

tax such as the present fuel tax, does European Union law preclude a more restrictive interpretation of the concept of dual use under domestic law as compared with an interpretation in accordance with Directive 2003/96/EC?

(¹) Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ 2003 L 283, p. 51).

(²) Wet belastingen op milieugrondslag (Netherlands Law introducing taxes for the protection of the environment).

Reference for a preliminary ruling from the Curtea de Apel Bacău (Romania) lodged on 21 September 2012 — Elena Luca v Casa de Asigurări de Sănătate Bacău

(Case C-430/12)

(2012/C 399/16)

Language of the case: Romanian

Referring court

Curtea de Apel Bacău

Parties to the main proceedings

Applicant: Elena Luca

Defendant: Casa de Asigurări de Sănătate Bacău

Questions referred

1. Do Article 56 [TFEU] (formerly Article 49 of the EC Treaty) and Article 22 of Regulation No 1408/71 (¹) preclude national legislation, such as Articles 40(1)(b), 45 and 46 of Decree 592/2008, under which an employed or self-employed person, or a member of that person's family, is not entitled to full reimbursement of expenses incurred in respect of medical treatment abroad unless he has obtained prior authorisation for those purposes?
2. Does partial payment for medical treatment carried out within the Community, calculated in accordance with the rates of the insuring Member State — in the present case, in accordance with Article 7a of Decree 122/2007 (now repealed by Decree 729/2009) — constitute a restriction for the purposes of Article 56 [TFEU] (formerly Article 49 of the EC Treaty)?
3. If Question 2 is answered in the affirmative, what is the threshold for the reimbursement of expenses incurred by insured persons, in the event of a discrepancy in amount between the payments provided for under the legislation of the Member State of residence and the cost of the services provided for under the legislation of the Member State in which the treatment was carried out?

(¹) Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community (English Special Edition, Series I, 1971(II), pp. 416 to 463).

Reference for a preliminary ruling from the Înalta Curte de Casație și Justiție (Romania), lodged on 24 September 2012 — Agenția Națională de Administrare Fiscală — Direcția Generală de Soluționare a Contestațiilor, Agenția Națională de Administrare Fiscală — Direcția Generală de Administrare a Marilor Contribuabili v SC Rafinăria Steaua Română SA

(Case C-431/12)

(2012/C 399/17)

Language of the case: Romanian

Referring court

Înalta Curte de Casație și Justiție

Parties to the main proceedings

Appellants in cassation: Agenția Națională de Administrare Fiscală — Direcția Generală de Soluționare a Contestațiilor, Agenția Națională de Administrare Fiscală — Direcția Generală de Administrare a Marilor Contribuabili

Respondent in cassation: SC Rafinăria Steaua Română SA

Question referred

Is it contrary to Article 183 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (¹) if Article 124 of the Romanian Tax Procedure Code is interpreted as meaning that the State is not liable for payment of interest on amounts claimed under VAT declarations in respect of the period between the date of set-off of those amounts and the date on which those set-off decisions are annulled by a national court?

(¹) OJ 2006 L 347, p. 1.

Reference for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on 26 September 2012 — ACI Adam BV and Others v Stichting de Thuiskopie and Others

(Case C-435/12)

(2012/C 399/18)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Applicants: ACI Adam BV, Alpha International BV, AVC Nederland BV, BAS Computers & Componenten BV, Despec BV, Dexion Data Media and Storage BV, Fuji Magnetics Nederland, Imation Europe BV, Maxell Benelux BV, Philips Consumer Electronics BV, Sony Benelux BV, Verbatim GmbH

Defendants: Stichting de Thuiskopie, Stichting Onderhandelingen Thuiskopie Vergoeding

certain contested circumstances which have a bearing on the determination of the fair compensation, against the organisation concerned, which defends the action?

Questions referred

1. Should Article 5(2)(b) — whether or not in conjunction with Article 5(5) — of the Copyright Directive ⁽¹⁾ be interpreted as meaning that the limitation on copyright referred to therein applies to reproductions which satisfy the requirements set out in that provision, regardless of whether the copies of the works from which the reproductions were taken became available to the natural person concerned lawfully — that is to say: without infringing the copyright of the rightholders — or does that limitation apply only to reproductions taken from works which have become available to the person concerned without infringement of copyright?

2. (a) If the answer to question 1 is that expressed at the end of the question, can the application of the ‘three-stage test’ referred to in Article 5(5) of the Copyright Directive form the basis for the expansion of the scope of the exception of Article 5(2), or can its application only lead to the reduction of the scope of the limitation?

- (b) If the answer to question 1 is that expressed at the end of the question, is a rule of national law which provides that in the case of reproductions made by a natural person for private use and without any direct or indirect commercial objective, fair compensation is payable, regardless of whether the manufacture of those reproductions is authorised under Article 5(2) of the Copyright Directive — and without there being any infringement by that rule of the prohibition right of the rightholder and his entitlement to damages — contrary to Article 5 of the Copyright Directive, or to any other rule of European law?

In the light of the ‘three-stage test’ of Article 5(5) of the Copyright Directive, is it important when answering that question that technical resources to combat the making of unauthorised private copies are not (yet) available?

3. Is the Enforcement Directive ⁽²⁾ applicable to proceedings such as these where — after a Member State, on the basis of Article 5(2)(b) of the Copyright Directive, has imposed the obligation to pay the fair compensation referred to in that provision on producers and importers of media which are suitable and intended for the reproduction of works, and has determined that that fair compensation should be paid to an organisation designated by that Member State which has been charged with collecting and distributing the fair compensation — those liable to pay the compensation bring a claim for a declaration by the courts in respect of

⁽¹⁾ Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ 2001 L 167, p. 10).

⁽²⁾ Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights (OJ 2004 L 157, p. 45).

Reference for a preliminary ruling from the Gerechtshof te 's Hertogenbosch (Netherlands), lodged on 1 October 2012 — X; Other party: Voorzitter van het managementteam van het onderdeel Belastingdienst/Z van de rijksbelastingdienst

(Case C-437/12)

(2012/C 399/19)

Language of the case: Dutch

Referring court

Gerechtshof te 's Hertogenbosch

Parties to the main proceedings

Appellant: X

Other party: Voorzitter van het managementteam van het onderdeel Belastingdienst/Z van de rijksbelastingdienst

Questions referred

1. In the appraisal of the question — to be answered in the context of Article 110 TFEU — as to whether the amount of the levy in 2010 in respect of the registration of the passenger car [concerned] is (not) higher than the residual amount of the levy which is incorporated in the value of similar used passenger cars already registered within national territory, should the following be considered to be similar for purposes of determining that residual amount:

— a comparable passenger car which, in the year in which the passenger car [concerned] was first put into service (2006), was registered as an unused passenger car, or

— also the (other) passenger cars which were available on the market for second-hand passenger cars in 2010, and which, like the passenger car [concerned], were first put into service on 30 May 2006 and are otherwise comparable, but which were (imported and) registered as used passenger cars after 30 May 2006 (after 30 May 2006 and up to 2009), and/or