

Parties to the main proceedings

Applicants: Terex Equipment Ltd (C-430/08), FG Wilson (Engineering) Ltd (C-431/08), Caterpillar EPG Ltd (C-431/08)

Defendant: The Commissioners for Her Majesty's Revenue & Customs

Re:

Reference for a preliminary ruling — Edinburgh Tribunal Centre — Interpretation of Articles 78, 203 and 239 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ 1992 L 302, p. 1) — Interpretation of Article 865 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ 1993 L 253, p. 1) — Goods entered into the European Community under the inward processing relief system — Mistaken use of an incorrect customs procedure code (CPC) on declarations made when the goods were re-exported from the Community, identifying the goods as 'permanent export' rather than 're-export' — Possibility of revising the export declaration in order to correct the CPC and regularise the situation

Operative part of the judgment

1. *The use in the export declarations at issue in the main proceedings of customs code 10 00 indicating the export of Community goods, instead of code 31 51 used for goods for which duties are suspended under the inward processing procedure, gives rise to a customs debt pursuant to Article 203(1) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code and the first paragraph of Article 865 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Regulation No 2913/92 establishing the Community Customs Code, as amended by Commission Regulation (EC) No 1677/98 of 29 July 1998.*
2. *Article 78 of Regulation No 2913/92 permits the revision of the export declaration of the goods in order to correct the customs procedure code given to them by the declarant, and the customs authorities are obliged, first, to assess whether the provisions governing the customs procedure concerned have been applied on the basis of incorrect or incomplete information and whether the objectives of the inward processing regime have not been threatened, in particular in that the goods subject to that customs procedure have actually been re-exported, and, second, where appropriate, to take the measures necessary to regularise the situation, taking account of the new information available to them.*

(¹) OJ C 327, 20.12.2008.

Judgment of the Court (Third Chamber) of 28 January 2010 — Commission of the European Communities v Ireland

(Case C-456/08) (¹)

(Failure of a Member State to fulfil obligations — Directive 93/37/EEC — Public works contracts — Notification to candidates and tenderers of decisions awarding contracts — Directive 89/665/EEC — Procedures for review of the award of public contracts — Period within which actions for review must be brought — Date from which the period for bringing an action starts to run)

(2010/C 63/18)

Language of the case: English

Parties

Applicant: Commission of the European Communities (represented by: G. Zavvos, M. Konstantinidis and E. White, agents)

Defendant: Ireland (represented by: D. O'Hagan, agent, A. Collins, SC)

Re:

Failure of Member State to fulfil obligations — Infringement of Article 1(1) of Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (OJ 1989 L 395, p. 33) — Infringement of Article 8(2) of Council Directive 93/37/EEC of 14 June 1993 concerning the coordination of procedures for the award of public works contracts (OJ 1993 L 199, p. 54) — Notification of the decision awarding the contract — Duty to state clearly the time-limit for bringing an action against a decision awarding a public contract

Operative part of the judgment

The Court:

1. *Declares that:*

- by reason of the fact that the National Roads Authority did not inform the unsuccessful tenderer of its decision to award the contract for the design, construction, financing and operation of the Dundalk Western Bypass, and
- by maintaining in force Order 84A(4) of the Rules of the Superior Courts, in the version resulting from Statutory Instrument No 374 of 1998, in so far as it gives rise to uncertainty as to which decision must be challenged through legal proceedings and as to how periods for bringing an action are to be determined,

Ireland has failed — as regards the first head of claim — to fulfil its obligations under Article 1(1) of Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts, as amended by Council Directive 92/50/EEC of 18 June 1992, and Article 8(2) of Council Directive 93/37/EEC of 14 June 1993 concerning the coordination of procedures for the award of public works contracts, as amended by European Parliament and Council Directive 97/52/EC of 13 October 1997 and — as regards the second head of claim — to fulfil its obligations under Article 1(1) of Directive 89/665, as amended by Directive 92/50;

2. Orders Ireland to pay the costs.

(¹) OJ C 313, 6.12.2008.

Judgment of the Court (Second Chamber) of 21 January 2010 (reference for a preliminary ruling from the Oberverwaltungsgericht Berlin-Brandenburg — Germany) — Ümit Bekleyen v Land Berlin

(Case C-462/08) (¹)

(EEC-Turkey Association Agreement — Second paragraph of Article 7 of Decision No 1/80 of the Association Council — Right of the child of a Turkish worker to respond to any offer of employment in the host Member State in which that child has completed a vocational training course — Start of the vocational training course after the parents have permanently left that Member State)

(2010/C 63/19)

Language of the case: German

Referring court

Oberverwaltungsgericht Berlin-Brandenburg

Parties to the main proceedings

Applicant: Ümit Bekleyen

Defendant: Land Berlin

Re:

Reference for a preliminary ruling — Oberverwaltungsgericht Berlin-Brandenburg — Interpretation of the second paragraph of Article 7 of Decision No 1/80 of the EEC-Turkey Association Council — Turkish national born in the host Member State who, having returned with her parents to her country of

origin, returns on her own, more than ten years later, to the host Member State in which her parents used to be regularly employed for more than three years, in order to start a vocational training course — Right of access to the labour market and corresponding right of residence in the host Member State for that Turkish national following the completion of a vocational training course

Operative part of the judgment

The second paragraph of Article 7 of Decision No 1/80 of 19 September 1980 on the Development of the Association, adopted by the Association Council set up by the Agreement establishing an Association between the European Economic Community and Turkey, must be interpreted as meaning that, in the case where a Turkish worker has previously been legally employed in the host Member State for more than three years, the child of such a worker may rely in that Member State, after completing her vocational training course there, on the right of access to the employment market and the corresponding right of residence, even though, after travelling back with her parents to their State of origin, she returned on her own to that Member State in order to start that training course there.

(¹) OJ C 19, 24.01.2009.

Judgment of the Court (Fifth Chamber) of 21 January 2010 (reference for a preliminary ruling from the Gerechtshof te Arnhem — Netherlands) — K. van Dijk v Gemeente Kampen

(Case C-470/08) (¹)

(Common agricultural policy — Integrated administration and control system for certain aid schemes — Regulation (EC) No 1782/2003 — Single payment scheme — Transfer of payment entitlements — Expiry of the lease — Obligations of the lessee and the lessor)

(2010/C 63/20)

Language of the case: Dutch

Referring court

Gerechtshof te Arnhem

Parties to the main proceedings

Applicant: K. van Dijk

Defendant: Gemeente Kampen