

2. Are the first sentence of Article 5 of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts and the fourth sentence of Article 3(3) of Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003⁽²⁾ concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC to be interpreted as meaning that there is no 'plain and intelligible term' or that 'high levels of consumer protection, particularly with respect to transparency regarding general contractual terms and conditions' are not ensured if a seller or supplier seeks to justify a unilateral right to vary prices with the argument that he refers globally, in his general terms and conditions, to a national regulation which was adopted in respect of a different consumer group and a different type of contract and in which, moreover, the provision relevant to the right to vary prices does not satisfy the requirement of transparency?

⁽¹⁾ OJ 1993 L 95, p. 29.

⁽²⁾ Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC (OJ 2003 L 176, p. 57).

Reference for a preliminary ruling from the Verwaltungsgerichtshof (Austria) lodged on 12 January 2011 — Leopold Sommer v Landesgeschäftsstelle des Arbeitsmarktservice Wien

(Case C-15/11)

(2011/C 113/04)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Applicant: Leopold Sommer

Defendant: Landesgeschäftsstelle des Arbeitsmarktservice Wien

Questions referred

1. Is Council Directive 2004/114/EC⁽¹⁾ of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service ('the Student Directive') applicable in Austria to a Bulgarian student having regard to the first or third paragraphs of point 14 of section 1 (Freedom of movement for persons) of Annex VI to the Accession Treaty for Bulgaria, List referred to in Article 20 of the Protocol⁽²⁾: transitional measures, Bulgaria?

2. If Question 1 is answered in the affirmative: Does Union law, in particular Article 17 of the Student Directive, preclude a national rule which, like the provisions of the *Ausländerbeschäftigungsgesetz* which are relevant in the main proceedings, provides in all cases for an examination of the situation of the labour market prior to the grant of a work permit for an employer to employ a student who has already resided in Austria for more than one year (Article 17(3) of the Student Directive) and additionally makes the grant of a work permit subject to further conditions if the fixed maximum number of foreign nationals employed has been exceeded.

⁽¹⁾ OJ 2004 L 375, p. 12.

⁽²⁾ Protocol concerning the conditions and arrangements for admission of the Republic of Bulgaria and Romania to the European Union — Annex VI: List referred to in Article 20 of the Protocol: transitional measures, Bulgaria — 2. Freedom of movement for persons; (OJ 2005 L 157, p. 104).

Reference for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 14 January 2011 — Markus Geltl v Daimler AG

(Case C-19/11)

(2011/C 113/05)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Applicant: Markus Geltl

Defendant: Daimler AG

Questions referred

1. For the purposes of applying Article 1(1) of Directive 2003/6/EC⁽¹⁾ and Article 1(1) of Directive 2003/124/EC,⁽²⁾ is account to be taken, in the case of a protracted process intended, over the course of a number of intermediate steps, to bring about a particular circumstance or to generate a particular event, only of whether that future circumstance or future event is to be regarded as precise information within the meaning of those provisions of the directive, meaning that it must be examined whether that future circumstance or future event may reasonably be expected to occur, or, in the case of a protracted process of this kind, can intermediate steps which already exist or have already occurred and which are connected with bringing about the future circumstance or event also constitute precise information within the meaning of the aforementioned provisions of the directive?

2. Does reasonable expectation within the meaning of Article 1(1) of Directive 2003/124/EC require that the probability be assessed as predominant or high, or does the reference to circumstances which may reasonably be expected to come into existence or events which may reasonably be expected to occur imply that the degree of probability depends on the extent of the effects on the issuer and that, where prices are highly likely to be affected, it is sufficient if the occurrence of the future circumstance or event is uncertain but not improbable?

(¹) Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse); OJ L 96, 12.4.2003, p. 16.

(²) Commission Directive 2003/124/EC of 22 December 2003 implementing Directive 2003/6/EC of the European Parliament and of the Council as regards the definition and public disclosure of inside information and the definition of market manipulation (Text with EEA relevance); OJ 2003 L 339, p. 70.

Reference for a preliminary ruling from the Finanzgericht Hamburg (Germany) lodged on 17 January 2011 — Fleischkontor Moksel GmbH v Hauptzollamt Hamburg-Jonas

(Case C-23/11)

(2011/C 113/06)

Language of the case: German

Referring court

Finanzgericht Hamburg

Parties to the main proceedings

Applicant: Fleischkontor Moksel GmbH

Defendant: Hauptzollamt Hamburg-Jonas

Questions referred

1. Is the holder of an export licence entitled to an export refund only if he is registered as exporter in box 2 of the export declaration lodged with the competent customs office (Article 5(1) of Regulation No 800/1999)? (¹)

2. If Question 1 is answered in the affirmative:

Is the Hauptzollamt (Principal Customs Office) which is responsible for paying the refund bound by the subsequent amendment made by the customs office of export to the information entered in box 2 of the export declaration?

3. If Question 2 is answered in the negative:

Is the office responsible for paying the refund entitled, in circumstances such as those of the main proceedings, to take the words in box 2 of the export declaration literally

and to refuse an application for an export refund on the ground that the applicant for the refund is not the exporter of the goods covered by that application, or is the responsible office obliged, when there is a contradiction between the description of the exporter in box 2 of the export declaration and the previous document to which reference is made in box 40 and/or the holder of the export licence registered in box 44, to consult the applicant for a refund and, if necessary, to amend of its own motion the words in box 2 of the export declaration?

(¹) Commission Regulation (EC) No 800/1999 of 15 April 1999 laying down common detailed rules for the application of the system of export refunds on agricultural products, OJ 1999 L 102, p. 11.

Reference for a preliminary ruling from the Grondwettelijk Hof (Belgium) lodged on 17 January 2011 — Belgische Petroleum Unie VZW and Others v Belgische Staat

(Case C-26/11)

(2011/C 113/07)

Language of the case: Dutch

Referring court

Grondwettelijk Hof

Parties to the main proceedings

Applicants: Belgische Petroleum Unie VZW and Others

Defendant: Belgische Staat

Interveners: Belgian Bioethanol Association VZW

Belgian Biodiesel Board VZW

Questions referred

1. Should Articles 3, 4 and 5 of Directive 98/70/EC (¹) of the European Parliament and of the Council of 13 October 1998 'relating to the quality of petrol and diesel fuels and amending Council Directive 93/12/EEC' as well as, where appropriate, Article 4(3) of the Treaty on European Union and Articles 26(2), 28 and 34 to 36 of the Treaty on the Functioning of the European Union be interpreted as precluding a statutory provision on the basis of which every registered petroleum company which releases petrol products and/or diesel products for consumption is also obliged in the same calendar year to make available for consumption a quantity of sustainable biofuels, namely bio ethanol, pure or in the form of bio ETBE, amounting to at least 4 % vol/vol of the quantity of petrol products released for consumption, and FAME amounting to at least 4 % vol/vol of the quantity of diesel products released for consumption?