

Reference for a preliminary ruling from the Riigikohus (Estonia) lodged on 25 March 2011 — AS Pimix v Maksu- ja Tolliameti Lõuna maksu- ja tollikeskus, Põllumajandusministeerium

(Case C-146/11)

(2011/C 160/15)

Language of the case: Estonian

Referring court

Riigikohus

Parties to the main proceedings

Applicant: AS Pimix

Defendants: Maksu- ja Tolliameti Lõuna maksu- ja tollikeskus, Põllumajandusministeerium

Questions referred

1. Is Article 288 of the Treaty on the Functioning of the European Union in conjunction with Article 58 of the Act of Accession to be interpreted in the light of the case-law of the Court of Justice (the judgments in Case C-161/06 *Skoma-Lux* [2007] ECR I-10841; Case C-560/07 *Balbiino* [2009] ECR I-4447; and Case C-140/08 *Rakvere Lihakombinaat* [2009] ECR I-10533) as meaning that an individual can be required to fulfil the obligation deriving from European Commission Regulation (EC) No 1972/2003 ⁽¹⁾ of 10 November 2003
 - (a) even despite the fact that that regulation had not been published in Estonian in the *Official Journal of the European Union* by 1 May 2004
 - (b) and the legislature of the Member State concerned has not reproduced in a measure of national law the term 'agricultural products' defined in the regulation but has confined itself to referring to Article 4(5) of that regulation, which has not been duly published
 - (c) if the individual has nevertheless fulfilled an obligation deriving from the regulation (he has declared the stock according to the correct goods code) and has not challenged such an obligation
 - (d) and the charge was levied on him by the competent office of the Member State at a time when Regulation No 1972/2003 had already been published in Estonian in the *Official Journal of the European Union*?
2. Can it be concluded from Article 58 of the Act of Accession in conjunction with Article 297(1) of the Treaty on the Functioning of the European Union and the third recital in the preamble to and Article 4 of Commission Regulation (EC) No 1972/2003 of 10 November 2003 that a Member State can demand a charge on surplus stocks from an individual if Regulation No 1972/2003 had not been published

in Estonian in the *Official Journal of the European Union* by 1 May 2004 but that regulation had indeed been published in Estonian in the *Official Journal of the European Union* by the time that the competent office of the Member State later levied the charge?

⁽¹⁾ Commission Regulation (EC) No 1972/2003 of 10 November 2003 on transitional measures to be adopted in respect of trade in agricultural products on account of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia; OJ 2003 L 293, p. 3

Action brought on 28 March 2011 — European Commission v Kingdom of Belgium

(Case C-150/11)

(2011/C 160/16)

Language of the case: French

Parties

Applicant: European Commission (represented by: O. Beynet and A. Marghelis, acting as Agents)

Defendant: Kingdom of Belgium

Form of order sought

— declare that, by requiring, in addition to the production of a certificate of registration, the production of a certificate of conformity of a vehicle for the purpose of a roadworthiness test prior to the registration of a vehicle which was previously registered in another Member State, and by making vehicles which were previously registered in another Member State subject to a roadworthiness test prior to their registration without taking into account the results of the roadworthiness test carried out in another Member State, the Kingdom of Belgium has failed to fulfil its obligations under Council Directive 1999/37/EC of 29 April 1999 on the registration documents for vehicles ⁽¹⁾ and Article 34 of the Treaty on the Functioning of the European Union;

— order the Kingdom of Belgium to pay the costs.

Pleas in law and main arguments

The Commission puts forward two complaints in support of its action alleging that the national legislation which, first, requires the production of a certificate of conformity before the registration of a vehicle which was previously registered in another Member State and, secondly, refuses to take into account the results of the roadworthiness test carried out previously in that other State, fails to comply with Article 34 of the Treaty on the Functioning of the European Union and with Directive 1999/37/EC.