

Party to the main proceedings

Respondent: X

Questions referred

1. Does a situation in which a person who is a citizen of the European Union, and against whom there are grave presumptions that the main purpose of his stay in a Member State of the European Community other than that of which he is a national is to engage in criminal activities, come within the scope or area of application of the EC Treaty, in particular of the provisions of Articles 12 EC, 18 EC, 43 EC et seq. and 49 EC et seq?
2. If the answer to Question 1 is in the affirmative in respect of Article 18 EC:
 - (a) Should a provision such as that contained in Article 67(2) of the Netherlands Code of Criminal Procedure, in so far as it makes possible the pre-trial detention of persons who come within the scope of Article 18 EC but who have a fixed place of abode or residence in a Member State other than the Netherlands, be regarded as constituting a restriction of the right to move and reside freely within the meaning of that provision?
 - (b) If that is the case, does that provision, in so far as it makes possible the pre-trial detention of citizens of the European Union who have a fixed place of abode or residence in a Member State other than the Netherlands, given the importance of the effective tracing of suspects, prosecution and dispensation of justice, constitute an acceptable justification based on objective considerations in the public interest which are unconnected to the person concerned and are proportionate to the legitimate aim pursued by the national law?
3. If the answer to Question 1 is in the affirmative in respect of Article 49 EC et seq.: should a provision such as that contained in Article 67(2) of the Netherlands Code of Criminal Procedure, in so far as it makes possible the pre-trial detention of nationals of a Member State who have a fixed place of abode or residence in a Member State other than the Netherlands, be regarded as a restriction of the freedom to provide services within the meaning of Article 49 EC et seq. in that it involves discrimination based on the fact that the provider of the services does not have a fixed place of abode or residence in the country where the services are provided but does have one in another Member State of the EC?
4. If the answer to either Question 2 or Question 3 is in the negative: should a provision such as that contained in Article 67(2) of the Netherlands Code of Criminal Procedure, in so far as it makes possible the pre-trial detention of nationals of a Member State who have a fixed place of abode or residence in a Member State other than the Netherlands, be regarded as a form of discrimination on grounds of nationality, as prohibited under

Article 12 EC (general prohibition of discrimination within the scope of application of the EC Treaty), Article 43 EC et seq. (prohibition of discrimination on the basis of nationality in relation to the freedom of establishment) and Article 49 EC et seq. (prohibition of discrimination on the basis of nationality in relation to freedom to provide services)?

5. In so far as the answer to either Question 3 or Question 4 is in the affirmative: should a provision such as that contained in Article 67(2) of the Netherlands Code of Criminal Procedure, in so far as it makes possible the pre-trial detention of [nationals of] a Member State who have a fixed place of residence or abode in a Member State other than the Netherlands, given the importance of the effective tracing of suspects, prosecution and dispensation of justice, be regarded as legally valid on grounds of public policy, public security or public health within the terms of Articles 45 EC to 48 EC and Article 55 EC?

Reference for a preliminary ruling from the Centrale Raad van Beroep lodged on 27 August 2009 — J A van Delft and others v College voor zorgverzekering

(Case C-345/09)

(2010/C 11/21)

Language of the case: Dutch

Referring court

Centrale Raad van Beroep

Parties to the main proceedings

Applicants: J A van Delft and others

Defendant: College voor zorgverzekering

Questions referred

1. Should Articles 28, 28a and 33 of Regulation No 1408/71⁽¹⁾, the provisions of sections 1(a) and (b) of Part R of Annex VI to Regulation No 1408/71, and Article 29 of Regulation No 574/72⁽²⁾ be interpreted as meaning that a national provision such as Article 69 of the Zvw [Zorgverzekeringswet] is incompatible therewith in so far as a pensioner who in principle has entitlements under Articles 28 and 28a of Regulation No 1408/71 is obliged to report to the Cvz [College voor Zorgverzekering], and a contribution must be deducted from that person's pension even if no registration has taken place under Article 29 of Regulation No 574/09?

2. Should Article 39 EC or Article 18 EC be interpreted as meaning that a national provision such as Article 69 of the Zvw is incompatible therewith in so far as a citizen of the EU who in principle has entitlements under Articles 28 and 28a of Regulation No 1408/71 is obliged to report to the Cvz, and a contribution must be deducted from that citizen's pension even if no registration has taken place under Article 29 of Regulation 574/09?

(¹) Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community (OJ L 323, 13.12.1996, p. 38)

(²) Regulation (EEC) No 574/72 of the Council of 21 March 1972 fixing the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons and their families moving within the Community (OJ L 323, 13.12.1996, p. 38)

Reference for a preliminary ruling from the Baranya Megyei Bíróság (Hungary) lodged on 14 September 2009 — Pannon Gép Centrum Kft. v APEH Központi Hivatal Hatósági Főosztály Dél-dunántúli Kihelyezett Hatósági Osztály

(Case C-368/09)

(2010/C 11/22)

Language of the case: Hungarian

Referring court

Baranya Megyei Bíróság

Parties to the main proceedings

Applicant: Pannon Gép Centrum Kft.

Defendant: APEH Központi Hivatal Hatósági Főosztály Dél-dunántúli Kihelyezett Hatósági Osztály

Questions referred

1. Do the provisions of national law contained in Article 13(1)(16) of the általános forgalmi adóról szóló 1992. évi LXXIV. törvény (Law LXXIV of 1992 on turnover tax), in force at the material time when the disputed invoices were issued, or in Article 1/E(1) of Order 24/1995 (XI.22) of the Hungarian Ministry of Finance, specifically the provision in Article 13(1)(16)(f) of the Law on turnover tax, comply with

the features of invoices, and the concept of an invoice, laid down in Article 2(b) of Directive 2001/115/EC (¹) amending Directive 77/388/EEC (²) ('the Sixth Directive') with a view to simplifying, modernising and harmonising the conditions laid down for invoicing in respect of value added tax? In the event that the first question is answered in the affirmative,

2. Is a Member State's practice which consists of penalising formal defects in invoices intended to be used as a basis for the right to deduct by denying that right contrary to Article 17(1), Article 18(1)(a) or Article 22(3)(a) and (b) of the Sixth Directive?

3. In order to be able to exercise the right to deduct, is it sufficient to fulfil the obligations laid down in Article 22(3)(b) of the Sixth Directive, or is it possible to exercise the right to deduct and accept the invoice as a reliable document only if, at the same time, all the details required under Directive 2002/115/EC are provided and all the obligations laid down in Directive 2002/115/EC are fulfilled?

(¹) Council Directive 2001/115/EC of 20 December 2001 amending Directive 77/388/EEC with a view to simplifying, modernising and harmonising the conditions laid down for invoicing in respect of value added tax (OJ 2002 L 15, p. 24).

(²) Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ 1977 L 145, p. 1).

Reference for a preliminary ruling from the Baranya Megyei Bíróság (Hungary) lodged on 5 October 2009 — Uszodaépítő Kft. v APEH Központi Hivatal Hatósági Főosztály

(Case C-392/09)

(2010/C 11/23)

Language of the case: Hungarian

Referring court

Baranya Megyei Bíróság

Parties to the main proceedings

Applicant: Uszodaépítő Kft.

Defendant: APEH Központi Hivatal Hatósági Főosztály