

**Re:**

Request for a preliminary ruling — Finanzgericht Düsseldorf — Interpretation of Articles 63 and 65 TFEU — Legislation of a Member State on inheritance tax fixing the tax-free part of the value of land at EUR 2 000 if the deceased person and the acquirer are resident in a third country, whereas the tax-free part is EUR 500 000 if either the deceased person or the acquirer is resident in the national territory

**Operative part of the judgment**

Articles 56 EC and 58 EC must be interpreted as precluding legislation of a Member State relating to the calculation of inheritance tax which provides that, in the event of inheritance of immovable property in that State, in a case where, as in the main proceedings, the deceased and the heir had a permanent residence in a third country, such as the Swiss Confederation, at the time of the death, the tax-free allowance is less than the allowance which would have been applied if at least one of them had been resident in that Member State at that time.

<sup>(1)</sup> OJ 2012 C 174, p. 20

**Judgment of the Court (Third Chamber) of 17 October 2013 (request for a preliminary ruling from the Hof van Cassatie van België — Belgium) — United Antwerp Maritime Agencies (UNAMAR) NV v Navigation Maritime Bulgare**

(Case C-184/12) <sup>(1)</sup>

*(Rome Convention on the law applicable to contractual obligations — Articles 3 and 7(2) — Freedom of choice of the parties — Limits — Mandatory rules — Directive 86/653/EEC — Self-employed commercial agents — Contracts for sale or purchase of goods — Termination of the agency contract by the principal — National implementing legislation providing for protection going beyond the minimum requirements of the directive and providing also for protection for commercial agents in the context of contracts for the supply of services)*

(2013/C 367/19)

Language of the case: Dutch

**Referring court**

Hof van Cassatie van België

**Parties to the main proceedings**

Applicant: United Antwerp Maritime Agencies (UNAMAR) NV

Defendant: Navigation Maritime Bulgare

**Re:**

Request for a preliminary ruling — Hof van Cassatie van België — Interpretation of Articles 3 and 7(2) of the Convention on the law applicable to contractual obligations, opened for signature in Rome on 19 June 1980 (OJ 1980 L 266, p. 1), and Council Directive 86/653/EEC of 18 December 1986 on the coordination of the laws of the Member States relating to self-employed commercial agents (OJ 1986 L 382, p. 17) — Freedom of choice of the parties — Limits — Commercial agency contract — Clause designating the law of the State of the principal to be the applicable law — Bringing of a case before the court of the commercial agent's place of establishment

**Operative part of the judgment**

Articles 3 and 7(2) of the Convention on the law applicable to contractual obligations opened for signature in Rome on 19 June 1980 must be interpreted as meaning that the law of a Member State of the European Union which meets the minimum protection requirements laid down by Council Directive 86/653/EEC of 18 December 1986 on the coordination of the laws of the Member States relating to self-employed commercial agents and which has been chosen by the parties to a commercial agency contract may be rejected by the court of another Member State before which the case has been brought in favour of the law of the forum, owing to the mandatory nature, in the legal order of that Member State, of the rules governing the situation of self-employed commercial agents, only if the court before which the case has been brought finds, on the basis of a detailed assessment, that, in the course of that transposition, the legislature of the State of the forum held it to be crucial, in the legal order concerned, to grant the commercial agent protection going beyond that provided for by that directive, taking account in that regard of the nature and of the objective of such mandatory provisions.

<sup>(1)</sup> OJ C 200, 7.7.2012.

**Judgment of the Court (Second Chamber) of 17 October 2013 (request for a preliminary ruling from the Högsta domstolen — Sweden) — Billerud Karlsborg AB, Billerud Skärblacka AB v Naturvårdsverket**

(Case C-203/12) <sup>(1)</sup>

*(Directive 2003/87/EC — Scheme for greenhouse gas emission allowance trading — Penalty for excess emissions — Concept of excess emission — Equated with infringement of the obligation to surrender, within the time periods prescribed by the directive, a sufficient number of allowances to cover the emissions from the previous year — No exculpatory cause in the event of actual holding of non-surrendered allowances, unless force majeure — No possibility of varying the amount of the penalty — Proportionality)*

(2013/C 367/20)

Language of the case: Swedish

**Referring court**

Högsta domstolen

**Parties to the main proceedings**

*Applicants:* Billerud Karlsborg AB, Billerud Skärblacka AB

*Defendant:* Naturvårdsverket

**Re:**

Request for a preliminary ruling — Högsta domstolen — Interpretation of Article 16(3) and (4) of Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ 2003 L 275, p. 32) — Penalties provided for by the directive — Obligation for an operator who has not surrendered sufficient allowances by 30 April of each year to cover its emissions to pay a penalty, even where the non-surrender is due to negligence, administrative error or a technical problem — Possibility or non-possibility of varying the penalty or reducing the amount

**Operative part of the judgment**

1. Article 16(3) and (4) of Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC must be interpreted as precluding operators who have not surrendered, by 30 April of the current year, the carbon dioxide equivalent allowances equal to their emissions for the preceding year, from avoiding the imposition of a penalty for the excess emissions for which it provides, even where they hold a sufficient number of allowances on that date;
2. Article 16(3) and (4) of Directive 2003/87 must be interpreted as meaning that the amount of the lump sum penalty provided for therein may not be varied by a national court on the basis of the principle of proportionality.

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(<sup>1</sup>) OJ C 184, 23.6.2012.

**Judgment of the Court (Eighth Chamber) of 17 October 2013 (request for a preliminary ruling from the Bundespatentgericht — Germany) — Sumitomo Chemical Co. Ltd v Deutsches Patent- und Markenamt**

(Case C-210/12) (<sup>1</sup>)

**(Patent law — Plant protection products — Supplementary protection certificate — Regulation (EC) No 1610/96 — Directive 91/414/EEC — Emergency marketing authorisation under Article 8(4) of that directive)**

(2013/C 367/21)

Language of the case: German

**Referring court**

Bundespatentgericht

**Parties to the main proceedings**

*Applicant:* Sumitomo Chemical Co. Ltd

*Defendant:* Deutsches Patent- und Markenamt

**Re:**

Request for a preliminary ruling — Bundespatentgericht — Interpretation of Articles 3(1)(b) and 7(1) of Regulation (EC) No 1610/96 of the European Parliament and of the Council of 23 July 1996 concerning the creation of a supplementary protection certificate for plant protection products (OJ 1996 L 198, p. 30) — Conditions under which a supplementary certificate can be obtained — Possibility of having that certificate issued on the basis of a prior marketing authorisation granted in accordance with Article 8(4) of Directive 91/414/EEC — Active substance Clothianidin

**Operative part of the judgment**

1. Article 3(1)(b) of Regulation (EC) No 1610/96 of the European Parliament and of the Council of 23 July 1996 concerning the creation of a supplementary protection certificate for plant protection products must be interpreted as precluding the issue of a supplementary protection certificate for a plant protection product in respect of which an emergency marketing authorisation has been issued under Article 8(4) of Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market, as amended by Commission Directive 2005/58/EC of 21 September 2005.
2. Articles 3(1)(b) and 7(1) of Regulation No 1610/96 must be interpreted as precluding an application for a supplementary protection certificate being lodged before the date on which the plant protection product has obtained the marketing authorisation referred to in Article 3(1)(b) of that regulation.

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(<sup>1</sup>) OJ C 209, 14.7.2012.