

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Folliard-Monguiral), Budějovický Budvar, národní podnik (represented by: K. Čermák, advokát)

Re:

Appeal against the judgment of the Court of First Instance (First Chamber) of 25 March 2009 in Case T-191/07 *Anheuser-Busch, Inc. v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)* by which that Court dismissed an action brought by the applicant for the word mark “BUDWEISER” for goods in class 32 seeking annulment of Decision R 299/2006-2 of the Second Board of Appeal of OHIM of 20 March 2007, dismissing the appeal against the decision of the Opposition Division refusing registration of the mark in opposition proceedings brought by the proprietor of the international figurative and word marks “BUDWEISER” and “Budweiser Budvar” for goods in classes 31 and 32.

Operative part of the judgment

The Court:

1. Dismisses the appeal;
2. Orders Anheuser-Busch Inc. to pay the costs.

(¹) OJ C 193, 15.8.2009.

Judgment of the Court (Third Chamber) of 15 July 2010
(reference for a preliminary ruling from the Vestre Landsret — Denmark) — *Skatteministeriet v DSV Road A/S*

(Case C-234/09) (¹)

(Community Customs Code — Regulation (EEC) No 2913/92 — Article 204(1)(a) — Regulation (EEC) No 2454/93 — Article 859 — External transit procedure — Authorised consignor — Creation of a customs debt — Transit document relating to non-existent goods)

(2010/C 246/14)

Language of the case: Danish

Referring court

Vestre Landsret

Parties to the main proceedings

Applicant: Skatteministeriet

Defendant: DSV Road A/S

Re:

Reference for a preliminary ruling — Vestre Landsret — Interpretation of Articles 1, 4(9) and (10), 92, 96 and 204(1)(a) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ 1992 L 302, p. 1) — Authorised consignor generating by mistake two transit documents for the same consignment of goods in the New Computerised Transit System (NCTS), thus assigning two different movement reference numbers to a single consignment — Customs debt arising following the impossibility of discharging the external Community transit procedure by presenting the goods to the customs office of destination — Charging of customs duty on goods which have been declared but do not physically exist

Operative part of the judgment

Article 204(1)(a) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, as amended by Regulation (EC) No 648/2005 of the European Parliament and of the Council of 13 April 2005, is to be interpreted as not applying to a situation such as that of the case before the referring court, where an authorised consignor generated by mistake two external transit procedures for one and the same consignment of goods, because the goods covered by the extra procedure do not exist and, as a consequence, that procedure cannot entail the creation of a customs debt pursuant to the above provision.

(¹) OJ C 205, 29.8.2009.

Judgment of the Court (First Chamber) of 29 July 2010
(reference for a preliminary ruling from the Augstākās tiesas Senāts — Republic of Latvia) — *Pakora Pluss SIA v Valsts ieņēmumu dienests*

(Case C-248/09) (¹)

(Act of Accession to the European Union — Customs union — Transitional measures — Goods free from customs duties when entered for free circulation — Goods in transport in the enlarged Community on the date of accession of the Republic of Latvia — Export formalities — Import duties — VAT)

(2010/C 246/15)

Language of the case: Latvian

Referring court

Augstākās tiesas Senāts

Parties to the main proceedings

Applicant: Pakora Pluss SIA

Defendant: Valsts ieņēmumu dienests

Re:

Reference for a preliminary ruling — Augstākās tiesas Senāts — Interpretation of Article 4(10) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ 1992 L 302, p. 1), of Article 448 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) and of the Act concerning the conditions of accession to the European Union, Annex IV, Chapter 5, paragraph 1 — Import of a motor vehicle by sea — Release for free circulation free of customs duties and other customs measures applicable to goods being, at the date of accession, transported within the enlarged Community after export formalities have been completed

Operative part of the judgment

- Annex IV, Chapter 5, paragraph 1 of the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded must be interpreted as meaning that, in order to ascertain whether the export formalities referred to therein have been completed, it is irrelevant that the actions provided for in Article 448 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, as amended by Commission Regulation (EC) No 2787/2000 of 15 December 2000, were performed, even where a cargo manifest has been drawn up.
- Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, as amended by Regulation (EC) No 82/97 of the European Parliament and of the Council of 19 December 1996, and Regulation No 2454/93, as amended by Regulation No 2787/2000, are applicable in the new Member States as from 1 May 2004, but the procedure provided for in Annex IV, Chapter 5, paragraph 1 of the Act of Accession cannot be relied on where the export formalities set out therein have not been completed with respect to goods in transport in the enlarged Community at the date of accession of those new Member States of the European Union.

3. Article 4(10) of Regulation No 2913/92, as amended by Regulation No 82/97 must be interpreted as meaning that import duties do not include the value added tax to be levied on the importation of goods.

4. When goods are imported, the obligation to pay the value added tax is imposed on the person or persons designated or accepted as being liable by the Member State into which the goods are imported.

(¹) OJ C 220, 12.9.2009.

Judgment of the Court (Second Chamber) of 15 July 2010 (reference for a preliminary ruling from the Bundesgerichtshof (Germany)) — Bianca Purrucker v Guillermo Vallés Pérez

(Case C-256/09) (¹)

(Judicial cooperation in civil matters — Jurisdiction, recognition and enforcement of decisions in matrimonial matters and in the matters of parental responsibility — Regulation (EC) No 2201/2003 — Provisional, including protective, measures — Recognition and enforcement)

(2010/C 246/16)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: Bianca Purrucker

Defendant: Guillermo Vallés Pérez

Re:

Reference for a preliminary ruling — Bundesgerichtshof — Interpretation of Chapter 3 of 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) — Application of the recognition and enforcement rules in that regulation to a provisional measure awarding custody of a child to its father and ordering the return of the child, retained by its mother in another Member State, to its father