

Reference for a preliminary ruling from the Cour constitutionnelle (formerly Cour d'arbitrage), Belgium lodged on 22 February 2008 — Nicolas Bressol and Others and Céline Chaverot and Others v Gouvernement de la Communauté française

(Case C-73/08)

(2008/C 116/17)

Language of the case: French

Referring court

Cour constitutionnelle (formerly Cour d'arbitrage)

Parties to the main proceedings

Applicants: Nicolas Bressol and Others and Céline Chaverot and Others

Defendant: Gouvernement de la Communauté française

Questions referred

1. Are the first paragraph of Article 12 and Article 18(1) of the Treaty Establishing the European Community, in conjunction with Article 149(1), the second indent of Article 149(2) and the third indent of Article 150(2) thereof, to be interpreted as meaning that those provisions preclude an autonomous community in a Member State with responsibility for higher education, which is faced, as a result of a restrictive policy practised by a neighbouring Member State, with an influx of students from the neighbouring Member State in a number of programmes of study of a medical nature financed principally out of public funds, from adopting measures such as those contained in the Decree of the French Community of 16 June 2006 regulating the number of students in certain programmes in the first two years of undergraduate studies in higher education, when that community relies on valid reasons for claiming that that situation could place an excessive burden on public finances and jeopardise the quality of the education provided?
2. Would the answer to the first question be different if that community could show that the effect of that situation is that too few students residing in the community in question obtain diplomas for there to be, over a long period, a sufficient number of qualified medical personnel to ensure the quality of the public health system in that community?
3. Would the answer to the first question be different if that community, having regard to the last part of Article 149(1) of the Treaty and Article 13(2)(c) of the International Covenant on Economic, Social and Cultural Rights, which

contains a standstill obligation, chooses to maintain wide and democratic access to quality higher education for the population of that community?

Reference for a preliminary ruling from the Nógrád Megyei Bíróság (Republic of Hungary) lodged on 30 January 2008 — PARAT Automotive Cabrio Textiltetőket Gyártó Kft. v Adó- és Pénzügyi Ellenőrzési Hivatal Hatósági Főosztály Észak-magyarországi Kihelyezett Hatósági Osztály

(Case C-74/08)

(2008/C 116/18)

Language of the case: Hungarian

Referring court

Nógrád Megyei Bíróság

Parties to the main proceedings

Applicant: PARAT Automotive Cabrio Textiltetőket Gyártó Kft.

Defendant: Adó- és Pénzügyi Ellenőrzési Hivatal Hatósági Főosztály Észak-magyarországi Kihelyezett Hatósági Osztály

Questions referred

1. On 1 May 2004, the date of accession of the Republic of Hungary to the European Union, were the rules laid down in Article 38(1)(a) of the általános forgalmi adóról szóló 1992. évi LXXIV. Törvény (Law LXXIV of 1992 concerning turnover tax; 'the Áfa.tv') compatible with Article 17 of Sixth Council Directive 77/388/EEC ⁽¹⁾ of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment ('the Sixth Directive')?
2. If the answer is in the negative, may the applicant rely directly on Article 17 of the Sixth Directive when exercising the right to deduct, rather than on Article 38(1)(a) of the Áfa.tv?

⁽¹⁾ OJ L 145, 13.6.1977, p. 1.