:* Hauptzollamt Hamburg-Jonas

*Defendants:* Josef Vosding Schlacht-, Kühl- und Zerlegebetrieb GmbH & Co. (C-278/07), Vion Trading GmbH (C-279/07), Ze Fu Fleischhandel GmbH (C-280/07),

**Re:**

Reference for a preliminary ruling — Bundesfinanzhof — Interpretation of the first sentence of the first subparagraph of Article 3(1) and of Article 3(3) of Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests (OJ 1995 L 312, p. 1) — Determination of the limitation period applicable to irregularities committed before the entry into force of Regulation No 2988/95 and involving recovery of an export refund

**Operative part of the judgment**

- 1) *The limitation period laid down in the first subparagraph of Article 3(1) of Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests is applicable to administrative measures such as the recovery of export refunds wrongly received by the exporter as a result of irregularities it committed.*
- 2) *In situations such as those at issue in the main proceedings, the limitation period provided for in the first subparagraph of Article 3 (1) of Regulation No 2988/95:*
  - *applies to irregularities committed before the entry into force of that regulation;*
  - *starts to run from the date on which the irregularity at issue was committed.*
- 3) *The longer limitation periods which Member States retain the possibility of applying under Article 3(3) of Regulation No 2988/95 may result from general provisions of law predating the adoption of that regulation.*

<sup>(1)</sup> OJ C 211, 8.9.2007.

**Judgment of the Court (Second Chamber) of 15 January 2009 (reference for a preliminary ruling from the Bundesfinanzhof — Germany) — Hauptzollamt Hamburg-Jonas v Bayerische Hypotheken- und Vereinsbank AG**

(Case C-281/07) <sup>(1)</sup>

**(Regulation (EC, Euratom) No 2988/95 — Protection of the European Communities' financial interests — Article 3 — Recovery of an export refund — Error on the part of the national authorities — Limitation period)**

(2009/C 69/10)

*Language of the case:* German

**Referring court**

Bundesfinanzhof

**Parties to the main proceedings**

*Applicant:* Hauptzollamt Hamburg-Jonas

*Defendant:* Bayerische Hypotheken- und Vereinsbank AG

**Re:**

Reference for a preliminary ruling — Bundesfinanzhof — Interpretation of the first sentence of the first subparagraph of Article 3(1) of Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests (OJ 1995 L 312, p. 1) — Applicability of the time-limit laid down by Regulation No 2988/95 in the case of recovery of an export refund granted as a result of an error on the part of the national authorities but without any wrongdoing on the part of the trader concerned

**Operative part of the judgment**

*The limitation period of four years laid down in the first subparagraph of Article 3(1) of Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests is not applicable to a claim for recovery of an export refund unduly granted to an exporter as a result of an error on the part of the national authorities, where that exporter did not commit any irregularity within the meaning of Article 1(2) of that regulation.*

<sup>(1)</sup> OJ C 211, 8.9.2007.