

7. Ultimately, which aid is to be regarded as lawful, and which as unlawful, according to the Commission?
8. Which of the parties to the present proceedings (the company or the Regional Ministry), has the burden of proving that the budget laid down by the Commission itself has not been exceeded?
9. Should the award of statutory interest to a company for late payment of assistance that is held to be lawful and admissible be taken into account in determining whether the budget originally approved by the authorising decision has been exceeded?
10. If the award of such interest is relevant in determining whether that budget has been exceeded, what measure of interest is to be applied?

⁽¹⁾ OJ 2003 L 77, p. 57.

⁽²⁾ OJ 2000 L 42, p. 1.

⁽³⁾ OJ 2003 L 267, p. 29.

Reference for a preliminary ruling from the Vestre Landsret (Denmark) lodged on 17 February 2010 — Danfoss A/S and Sauer-Danfoss ApS v Skatteministeriet

(Case C-94/10)

(2010/C 100/47)

Language of the case: Danish

Referring court

Vestre Landsret

Parties to the main proceedings

Applicant: Danfoss A/S and Sauer-Danfoss ApS

Defendant: Skatteministeriet

Questions referred

1. Does Community law preclude a Member State from rejecting a claim for reimbursement brought by an under-

taking to which excise duty imposed contrary to a directive has been passed on, where such rejection — in circumstances such as those of the present case — is on the ground that it is not the undertaking that paid the duty to the State?

2. Does Community law preclude a Member State from rejecting a claim for damages brought by an undertaking to which excise duty imposed contrary to a directive has been passed on, where such rejection — in circumstances such as those of the present case — is on the grounds put forward by the Member State (specifically, that the undertaking is not the directly injured party and that there is no direct causal link between any loss and the conduct giving rise to liability)?

Reference for a preliminary ruling from the Korkein oikeus (Finland) lodged on 25 February 2010 — Public prosecutor v Malik Gataev, Khadizhat Gataeva

(Case C-105/10)

(2010/C 100/48)

Language of the case: Finnish

Referring court

Korkein oikeus

Parties to the main proceedings

Appellant: Public prosecutor

Respondents: Malik Gataev, Khadizhat Gataeva

Questions referred

1. How is the relationship between the provisions of Council Directive 2005/85/EC ⁽¹⁾ (the Asylum Procedures Directive) and the provisions of Framework Decision 2002/584/JHA ⁽²⁾ to be interpreted when a person whose surrender is requested under a European arrest warrant, who is a national of a third country, has applied for asylum in the executing Member State and the application for asylum is in progress at the same time as the case concerning the execution of the arrest warrant?