

- (a) the trader requesting reimbursement of excise duty furnished proof that all the technical conditions laid down in Romanian law governing the admissibility of requests for reimbursement were satisfied, and in particular those relating to: (i) proof of payment of excise duty in Romania; and (ii) proof that the products subject to excise duty were dispatched to another Member State;
- (b) according to the requirements of Romanian tax law (Article 192<sup>6</sup> of the Tax Code, Paragraph 18<sup>4</sup> of the implementing provisions referred to in Government Decision No 44/2004, and Annex 11 to Title VII of the Tax Code), certain documents which had to accompany the request for reimbursement could be furnished only after the products subject to excise duty had been delivered in another Member State;
- (c) Romanian tax law (Article 18<sup>4</sup>(4) of the implementing provisions, which refers to Article 135 of the Code of Tax Procedure) provides for a general period of five years for each request for refund/reimbursement?
2. Must Article 22([2])(a) of Directive 92/12/EEC be interpreted as meaning that failure by a trader to request reimbursement of excise duty in the Member State in which that excise duty was paid, before the products subject to excise duty were delivered in the other Member State where the products are intended for consumption, entails forfeiture of the trader's right to obtain reimbursement of the excise duty paid?
3. If the answer to Question 2 is in the affirmative, does the decision on the forfeiture of the trader's right to obtain reimbursement of excise duty, which involves double taxation of the same products subject to excise duty (in the Member State in which the products subject to excise duty are initially released for consumption and in the Member State in which the products are intended for consumption), comply with the principle of fiscal neutrality?
4. If the answer to Question 2 is in the affirmative, can the extremely brief period between the date of payment of the excise duty on the products released for consumption in one Member State and the date of dispatch of the products subject to excise duty to another Member State in which they are intended for consumption be regarded as complying with the principles of equivalence and effectiveness? Is it relevant, in that regard, that the general period during which the refund/reimbursement of a tax, duty or charge can be requested in the Member State in question is significantly longer?

(<sup>1</sup>) Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products (OJ 1992 L 76, p. 1).

**Reference for a preliminary ruling from the Varnenski administrativen sad (Bulgaria) lodged on 27 December 2011 — Paltrade EOOD v Nachalnik na Mitnicheski punkt — Pristanishte Varna pri Mitnitsa Varna**

(Case C-667/11)

(2012/C 89/06)

*Language of the case: Bulgarian*

**Referring court**

Administrativen sad — Varna

**Parties to the main proceedings**

*Applicant:* Paltrade EOOD

*Defendant:* Nachalnik na Mitnicheski punkt — Pristanishte Varna pri Mitnitsa Varna

**Questions referred**

1. Is the retroactive levy of an anti-dumping duty pursuant to Article 1 of Council Implementing Regulation (EU) No 723/2011 (<sup>1</sup>) of 18 July 2011 permissible, without a customs registration — except for the customs registration of the Single Administrative Document in the BIMIS system — taking place with the registration of the TARIC additional code which is mentioned in Article 2 of Council Regulation (EC) No 91/2009 (<sup>2</sup>) of 26 January 2009?
2. What is, in accordance with recital 18 of Regulation No 966/2010, (<sup>3</sup>) the appropriate amount for the retroactive levy of an anti-dumping duty during the execution of Regulation No 723/2011?

(<sup>1</sup>) Council Implementing Regulation (EU) No 723/2011 of 18 July 2011 extending the definitive anti-dumping duty imposed by Regulation (EC) No 91/2009 on imports of certain iron or steel fasteners originating in the People's Republic of China to imports of certain iron or steel fasteners consigned from Malaysia, whether declared as originating in Malaysia or not (OJ 2011 L 194, p. 6).

(<sup>2</sup>) Council Regulation (EC) No 91/2009 of 26 January 2009 imposing a definitive anti-dumping duty on imports of certain iron or steel fasteners originating in the People's Republic of China (OJ 2009 L 29, p. 1).

(<sup>3</sup>) Commission Regulation (EU) No 966/2010 of 27 October 2010 initiating an investigation concerning the possible circumvention of anti-dumping measures imposed by Council Regulation (EC) No 91/2009 on imports of certain iron or steel fasteners originating in the People's Republic of China by imports of certain iron or steel fasteners consigned from Malaysia, whether declared as originating in Malaysia or not, and making such imports subject to registration (OJ 2010 L 282, p. 29).