

Parties to the main proceedings

Applicant: Zuckerfabrik Jülich AG

Defendant: Hauptzollamt Aachen

Question referred

Is Commission Regulation (EC) No 1193/2009 of 3 November 2009 correcting Regulations (EC) No 1762/2003, (EC) No 1775/2004, (EC) No 1686/2005, (EC) No 164/2007 and fixing the production levies in the sugar sector for marketing years 2002/2003, 2003/2004, 2004/2005, 2005/2006 ⁽¹⁾ valid?

⁽¹⁾ OJ 2009 L 321, p. 1.

Reference for a preliminary ruling from the Rechtbank van eerste aanleg, Brussels lodged on 3 March 2010 — Belpolis Benelux SA v Belgische Staat

(Case C-114/10)

(2010/C 134/33)

Language of the case: Dutch

Referring court

Rechtbank van eerste aanleg, Brussels

Parties to the main proceedings

Applicant: Belpolis Benelux SA

Defendant: Belgische Staat

Question referred

1. Does Community law, in particular the principle of the freedom to provide services as laid down in Article 56 TFEU, preclude rules such as those laid down in Articles 1 and 1a of Belgian Royal Decree No 20 of 20 July 1970, under which the reduced rate of VAT (6 %) may be applied to construction work only if the service provider is registered in Belgium as a contractor in accordance with Articles 400 and 401 of the Wetboek van Inkomstenbelastingen (Belgian Income Tax Code) 1992?

2. Do the provisions contained in Article 1 and 1a of Royal Decree No 20 of 20 July 1970 contravene the principle of fiscal neutrality and/or the general Community law principle of equal treatment by allowing the reduced rate of VAT (6 %) on construction work to apply only if the service provider is registered as a contractor in Belgium in accordance with Articles 400 and 401 of the Belgian Income Tax Code 1992?

Reference for a preliminary ruling from the Fővárosi Bíróság lodged on 3 March 2010 — Bábolna Mezőgazdasági Termelő és Fejlesztő Kereskedelmi Zrt v Mezőgazdasági és Fejlesztő és Vidékfejlesztési Hivatal Központi Szerve

(Case C-115/10)

(2010/C 134/34)

Language of the case: Hungarian

Referring court

Fővárosi Bíróság

Parties to the main proceedings

Applicants: Bábolna Mezőgazdasági Termelő és Fejlesztő Kereskedelmi Zrt

Defendants: Mezőgazdasági és Fejlesztő és Vidékfejlesztési Hivatal Központi Szerve

Questions referred

1. May the conditions for Community aid under the Common Agricultural Policy (EAGGF) differ from the conditions for national supplementary aid, that is to say, may other, stricter rules than are applied to aid financed by the EAGGF apply to the conditions for national supplementary aid?

2. May the scope *ratione personae*, as regards the recipients of aid, of Article 1(4) of Council Regulation (EEC) No 3508/92 ⁽¹⁾ and Article 10(a) of Council Regulation (EC) No 1259/1999 ⁽²⁾ be interpreted as meaning that there are only two conditions for the recipients of aid: (a) the (individual) group of agricultural producers (b) whose farm is situated in the territory of the Community will be entitled to receive aid?

3. May the above regulations be interpreted as meaning that an agricultural producer whose farm is in the territory of the Community but who wishes to cease activity in the future (after using the aid) is not entitled to aid?
4. In the light of the above two regulations, how is the status of such a producer under national law to be interpreted?
5. Does that status under national law extend to the legal status of an agricultural producer (group) undergoing any form of cessation of activity? Hungarian law provides for separate legal positions (statuses) in cases of cessation of activity (bankruptcy, liquidation or voluntary dissolution).
6. May the conditions for applications for (Community) single area payments and for supplementary national aid be subject to separate rules entirely independent of one another? What is the relationship between the principles, system and objectives of both types of aid?
7. May a group (person) be excluded from supplementary national aid where they otherwise meet the requirements for area aid?
8. Does the scope of Council Regulation (EC) No 1259/1999 extend, under Article 1 thereof, to supplementary national aid, bearing in mind that where the EAGGF provides finance only in part, supplementary national aid provides finance as appropriate?
9. Does an agricultural producer whose farm, which functions legally and effectively, is in the territory of the Community, have a right to receive supplementary national aid?
10. If national law contains specific regulations for procedures for terminating the activity of commercial companies, do those regulations have any relevance from the point of view of Community aid (and national aid linked to it)?
11. Should Community legislation and national legislation on the functioning of the Common Agricultural Policy be interpreted as meaning that they have to create a complex legal system which can be interpreted uniformly and which functions on the basis of identical principles and requirements?
12. Should the scope of Article 1(4) of Council Regulation (EEC) No 3508/92 and Article 10(a) of Council Regulation (EC) No 1259/1999 be interpreted as meaning that, from the point of view of aid, both the intention of the agricultural producer to cease activity in the future and the appropriate legal regime for that intention are wholly irrelevant?

(¹) Council Regulation (EEC) No 3508/92 of 27 November 1992 establishing an integrated administration and control system for certain Community aid schemes (OJ 1992 L 355, 5.12.1992, p. 1).

(²) Council Regulation (EC) No 1259/1999 of 17 May 1999 establishing common rules for direct support schemes under the common agricultural policy (OJ 1999 L 160, 26.6.1999, p. 113).

**Reference for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on 4 March 2010 —
Frisdranken Industrie Winters BV v Red Bull GmbH**

(Case C-119/10)

(2010/C 134/35)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Applicant: Frisdranken Industrie Winters BV

Defendant: Red Bull GmbH

Questions referred

1. (a) Is the mere 'filling' of packaging which bears a sign (as referred to in paragraph 3.1 (iv) above) to be regarded as using that sign in the course of trade within the meaning of Article 5 of the Trade Mark Directive, (¹) even if that filling takes place as a service provided to and on the instructions of another person, for the purposes of distinguishing that person's goods?
- (b) Does it make any difference to the answer to question 1.a if there is an infringement for the purposes of Article 5(1)(a) or (b)?