

Judgment of the Court (Third Chamber) of 24 November 2011 (reference for a preliminary ruling from Înalta Curte de Casație și Justiție — Romania) — Circul Globus București (Circ & Variete Globus București) v Uniunea Compozitorilor și Muzicologilor din România — Asociația pentru Drepturi de Autor — UCMR — ADA

(Case C-283/10) ⁽¹⁾

(Approximation of laws — Copyright and related rights — Directive 2001/29/EC — Article 3 — Concept of ‘communication of a work to a public present at the place where the communication originates’ — Dissemination of musical works in the presence of an audience without paying the collective management organisation the appropriate copyright fee — Entry into contracts, with the authors of the works, for copyright waiver — Scope of Directive 2001/29)

(2012/C 25/15)

Language of the case: Romanian

Referring court

Înalta Curte de Casație și Justiție

Parties to the main proceedings

Applicant: Circul Globus București (Circ & Variete Globus București)

Defendant: Uniunea Compozitorilor și Muzicologilor din România — Asociația pentru Drepturi de Autor — UCMR — ADA

Re:

Reference for a preliminary ruling — Inalta Curte de Casație și Justiție — Interpretation of Article 3(1) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ 2001 L 167, p. 10) — Dissemination of musical works in the presence of an audience without paying the collective management organisation the appropriate copyright fee — Entry into contracts, with the authors of the works, for copyright waiver — Concept of ‘communication of a work to a public present at the place where the communication originates’ — Scope of Directive 2001/29

Operative part of the judgment

Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society and, more specifically, Article 3(1) thereof, must be interpreted as referring only to communication to a public which is not present at the place where the communication originates, to the exclusion of any communication of a work which is carried out directly in a place open to the public using any means of public performance or direct presentation of the work.

⁽¹⁾ OJ C 234, 28.8.2010.

Judgment of the Court (Fourth Chamber) of 10 November 2011 (reference for a preliminary ruling from the Rechtbank, Haarlem — Netherlands) — X v Inspecteur van de Belastingdienst Y (C-319/10) X BV v Inspecteur van de Belastingdienst P (C-320/10)

(Joined Cases C-319/10 and C-320/10) ⁽¹⁾

(Common Customs Tariff — Combined nomenclature — Tariff classification — Boneless, frozen and salted chicken meat — Validity and interpretation of Regulations (EC) Nos 535/94, 1832/2002, 1871/2003, 2344/2003 and 1810/2004 — Additional note 7 to Chapter 2 of the combined nomenclature — Decision of the WTO Dispute Settlement Body — Legal effects)

(2012/C 25/16)

Language of the case: Dutch

Referring court

Rechtbank, Haarlem

Parties to the main proceedings

Applicants: X (C-319/10), X BV (C-320/10)

Defendants: Inspecteur van de Belastingdienst Y (C-319/10), Inspecteur van de Belastingdienst P (C-320/10)

Re:

Reference for a preliminary ruling — Rechtbank Haarlem — Interpretation and validity of Commission Regulation (EC) No 535/94 of 9 March 1994 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ 1994 L 68, p. 15), Commission Regulation (EC) No 1832/2002 of 1 August 2002 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ 2002 L 290, p. 1), Commission Regulation (EC) No 1871/2003 of 23 October 2003 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ 2003 L 275, p. 5) and Commission Regulation (EC) No 2344/2003 of 30 December 2003 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ 2003 L 346, p. 38) — Boneless, frozen, salted chicken cuts — Tariff classification

Operative part of the judgment

In circumstances such as those in the main proceedings, where the declarations for the customs procedure for ‘release for free circulation’ were made before 27 September 2005, it is not possible to rely on the decision of 27 September 2005 of the Dispute Settlement Body of the World Trade Organisation (WTO), adopting a report by the WTO appellate body (WT/DS269/AB/R, WT/DS286/AB/R) and two reports by a special WTO group (WT/DS269/R and WT/DS286/R), as amended by the appellate body, neither in the context of interpretation of the additional note 7 to Chapter 2 of the combined

nomenclature in Commission Regulation (EC) No 1810/2004 of 7 September 2004 amending Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, nor in the context of assessment of the validity of that additional note.

