

2. Article 35 of the Charter of Fundamental Rights of the European Union (OJ C 364 of 18 December 2000), under which 'Everyone has the right of access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices. A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities';

interpreted in accordance with the main principles on which the European Union is based, as reiterated in the preamble to the Treaty of Lisbon,

preclude the following provisions of Belgian law:

the Loi générale sur les douanes et accises coordonnée par arrêté royal du 18 juillet 1977 (General Law on Customs and Excise coordinated by Royal Decree of 18 July 1977) (*Moniteur belge* of 21 September 1977), confirmed by the Law of 6 July 1978, Article 1 (*Moniteur belge* of 12 August 1978);

the Loi du 10 juin 1997 relative au régime général, à la détention, à la circulation et aux contrôles des produits soumis à accise (Law of 10 June 1997 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products (*Moniteur belge* of 1 August 1997);

the Loi du 3 avril 1997 relative au régime fiscal des tabacs manufacturés (Law of 3 April 1997 on the tax arrangements for manufactured tobacco) (*Moniteur belge* of 1 August 1997), amended by the Law of 26 November 2006 (*Moniteur belge* of 8 December 2006);

from authorising the Belgian State to regard manufactured smoking tobacco as a taxable base for excise duty, even though:

On the one hand, that State officially recognises that those products are seriously detrimental to the health of those who use them and identified as being the cause of numerous disabling diseases and numerous premature deaths, which should logically justify their disappearance;

On the other hand, by proceeding in that way, the State itself impedes the adoption of measures capable of actually bringing about that disappearance by attaching more importance to tax yield than to any genuinely dissuasive effect?

(¹) OJ 2000, C 364, p. 1.

Reference for a preliminary ruling from the Tribunal de première instance de Namur (Belgium) lodged on 28 May 2010 — Marc Collard v État belge — SPF Finances

(Case C-268/10)

(2010/C 221/37)

Language of the case: French

Referring court

Tribunal de première instance de Namur

Parties to the main proceedings

Applicant: Marc Collard

Defendant: État belge — SPF Finances

Intervener: État belge — SPF Defence

Questions referred

First question:

'Do the following provisions of European Union law:

— Article 6 of the Treaty of Lisbon of 13 December 2007 amending the Treaty on European Union signed at Maastricht on 7 February 1992, in force since 1 December 2009, under which: "*The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg, on [12] December 2007, which shall have the same legal value as the Treaties. ...*";

— Article 35 of the Charter of Fundamental Freedoms of the European Union (OJ C 364 of 18 December 2000), under which "Everyone has the right of access to preventive health care and the right to benefit from medical treatment. A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities";

interpreted in accordance with the main principles on which the European Union is based, as reiterated in the preamble to the Treaty of Lisbon,

preclude a Member State, in this case Belgium, from allowing the manufacture, importation, promotion and sale of manufactured smoking tobacco to continue within its territory, even though that same State officially recognises that those products are seriously harmful to the health of those who use them and identified as being the cause of numerous disabling diseases and numerous premature deaths, a consideration which should logically justify their prohibition?

Second question:

'Do the following provisions of European Union law:

1. Article 6 of the Treaty of Lisbon of 13 December 2007 amending the Treaty on European Union signed at Maastricht on 7 February 1992, in force since 1 December 2009, under which: "*The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg, on [12] December 2007, which shall have the same legal value as the Treaties. ...*"; and
2. Article 35 of the Charter of Fundamental Rights of the European Union ⁽¹⁾ (OJ C 364 of 18 December 2000), under which "Everyone has the right of access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices. A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities";

interpreted in accordance with the main principles on which the European Union is based, as reiterated in the preamble to the Treaty of Lisbon,

preclude the following provisions of Belgian law:

the Loi générale sur les douanes et accises coordonnée par arrêté royal du 18 juillet 1977 (General Law on Customs and Excise coordinated by Royal Decree of 18 July 1977) (*Moniteur belge* of 21 September 1977), confirmed by the Law of 6 July 1978, Article 1 (*Moniteur belge* of 12 August 1978);

the Loi du 10 juin 1997 relative au régime général, à la détention, à la circulation et aux contrôles des produits soumis à accise (Law of 10 June 1997 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products (*Moniteur belge* of 1 August 1997);

the Loi du 3 avril 1997 relative au régime fiscal des tabacs manufacturés (Law of 3 April 1997 on the tax arrangements for manufactured tobacco) (*Moniteur belge* of 1 August 1997), amended by the Law of 26 November 2006 (*Moniteur belge* of 8 December 2006);

from authorising the Belgian State to regard manufactured smoking tobacco as a taxable base for excise duty, even though:

On the one hand, that State officially recognises that those products are seriously detrimental to the health of those who use them and identified as being the cause of numerous disabling diseases and numerous premature deaths, which should logically justify their disappearance;

On the other hand, by proceeding in that way, the State itself impedes the adoption of measures capable of actually bringing about that disappearance by attaching more importance to tax yield than to any genuinely dissuasive effect?

⁽¹⁾ OJ 2000, C 364, p. 1.

Reference for a preliminary ruling from the Tribunal administratif de Montreuil (France) lodged on 28 May 2010 — Société Accor Services France v Le Chèque Déjeuner CCR, Etablissement Public de Santé de Ville-Evrard

(Case C-269/10)

(2010/C 221/38)

Language of the case: French

Referring court

Tribunal administratif de Montreuil

Parties to the main proceedings

Applicant: Société Accor Services France

Defendants: Le Chèque Déjeuner CCR, Etablissement Public de Santé de Ville-Evrard