

2. Orders the Republic of Finland to pay the costs;
3. Orders the Federal Republic of Germany to bear its own costs.

(<sup>1</sup>) OJ C 312, 19.12.2009.

**Judgment of the Court (Sixth Chamber) of 7 April 2011  
(reference for a preliminary ruling from the Hoge Raad der  
Nederlanden — Netherlands) — Staatssecretaris van  
Financiën v Sony Supply Chain Solutions (Europe) BV**

(Case C-153/10) (<sup>1</sup>)

**(Regulation (EEC) No 2913/92 — Community Customs Code  
— Articles 12(2) and (5), 217(1) and 243 — Regulation  
(EEC) No 2454/93 — Implementing provisions of Regulation  
No 2913/92 — Articles 10 and 11 — Classification of goods  
— Binding tariff information — Invocation by a trader other  
than the holder with respect to the same goods — Legitimate  
expectations)**

(2011/C 160/07)

Language of the case: Dutch

**Referring court**

Hoge Raad der Nederlanden (Netherlands)

**Parties to the main proceedings**

Applicant: Staatssecretaris van Financiën

Defendant: Sony Supply Chain Solutions (Europe) BV

**Re:**

Reference for a preliminary ruling — Hoge Raad der Nederlanden — Interpretation of Articles 12(2) and (5), 217(1), and 243 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ 1992 L 302, p. 1) and Article 11 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) — Classification of goods — Challenge to a decision of the customs authorities on the classification of a product — Reliance by the complainant on binding tariff information issued by the customs authorities of another Member State concerning a similar product

**Operative part of the judgment**

1. Article 12(2) of 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 Articles 10 and 11 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 12/97 of 18 December 1996, must be interpreted as meaning that a person who makes customs declarations in his own name and on his own behalf cannot rely on a binding tariff information of which he is not the holder, but which is held by an associated company on whose instructions he made those declarations.

2. Articles 12(2) and (5) and 217(1) of Regulation No 2913/92, as amended by Regulation No 82/97, and Article 11 of Regulation No 2454/93, read in conjunction with Article 243 of Regulation No 2913/92, as amended by Regulation No 12/97, must be interpreted as meaning that, in proceedings relating to the imposition of customs duties, an interested party may challenge that imposition by submitting as evidence a binding tariff information issued in respect of the same goods in another Member State although the binding tariff information cannot produce the legal effects attaching to it. It is, however, for the national court to determine whether the relevant procedural rules of the Member State concerned provide for the possibility of producing such types of evidence.
3. Article 12 of Regulation No 2913/92, as amended by Regulation No 82/97, and Article 10(1) of Regulation No 2454/93, as amended by Regulation No 12/97, must be interpreted as meaning that a national policy which allows national authorities to refer, for the purpose of the tariff classification of declared goods, to a binding tariff information issued to a third party for the same goods, could not give rise, on the part of traders, to a legitimate expectation that they could rely on that policy.

(<sup>1</sup>) OJ C 179, 3.7.2010.

**S Judgment of the Court (Fifth Chamber) of 7 April 2011  
— European Commission v Grand Duchy of Luxembourg**

(Case C-305/10) (<sup>1</sup>)

**(Failure of a Member State to fulfil obligations — Rail  
transport — Directive 2005/47/EC — Working conditions  
of mobile workers engaged in interoperable cross-border  
services in the railway sector — Agreement between sectoral  
social partners at European level — Failure to transpose  
within the prescribed period)**

(2011/C 160/08)

Language of the case: French

**Parties**

Applicant: European Commission (represented by: V. Peere and M. van Beek, acting as Agents)

Defendant: Grand Duchy of Luxembourg (represented by: C. Schiltz, acting as Agent)

**Re:**

Action for failure to fulfil obligations — Failure to adopt and/or notify, within the prescribed period, the laws, regulations and administrative provisions provided for by Council Directive 2005/47/EC of 18 July 2005 on the Agreement between the Community of European Railways (CER) and the European Transport Workers' Federation (ETF) on certain aspects of the working conditions of mobile workers engaged in interoperable cross-border services in the railway sector (OJ 2005 L 195, p. 15)

**Operative part of the judgment**

The Court:

1. Declares that by failing to adopt, within the prescribed period, the laws, regulations and administrative provisions necessary to comply with Council Directive 2005/47/EC of 18 July 2005 on the Agreement between the Community of European Railways (CER) and the European Transport Workers' Federation (ETF) on certain aspects of the working conditions of mobile workers engaged in interoperable cross-border services in the railway sector, the Grand Duchy of Luxembourg has failed to fulfil its obligations under that directive;
2. Orders the Grand Duchy of Luxembourg to pay the costs.

(<sup>1</sup>) OJ C 234, 28.8.2010.

**Judgment of the Court (Seventh Chamber) of 7 April 2011  
— European Commission v Ireland**

(Case C-431/10) (<sup>1</sup>)

**(Failure of a Member State to fulfil obligations — Directive 2005/85/EC — Right of asylum — Procedure for granting and withdrawing refugee status — Minimum standards — Failure to transpose provisions fully within the prescribed period)**

(2011/C 160/09)

Language of the case: English

**Parties**

*Applicant:* European Commission (represented by: M. Condou Durande and A.-A. Gilly, Agents)

*Defendant:* Ireland (represented by: D. O'Hagan, Agent)

**Re:**

Failure of a Member State to fulfil obligations — Failure to adopt within the prescribed period the provisions necessary to comply with Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status (OJ 2005 L 326, p. 13)

**Operative part of the judgment**

The Court:

1. Declares that, by failing to adopt within the prescribed period the laws, regulations and administrative provisions necessary to comply with Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status, Ireland has failed to fulfil its obligations under Article 43 of that directive;
2. Orders Ireland to pay the costs.

(<sup>1</sup>) OJ C 301, 6.11.2010.

**Reference for a preliminary ruling from the Hoge Raad der  
Nederlanden (Netherlands) lodged on 3 March 2011 — M.J.  
Bakker v Staatssecretaris van Financiën**

(Case C-106/11)

(2011/C 160/10)

Language of the case: Dutch

**Referring court**

Hoge Raad der Nederlanden

**Parties to the main proceedings**

*Applicant:* M.J. Bakker

*Other party:* Staatssecretaris van Financiën

**Questions referred**

1. Are the designation rules in Title II of Regulation (EEC) No 1408/71 (<sup>1</sup>) applicable in a case such as the present, where an employed person with Netherlands nationality residing in Spain is employed as a seafarer by an employer established in the Netherlands, and carries out his work on board dredgers which navigate outside the territory of the Community under the Netherlands flag, with the result that the legislation of the Netherlands is designated as the legislation applicable, so that consequently Netherlands national insurance contributions may be levied, whereas judging solely on the basis of the national legislation of the Netherlands he is not affiliated to the Netherlands social security scheme as a result of the fact that he does not reside in the Netherlands?
2. To what extent is it important in that regard that in the implementation of the Netherlands employed persons' insurance scheme a policy is followed by virtue of which seafarers in a case such as the present are considered by the implementing body to be insured persons on the basis of Community law?

(<sup>1</sup>) 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 English special edition, 1971 (II), p. 416).