(¹) OJ C 246, 11.9.2010.

Judgment of the Court (Fourth Chamber) of 24 November 2011 (reference for a preliminary ruling from the Court of Appeal (England and Wales) (Civil Division) — United Kingdom) — Medeva BV v Comptroller General of Patents, Designs and Trade Marks

(Case C-322/10) (¹)

(Medicinal products for human use — Supplementary protection certificate — Regulation (EC) No 469/2009 — Article 3 — Conditions for obtaining a certificate — Concept of a ‘product protected by a basic patent in force’ — Criteria — Existence of further or different criteria for a medicinal product comprising more than one active ingredient or for a vaccine against multiple diseases (‘Multi-disease vaccine’ or ‘multivalent vaccine’)

(2012/C 25/17)

Language of the case: English

Referring court

Court of Appeal (England and Wales) (Civil Division)

Parties to the main proceedings

Applicant: Medeva BV

Defendant: Comptroller General of Patents, Designs and Trade Marks

Re:

Reference for a preliminary ruling — Court of Appeal (England and Wales) (Civil Division) — Interpretation of Article 3(a) and (b) of Regulation (EC) No 469/2009 of the European Parliament and of the Council of 6 May 2009 concerning the supplementary protection certificate for medicinal products (OJ 2009 L 152, p. 1) — Conditions for obtaining a certificate — Concept of a ‘product protected by a basic patent in force’ — Criteria — Whether there exist further or different criteria for a medicinal product comprising more than one active ingredient or for a multi-disease vaccine

Operative part of the judgment

1. Article 3(a) of Regulation (EC) No 469/2009 of the European Parliament and of the Council of 6 May 2009 concerning the supplementary protection certificate for medicinal products must be interpreted as precluding the competent industrial property office of

a Member State from granting a supplementary protection certificate relating to active ingredients which are not specified in the wording of the claims of the basic patent relied on in support of the application for such a certificate.

2. Article 3(b) of Regulation No 469/2009 must be interpreted as meaning that, provided the other requirements laid down in Article 3 are also met, that provision does not preclude the competent industrial property office of a Member State from granting a supplementary protection certificate for a combination of two active ingredients, corresponding to that specified in the wording of the claims of the basic patent relied on, where the medicinal product for which the marketing authorisation is submitted in support of the application for a special protection certificate contains not only that combination of the two active ingredients but also other active ingredients.

(¹) OJ C 246, 11.9.2010.

Judgment of the Court (Eighth Chamber) of 24 November 2011 (reference for a preliminary ruling from the Finanzgericht Hamburg — Germany) — Gebr. Stolle GmbH & Co. KG (C-323/10, C-324/10 and C-326/10), Doux Geflügel GmbH (C-325/10) v Hauptzollamt Hamburg-Jonas

(Joined Cases C-323/10 to C-326/10) (¹)

(Regulation (EEC) No 3846/87 — Agriculture — Export refunds — Poultrymeat — Fowls of the species Gallus domesticus, drawn and plucked)

(2012/C 25/18)

Language of the case: German

Referring court

Finanzgericht Hamburg

Parties to the main proceedings

Applicants: Gebr. Stolle GmbH & Co. KG (C-323/10, C-324/10 and C-326/10), Doux Geflügel GmbH (C-325/10)

Defendant: Hauptzollamt Hamburg-Jonas

Re:

Reference for a preliminary ruling — Finanzgericht Hamburg — Interpretation of Commission Regulation (EEC) No 3846/87 of 17 December 1987 establishing an agricultural product nomenclature for export refunds (OJ 1987 L 366, p. 1), as amended by Commission Regulation (EC) No 2765/1999 of 16 December 1999 (OJ 1999 L 338, p. 1) — Heading 0207 12 90 — Fowls of the species *Gallus domesticus*, plucked but not completely drawn as provided for under that heading of the nomenclature