Re:

Reference for a preliminary ruling — Court of Appeal (Civil Division) — Interpretation of Article 4 of Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (OJ 1985 L 175, p. 40) — Obligation to make available to the public reasons for a decision not to subject a project falling within the classes listed in Annex II to the directive to an assessment

Operative part of the judgment

1. *Article 4 of Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, as amended by Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003, must be interpreted as not requiring that a determination, that it is unnecessary to subject a project falling within Annex II to that directive to an environmental impact assessment, should itself contain the reasons for the competent authority's decision that the latter was unnecessary. However, if an interested party so requests, the competent administrative authority is obliged to communicate to him the reasons for the determination or the relevant information and documents in response to the request made.*

2. *If a determination of a Member State not to subject a project, falling within Annex II to Directive 85/337 as amended by Directive 2003/35, to an environmental impact assessment in accordance with Articles 5 to 10 of that directive, states the reasons on which it is based, that determination is sufficiently reasoned where the reasons which it contains, added to factors which have already been brought to the attention of interested parties, and supplemented by any necessary additional information which the competent national administration is required to provide to those interested parties at their request, can enable them to decide whether to appeal against that decision.*

([1]) OJ C 107, 26.4.2008.

Judgment of the Court (Eighth Chamber) of 30 April 2009 (reference for a preliminary ruling from the Fővárosi Bíróság (Republic of Hungary)) — Lidl Magyarország Kereskedelmi bt. v Nemzeti Hírközlési Hatóság Tanácsa

(Case C-132/08) ([1])

(Free movement of goods — Radio equipment and telecommunications terminal equipment — Mutual recognition of conformity — Non-recognition of the declaration of conformity issued by the manufacturer established in another Member State)

(2009/C 153/23)

Language of the case: Hungarian

Referring court

Fővárosi Bíróság

Parties to the main proceedings

Applicant: Lidl Magyarország Kereskedelmi bt.

Defendant: Nemzeti Hírközlési Hatóság Tanácsa

Re:

Reference for a preliminary ruling — Fővarosi Bíróság — Interpretation of Article 30 EC, of Article 8 of Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity (OJ 1999 L 91, p. 10) and of Articles 2(e) and (f), 6(1) and 8(2) of Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety (OJ 2002 L 11, p. 4) — National legislation requiring importers of radio equipment using frequency bands whose use is not harmonised throughout the Community and bearing the CE mark to issue a declaration of conformity in accordance with the provisions of national law, even if the equipment at issue is accompanied by a declaration of conformity issued by the producer established ion another Member State

Operative part of the judgment

1. *Member States cannot require a person who places radio equipment on the market to provide a declaration of conformity even though the producer of that equipment, whose head office is situated in another Member State, has affixed the 'CE' marking to that product and issued a declaration of conformity in its regard.*

2. *Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety does not apply to the determination of questions concerning the obligation of a person to provide a declaration of conformity of radio equipment. As regards the power of the Member States, in accordance with Directive 2001/95, in connection with the marketing of radio equipment, to impose obligations other than the presentation of a declaration of conformity, a person who markets a product may be regarded as being the producer of that product only under the conditions laid down by Directive 2001/95 itself in Article 2(e), and as being the distributor of that product only under the conditions set out in Article 2(f). The producer and the distributor may be bound only by obligations which Directive 2001/95 imposes on each of them respectively.*

3. *Where a matter is regulated in a harmonised manner at Community level, any national measure relating thereto must be assessed in the light of the provisions of that harmonising measure and not in that of Articles 28 EC and 30 EC. In matters coming under Directive 1999/5 of the European Parliament and*

of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity, Member States must comply in full with the provisions of that directive and may not maintain in force contrary national provisions. In the case where a Member State takes the view that conformity with a harmonised standard does not guarantee compliance with the essential requirements laid down by Directive 1999/5 which that standard is supposed to cover, that Member State is required to follow the procedure set out in Article 5 of that directive. By contrast, a Member State may, in support of a restriction, invoke grounds external to the field harmonised by Directive 1999/5. In such a case, it may invoke only the reasons laid down in Article 30 EC or mandatory requirements relating to the public interest.

([1]) OJ C 183, 19.7.2008.

Judgment of the Court (Third Chamber) of 7 May 2009 (reference for a preliminary ruling from the Hoge Raad der Nederlanden Den Haag (Netherlands)) — Siebrand BV v Staatssecretaris van Financiën

(Case C-150/08) ([1])

(Combined Nomenclature — Tariff headings 2206 and 2208 — Fermented beverage containing distilled alcohol — Beverage produced from fruit or from a natural product — Addition of substances — Effects — Loss of the taste, smell and appearance of the original beverage)

(2009/C 153/24)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden Den Haag

Parties to the main proceedings

Applicant: Siebrand BV

Defendant: Staatssecretaris van Financiën

Re:

Reference for a preliminary ruling — Hoge Raad der Nederlanden Den Haag –Interpretation of tariff headings 2206 and 2208 of the Combined Nomenclature — Fermented beverage containing distilled alcohol — Addition of water and ingredients resulting in a loss of the taste, smell and/or appearance of a beverage produced from fruit or from a natural product

Operative part of the judgment

Fermented alcohol-based beverages corresponding originally to heading 2206 of the Combined Nomenclature 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, as amended by Commission Regulation (EEC) No 2587/91 of 26 July 1991, to which a certain proportion of distilled alcohol, water, sugar syrup, aromas, colourings and, in some cases, a cream base have been added, resulting in the loss of the taste, smell and/or appearance of a beverage produced from a particular fruit or natural product, do not come under heading 2206 of the Combined Nomenclature but rather under heading 2208 thereof.

([1]) OJ C 171, 5.7.2008.

Judgment of the Court (Third Chamber) of 14 May 2009 (reference for a preliminary ruling from the Hof van beroep te Antwerpen (Belgium)) — Internationaal Verhuis- en Transportbedrijf Jan de Lely BV v Belgische Staat

(Case C-161/08) ([1])

(Free movement of goods — Community transit — Transport operations carried out under cover of a TIR carnet — Offences or irregularities — Notification period — Period within which proof must be furnished of the place where the offence or irregularity was committed)

(2009/C 153/25)

Language of the case: Dutch

Referring court

Hof van beroep te Antwerpen

Parties to the main proceedings

Applicant: Internationaal Verhuis- en Transportbedrijf Jan de Lely BV

Defendant: Belgische Staat

Re:

Reference for a preliminary ruling — Hof van beroep te Antwerpen — Interpretation of Article 2 of Commission Regulation (EEC) No 1593/91 of 12 June 1991 providing for the implementation of Council Regulation (EEC) No 719/91 on the use in the Community of TIR carnets and ATA carnets as transit documents (OJ 1991 L 148, p. 11), read in conjunction with Article 11 of the TIR Convention — Offences or irregularities — Notification period

Operative part of the judgment

1. *Article 2(1) of Commission Regulation (EEC) No 1593/91 of 12 June 1991 providing for the implementation of Council Regulation (EEC) No 719/91 on the use in the Community of TIR carnets and ATA carnets as transit documents, read in conjunction with Article 11(1) of the Customs Convention on the International Transport of Goods under Cover of TIR Carnets, signed in Geneva on 14 November 1975, must be interpreted as meaning that failure to comply with the period within which the holder of a TIR carnet is to be notified of its non-discharge does not have the consequence that the competent customs authorities forfeit the right to recover the duties and taxes due in respect of the international transport of goods made under cover of that carnet.*