

**Reference for a preliminary ruling from the Commissione Tributaria Regionale di Trieste (Italy) lodged on 16 April 2008 — Agenzia Dogane Ufficio delle Dogane Trieste v Pometon S.p.A.**

(Case C-158/08)

(2008/C 158/19)

*Language of the case: Italian*

**Referring court**

Commissione Tributaria Regionale di Trieste

**Parties to the main proceedings**

*Appellant:* Agenzia Dogane Ufficio delle Dogane Trieste (Trieste Customs Authority)

*Respondent:* Pometon S.p.A.

**Questions referred**

1. Can it be correctly held that the inward processing procedure, as implemented by Pometon S.p.A., can infringe the principles of the customs policy of the Community, and, in particular, those of the general and specific anti-dumping legislation, as well as those of the Community Customs Code (Regulation (EEC) No 2913/92)? <sup>(1)</sup> In particular, is Article 13 of Regulation (EC) No 384/96 <sup>(2)</sup> to be interpreted as a principle of general application, applicable as a general stipulation of the Community legal order, also directly binding in relations between national authorities and taxpayers, as well as in the procedure for imposing anti-dumping duty; for example, can that principle be invoked in carrying out customs controls, as defined in Article 4(14) of the Community Customs Code (Regulation (EEC) No 2913/92)?
2. Can the combined provisions of Article 13 of Regulation (EC) No 384/96, in respect of evasion of anti-dumping rules, of Article 114 *et seq.* of the Community Customs Code (Regulation (EEC) No 2913/92), in respect of inward processing, and of Articles 202, 204, 212 and 240 thereof, in respect of the incurrance of the customs debt, be interpreted as meaning that the subjection of goods to anti-dumping duty is not precluded by the prearranged acquisition of the same product from an entity with the nationality of a country not subject to anti-dumping duty, which has, in its turn, acquired that product in a country subject to such duty and has, without altering it in any way, imported it temporarily into the Community under the inward processing procedure, in order to re-import it processed, but temporarily and for only a few hours, and re-sell it immediately to the same Community company which had undertaken the inward processing?

3. Whether, in the absence of Community provisions on sanctions, which this court has failed to find, the court of the Member State may apply rules of its own legal order which enable it to declare, their requirements being met, the annulment of the contracts of assignment for inward processing and of sale of the compensating product, such as Articles 1343 (illegality), 1344 (contract to evade the law) and 1345 (illegal motive) of the Italian Civil Code, and Article 1414 *et seq.* of the Italian Civil Code in respect of pretence, where infringement of the Community principles referred to above is established?
4. Whether, for any other reasons or criteria of interpretation which it may please the Court to state, the operation described above, where it is prearranged in order to circumvent anti-dumping duty, complies with the inward processing procedure or whether it actually infringes customs principles for the application of anti-dumping duty which the Court may wish to indicate?
5. Whether, for any other reasons or criteria of interpretation which it may please the Court to state, the operation in question constitutes a definitive import of product subject to anti-dumping duty?

<sup>(1)</sup> OJ 1992 L 302, p. 1.

<sup>(2)</sup> OJ 1996 L 56, p. 1.

**Reference for a preliminary ruling from the Cour de cassation (France) lodged on 21 April 2008 — Iaszlo Hadadi (Hadady) v Csilla Marta Mesko, married name Hadadi (Hadady)**

(Case C-168/08)

(2008/C 158/20)

*Language of the case: French*

**Referring court**

Cour de cassation

**Parties to the main proceedings**

*Applicant:* Laszlo Hadadi (Hadady)

*Defendant:* Csilla Marta Mesko, married name Hadadi (Hadady)