4. *Where the Member States exercise the right afforded them by Article 3(3) of Regulation No 2988/95, the principle of proportionality precludes application of a 30-year limitation period to the recovery of an advantage wrongly obtained from the European Union budget.*

([1]) OJ C 346, 18.12.2010.

Judgment of the Court (Third Chamber) of 21 December 2011 (reference for a preliminary ruling from the Corte dei Conti — Sezione Giurisdizionale per la Regione Siciliana — Italy) — Teresa Cicala v Regione Siciliana

(Case C-482/10) ([1])

(National administrative procedure — Administrative acts — Obligation to state reasons — Possibility of failure to state reasons being remedied during legal proceedings against an administrative act — Interpretation of the second paragraph of Article 296 TFEU and Article 41(2)(c) of the Charter of Fundamental Rights of the European Union — Lack of jurisdiction of the Court)

(2012/C 49/16)

Language of the case: Italian

Referring court

Corte dei Conti — Sezione Giurisdizionale per la Regione Siciliana

Parties to the main proceedings

Applicant: Teresa Cicala

Defendant: Regione Siciliana

Re:

Reference for a preliminary ruling — Corte dei Conti — Sezione Giurisdizionale per la Regione Siciliana — Interpretation of Article 296 TFEU and of Article 41(2)(c) of the Charter of Fundamental Rights of the European Union — Compatibility of national legislation providing that public authorities are not obliged to state reasons for their acts in certain circumstances or may supplement a lack of reasons for an administrative act in the course of court proceedings brought against that act

Operative part of the judgment

The Court of Justice of the European Union does not have jurisdiction to respond to the questions posed by the Corte dei conti, sezione giurisdizionale per la Regione Siciliana (Italy), by decision of 20 September 2010.

([1]) OJ C 328, 4.12.2010.

Judgment of the Court (Grand Chamber) of 21 December 2011 (reference for a preliminary ruling from the Conseil d'État — France) — Centre hospitalier universitaire de Besançon v Thomas Dutrueux, Caisse primaire d'assurance maladie du Jura

(Case C-495/10) ([1])

(Directive 85/374/EEC — Liability for defective products — Scope — National rules requiring public healthcare establishments to pay compensation, even when they are not at fault, for damage sustained by a patient as a result of the failure of equipment or products used in the course of treatment)

(2012/C 49/17)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: Centre hospitalier universitaire de Besançon

Defendants: Thomas Dutrueux, Caisse primaire d'assurance maladie du Jura

Re:

Reference for a preliminary ruling — Conseil d'État — Interpretation of Article 13 of Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products (OJ 1985 L 210, p. 29) — Liability of public health establishments towards their patients — Permissibility of a national liability scheme which allows an injured person to obtain compensation, even in the absence of fault, for injury caused by the failure of defective products — Limitation of the liability of the provider of services

Operative part of the judgment

The liability of a service provider which, in the course of providing services such as treatment given in a hospital, uses defective equipment or products of which it is not the producer within the meaning of Article 3 of Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products, as amended by Directive 1999/34/EC of the European Parliament and of the Council of 10 May 1999, and thereby causes damage to the recipient of the service does not fall within the scope of the directive. Directive 85/374 does not therefore prevent a Member State from applying rules, such as those at issue in the main proceedings, under

which such a provider is liable for damage thus caused, even in the absence of any fault on its part, provided, however, that the injured person and/or the service provider retain the right to put in issue the producer's liability on the basis of the directive when the conditions laid down by the latter are fulfilled.

([1]) OJ C 30, 29.1.2011.

Judgment of the Court (Seventh Chamber) of 21 December 2011 (reference for a preliminary ruling from the Rechtbank van eerste aanleg te Brugge — Belgium) — Vlaamse Oliemaatschappij NV v FOD Financiën

(Case C-499/10) ([1])

(Sixth VAT Directive — Persons liable to pay tax — Third party jointly and severally liable — Warehousing arrangements other than customs warehousing — Joint and several liability of the warehouse-keeper of the goods and the taxable person who owns the goods — Good faith or lack of fault or negligence of the warehouse-keeper)

(2012/C 49/18)

Language of the case: Dutch

Referring court

Rechtbank van eerste aanleg te Brugge

Parties to the main proceedings

Applicant: Vlaamse Oliemaatschappij NV

Defendant: FOD Financiën

Re:

Reference for a preliminary ruling — Rechtbank van eerste aanleg te Brugge (Belgium) — Interpretation of Article 21(3) of 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) — Persons liable to pay tax — Third party jointly and severally liable — National legislation holding the warehouse-keeper of the goods jointly and severally liable for payment of tax due by the taxable person who owns the goods, in warehousing arrangements other than customs warehousing, even where the warehouse-keeper acts in good faith or where no fault or negligence can be imputed to him.

Operative part of the judgment

Article 21(3) of 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, as amended by Council Directive 2001/115/EC of 20 December 2001, must be interpreted as not authorising the Member States to provide that a warehouse-keeper other than a customs warehouse-keeper is jointly and severally liable for the value added tax which is owing on a supply of goods made for valuable consideration, and released from the warehouse, by the owner of the goods who is liable for the tax on those goods, even where the warehouse-keeper acts in good faith or where no fault or negligence can be imputed to him.

([1]) OJ C 13, 15.1.2011.

Judgment of the Court (Eighth Chamber) of 21 December 2011 (reference for a preliminary ruling from the Varhoven administrativen sad — Bulgaria) — Evroetil AD v Direktor na Agentsia 'Mitnitsi'

(Case C-503/10) ([1])

(Directive 2003/30/EC — Article 2(2)(a) — Concept of bioethanol — Product obtained from biomass, undenatured and with an ethyl alcohol content of over 98,5 % — Relevance of actual use as a biofuel — Regulation (EEC) No 2658/87 — Combined Nomenclature — Tariff classification of bioethanol for the purpose of collecting excise duties — Directive 2003/96/EC — Energy products — Directive 92/83/EEC — First indent of Article 20 and Article 27(1)(a) and (b) — Concept of ethyl alcohol — Exemption from the harmonised duty — Denaturing)

(2012/C 49/19)

Language of the case: Bulgarian

Referring court

Varhoven administrativen sad

Parties to the main proceedings

Applicant: Evroetil AD

Defendant: Direktor na Agentsia 'Mitnitsi'

Re:

Reference for a preliminary hearing — Varhoven administrativen sad — interpretation of Article 2(2)(a) of Directive 2003/30/EC of the European Parliament and of the Council of 8 May 2003 on the promotion of the use of biofuels or other renewable fuels for transport (OJ 2003 L 123, p. 42), of the Combined Nomenclature (CN) of the Common Customs Tariff in 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 (OJ 1987 L 256, p. 1), as amended by Commission Regulation (EEC) No 2587/91 of 26 July 1991 (OJ 1991 L 259, p. 1), of Article 2(1) of Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ 2003 L 283, p. 51), and of the first indent of Article 20 of Council Directive 92/83/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages (OJ 1992 L 316, p. 21) — Produit obtenu à partir de la biomasse, contenant des esters, des alcools supérieurs et des aldéhydes, ayant une teneur en alcool supérieure à 98 % et n'ayant pas fait l'objet d'une dénaturation — Notion de bioéthanol — Classement dans la sous-position 2207 20 00 (Ethyl alcohol and other spirits, denatured, of any strength) or dans la sous-position 2207 10 00 (Undenatured ethyl alcohol of an alcoholic strength by volume of 80 % or higher), en vue de la perception de droits d'accises.