

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)? ⁽¹⁾ In particular, is Article 13 of Regulation (EC) No 384/96 ⁽²⁾ 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 incurrence 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?

⁽¹⁾ OJ 1992 L 302, p. 1.

⁽²⁾ 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)

Questions referred

1. Is Article 3(1)(b) [of Regulation No 2201/2003] ⁽¹⁾ to be interpreted as meaning that, in a situation where the spouses hold both the nationality of the State of the court seised and the nationality of another Member State of the European Union, the nationality of the State of the court seised must prevail?
2. If the answer to Question 1 is in the negative, is that provision to be interpreted as referring, in a situation where the spouses each hold dual nationality of the same two Member States, to the more dominant of the two nationalities?
3. If the answer to Question 2 is in the negative, should it therefore be considered that that provision offers the spouses an additional option, allowing those spouses the choice of seising the courts of either of the two States of which they both hold the nationality?

⁽¹⁾ Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 (OJ 2003 L 338, p. 1).

Action brought on 29 April 2008 — Commission of the European Communities v Republic of Austria

(Case C-181/08)

(2008/C 158/21)

Language of the case: German

Parties

Applicant: Commission of the European Communities (represented by: V. Kreuzschitz, Agent)

Defendant: Republic of Austria

Form of order sought

— declare that the Republic of Austria, by not adopting the laws, regulations and administrative provisions necessary to

transpose Directive 2003/18/EC of the European Parliament and of the Council of 27 March 2003 amending Council Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work ⁽¹⁾ or by not communicating those provisions to the Commission, has failed to fulfil its obligations under Article 2(1) of that directive.

— order the Republic of Austria to pay the costs.

Pleas in law and main arguments

The time limit for transposition of the directive expired on 15 April 2006.

⁽¹⁾ OJ 2003 L 97, p. 48.

Action brought on 29 April 2008 — Commission of the European Communities v Grand Duchy of Luxembourg

(Case C-184/08)

(2008/C 158/22)

Language of the case: French

Parties

Applicant: Commission of the European Communities (represented by: P. Oliver and J.-B. Laignelot, acting as Agents)

Defendant: Grand Duchy of Luxembourg

Form of order sought

— Declare that by failing to adopt sanctions under Article 18 of Regulation (EC) No 648/2004 of the European Parliament and of the Council of 31 March 2004 on detergents ⁽¹⁾ or by not informing the Commission thereof, the Grand Duchy of Luxembourg has failed to fulfil its obligations under Article 18(1) and (2) of that regulation;

— Order the Grand Duchy of Luxembourg to pay the costs.