

5. Is there an 'economic activity' even where advertising services are invoiced to the subordinate organisations in the form of a charge the amount of which is determined firstly by the number of members in the relevant local organisation and secondly by the number of members it sends to representative assemblies?
6. In determining whether there is economic activity, should subsidies from public funds which do not form part of the taxable consideration (such as, for example, the financing of parties under the Carinthian Parteienförderungsgesetz (Law on the financing of parties) be taken into consideration as it were as economic advantages?
7. If the 'external advertising', viewed in isolation, constitutes an economic activity within the meaning of Article 4(1) and (2) of the Sixth Directive, does the fact that publicity and election advertising is a central feature of the activity of political parties and a condition *sine qua non* for the implementing of political objectives and programmes preclude such activity from being classified as an 'economic activity'?
8. Are the activities performed by the appellant and described by it as 'external advertising' of such a nature as to be comparable with, or correspond in content to, activities carried out by commercial advertising agencies for the purposes of Annex D (number 10) of the Sixth Directive? If that question is answered affirmatively, can the extent of the activities be described as 'not insignificant' in the context of the revenue/expenditure structure prevailing at the material time for the purposes of the appeal?

(¹) OJ L 145, p. 1.

Action brought on 2 July 2008 — Commission of the European Communities v Czech Republic

(Case C-294/08)

(2008/C 247/07)

Language of the case: Czech

Parties

Applicant: Commission of the European Communities (represented by: B. Schima and M. Šimerdová, acting as Agents)

Defendant: Czech Republic

Form of order sought

- declare that,
 - by requiring, on registration of imported vehicles for which there is proof of type-approval with regard to roadworthiness by another Member State, that, at the time of that type-approval with regard to roadworthiness, a vehicle complies with the technical requirements in force at that time in the Czech Republic and
 - by requiring, in the event of non-fulfilment of those requirements, a test to verify whether the vehicle complies with the technical requirements in force for the given category of vehicles in the Czech Republic at the time of the vehicle's manufacture,
- the Czech Republic has failed to fulfil its obligations under Article 28 of the Treaty establishing the European Community;
- order the Czech Republic to pay the costs.

Pleas in law and main arguments

Under Czech Law, the conditions for the registration of second-hand vehicles imported into the Czech Republic from other Member States where they were previously registered, are laid down by Law No 56/2001 Coll. (¹). Article 35(1) and (2) of Law No 56/2001 Coll. lays down conditions for the registration of individually imported second-hand vehicles for which there is proof of type-approval with regard to roadworthiness by another Member State.

The Czech authorities approve the roadworthiness of such a vehicle provided that the vehicle, its systems, structural parts or independent technical units fulfilled, at the time of type-approval with regard to roadworthiness in another EU Member State, the technical requirements in force at that time in the Czech Republic and laid down in the implementing legislation (Article 35(1) of Law No 56/2001 Coll.).

If, at the time of type-approval with regard to roadworthiness in another Member State, the vehicle, its systems, structural parts or independent technical units did not fulfil the conditions in force at that time in the Czech Republic and laid down in the implementing legislation, the appropriate authority is to decide on approval of roadworthiness for the vehicle on the basis of the technical report issued by the testing centre. The testing centre is to issue a technical certificate if the vehicle fulfils the technical conditions in force for the given category of vehicle in the Czech Republic at the time of the vehicle's manufacture (Article 35(2) of Law No 56/2001 Coll.).

It follows from Article 35(1) and (2) of Law No 56/2001 that the roadworthiness of all second-hand vehicles, for which another Member State has issued a certificate of type-approval with regard to roadworthiness, is always re-examined in the light of Czech law. That approach is, in the Commission's view, in breach of the principle of the freedom of movement of goods, according to which goods placed on the market in accordance with the legislation of one Member State must be admitted to the markets of all other Member States. The Czech legislation does not in any way take account of the results of the roadworthiness test carried out on the vehicles in question in another Member State, thereby constituting an infringement of Article 3(2) of Council Directive 96/96/EC.

In view of the foregoing, the Commission is of the view that the Czech legislation constitutes a measure having equivalent effect to a quantitative restriction within the meaning of Article 28 EC. That measure is incapable of procuring the protection of the health and life of humans and the environment or road safety and is thus not justified by Article 30 of the EC Treaty or by the case-law of the European Court of Justice.

(¹) Law No 56/2001 Coll. on conditions for operating vehicles on roads and on changes in Law No 168/1999 Coll. on liability insurance for damage caused by operating a vehicle and on changes in various related laws ('Law on liability insurance for operating a vehicle'), as amended by Law No 307/1999 Coll.

Reference for a preliminary ruling from the Finanzgericht München (Germany) lodged on 8 July 2008 — Zino Davidoff SA v Bundesfinanzdirektion Südost

(Case C-302/08)

(2008/C 247/08)

Language of the case: German

Referring court

Finanzgericht München

Parties to the main proceedings

Applicant: Zino Davidoff SA

Defendant: Bundesfinanzdirektion Südost

Question referred

In the light of the accession of the European Community to the Madrid Protocol, is Article 5(4) of Council Regulation (EC) No 1383/2003 of 22 July 2003, concerning customs action against goods suspected of infringing certain intellectual property rights and the measures to be taken against goods found to have infringed such rights (¹), to be interpreted as meaning that, despite the use of the term 'Community trade mark', marks with international registrations within the meaning of Article 146 *et seq.* of Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark, as amended by Council Regulation (EC) No 1992/2003 of 27 October 2003, are also covered?

(¹) OJ 2003 L 196, p. 7.

Reference for a preliminary ruling from the Bundesverwaltungsgericht (Deutschland) lodged on 8 July 2008 — Metin Bozkurt v Land Baden-Württemberg

(Case C-303/08)

(2008/C 247/09)

Language of the case: German

Referring court

Bundesverwaltungsgericht

Parties to the main proceedings

Applicant: Metin Bozkurt

Defendant: Land Baden-Württemberg

Other party: Der Vertreter des Bundesinteresses beim Bundesverwaltungsgericht

Questions referred

1. Is the right of residence and employment acquired as a member of the family pursuant to the second indent of the first paragraph of Article 7 of Decision No 1/80 of the EEC-Turkey Association Council by the spouse of a Turkish worker who is duly registered as belonging to the labour force of a Member State retained even after a divorce?

If the reply to the first question is in the affirmative:

2. Is it an abuse of rights to plead the right of residence derived from his former wife under the second indent of the first paragraph of Article 7 of Decision No 1/80 of the EEC-Turkey Association Council where the Turkish national raped and injured his former wife after acquiring the legal status and the offence was punished with two years' imprisonment?

Reference for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 9 July 2008 — Zentrale zur Bekämpfung unlauteren Wettbewerbs eV v Plus Warenhandelsgesellschaft mbH

(Case C-304/08)

(2008/C 247/10)

Language of the case: German

Referring court

Bundesgerichtshof