

**Parties to the main proceedings**

*Applicant:* Sió-Eckes Kft.

*Defendant:* Mezőgazdasági és Vidékfejlesztési Hivatal Központi Szerve

**Appeal brought on 21 January 2009 by the French Republic against the judgment delivered on 4 December 2008 by the Court of First Instance (Seventh Chamber) in Case T-284/08 People's Mojahedin Organisation of Iran v Council of the European Union**

(Case C-27/09 P)

(2009/C 82/26)

*Language of the case:* English

**Questions referred**

1. May Article 2(1) of Council Regulation (EC) No 2201/96 <sup>(1)</sup> be interpreted as meaning that, in accordance with Annex I, the production aid scheme applies, not only to peaches in syrup and/or in natural fruit juice included in CN code ex 2008 70 61, but also to the products with other CN codes listed in that annex (ex 2008 70 69, etc)?
2. Does the processor which manufactures products under CN code ex 2008 70 92 comply with the provisions of Regulation No 2201/96?
3. May Article 2(1) of Commission Regulation (EC) No 1535/2003 <sup>(2)</sup> be interpreted as meaning that the products designated by CN codes ex 2008 70 61, ex 2008 70 69, ex 2008 70 71, ex 2008 70 79, ex 2008 70 92, ex 2008 70 94 and ex 2008 70 99 are also finished products within the meaning of the regulation?
4. In so far as, in accordance with the answers to the previous questions, the definition of finished products is applicable only to the peaches described in Article 3 of Commission Regulation (EEC) No 2320/89 <sup>(3)</sup>, why are the CN codes of other products included in the regulations previously cited?
5. In accordance with the regulations cited above, may the products resulting from the separate phases of peach processing be regarded as finished products, regardless of whether they may be marketed (for example, the pulp)?

<sup>(1)</sup> Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organisation of the markets in processed fruit and vegetable products (OJ 1996 L 297, p. 29).

<sup>(2)</sup> Commission Regulation (EC) No 1535/2003 of 29 August 2003 laying down detailed rules for applying Council Regulation (EC) No 2201/96 as regards the aid scheme for products processed from fruit and vegetables (OJ 2003 L 218, p. 14).

<sup>(3)</sup> Commission Regulation (EEC) No 2320/89 of 28 July 1989 of minimum quality requirements for peaches in syrup and peaches in natural fruit juice for the application of the production aid scheme (OJ 1989 L 220, p. 54).

**Parties**

*Appellant:* French Republic (represented by: E. Belliard, G. de Bergues, A.-L. During, acting as Agents)

*Other parties to the proceedings:* People's Mojahedin Organisation of Iran, Council of the European Union, Commission of the European Communities

**Form of order sought**

- set aside the judgment of the Court of First Instance of the European Communities of 4 December 2008 in Case T-284/08 People's Mojahedin Organisation of Iran v Council;
- itself give final judgment in the case by dismissing the PMOI's action or refer the case back to the Court of First Instance.

**Pleas in law and main arguments**

The French Government considers that the judgment under appeal should be set aside, first, because the Court of First Instance erred in law by holding that the Council had adopted Decision 2008/583/EC <sup>(1)</sup> in disregard of the PMOI's rights of defence, without taking account of the specific circumstances of the adoption of that decision; second, because the Court erred in law by considering that the judicial procedure opened in France against alleged members of the PMOI did not constitute a decision meeting the definition in Article 1(4) of Common Position 2001/931/CFSP of 27 December 2001 on the application of specific measures to combat terrorism; and, finally, because the Court erred in law by holding that the refusal by the Council to communicate point 3 a) of one of the three documents supplied by the French authorities to the Council in support of their request for the inclusion of the PMOI in the list established by Decision 2008/583/EC, and sent to the Court by the Council in response to the Court Order of 26 September

2008 on measures of inquiry, did not enable the Court to review the lawfulness of Decision 2008/583/EC and infringed the right to effective judicial protection.

(<sup>1</sup>) Council Decision of 15 July 2008 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Decision 2007/868/EC (OJ 2008 L 188, p. 21).

**Action brought on 22 January 2009 — Commission of the European Communities v Portuguese Republic**

(Case C-30/09)

(2009/C 82/27)

*Language of the case: Portuguese*

**Parties**

*Applicant:* Commission of the European Communities (represented by: A. Sipos and P. Guerra e Andrade, acting as Agents)

*Defendant:* Portuguese Republic

**Forms of order sought**

- Declare that, by not drawing up external emergency plans for the establishments requiring such plans, the Portuguese Republic has failed to fulfil its obligations under Article 11 of Council Directive 96/82/EC (<sup>1</sup>) of 9 December 1996 on the control of major-accident hazards involving dangerous substances, as amended by Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003;
- Order the Portuguese Republic to pay the costs.

**Pleas in law and main arguments**

It is apparent from the letters sent by the Portuguese Administration to the Commission in this matter that none of the establishments required to draw up emergency plans has had its external emergency plan approved in accordance with the directive.

Article 11 of Directive 96/82 requires Member States to ensure that operators supply to the competent authorities the information necessary to draw up external emergency plans. The competent authorities must prepare such emergency plans.

Under Article 11(4) of the directive, internal and external emergency plans must be reviewed, tested, revised and updated at intervals of no longer than three years.

According to the Portuguese Administration's own information, none of those obligations has been fulfilled in Portugal.

(<sup>1</sup>) OJ 1997 L 10, p. 13.

**Reference for a preliminary ruling from the Fővárosi Bíróság (Hungary) lodged on 26 January 2009 — Bolbol Nawras v Bevándorlási és Állampolgársági Hivatal**

(Case C-31/09)

(2009/C 82/28)

*Language of the case: Hungarian*

**Referring court**

Fővárosi Bíróság

**Parties to the main proceedings**

*Applicant:* Bolbol Nawras

*Defendant:* Bevándorlási és Állampolgársági Hivatal

**Questions referred**

For the purposes of Article 12(1)(a) of Council Directive 2004/83/EC (<sup>1</sup>)

1. Must someone be regarded as a person receiving the protection and assistance of a United Nations agency merely by virtue of the fact he is entitled to assistance or protection or is it also necessary for him actually to avail himself of that protection or assistance?
2. Does cessation of the agency's protection or assistance mean residence outside the agency's area of operations, cessation of the agency and cessation of the possibility of receiving the agency's protection or assistance or, possibly, an objective obstacle such that the person entitled thereto is unable to avail himself of that protection or assistance?
3. Do the benefits of this directive mean recognition as a refugee, or either of the two forms of protection covered by the directive (recognition as a refugee and the grant of subsidiary protection), according to the choice made by the Member State, or, possibly, neither automatically but merely inclusion in the scope *ratione personae* of the directive?

(<sup>1</sup>) Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (OJ 2004 L 304, p. 12).