

Defendant: Technische Universität Hamburg-Harburg

Intervener: Hochschul-Informations-System GmbH

Questions referred

1. Must a 'public contract' within the meaning of Article 1(2)(a) of Directive 2004/18/EC⁽¹⁾ of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts be interpreted as also meaning a contract in the case of which, although the contracting authority does not exercise over the contractor a control similar to that which it exercises over its own departments, both the contracting authority and the contractor are controlled by the same body, which is itself a public contracting authority within the meaning of Directive 2004/18 and the contracting authority and the contractor carry out the essential part of their activities with that common body (horizontal in-house transaction)?

If the first question is answered in the affirmative:

2. Must the control similar to that which the contracting authority exercises over its own departments extend to all aspects of the contractor's activity or is it sufficient for it to be confined to the area of procurement?

⁽¹⁾ OJ 2004 L 134, p.114

Request for a preliminary ruling from the Finanzgericht Hamburg (Germany) lodged on 15 January 2013 — Simon, Evers & Co GmbH v Hauptzollamt Hamburg-Hafen

(Case C-21/13)

(2013/C 114/37)

Language of the case: German

Referring court

Finanzgericht Hamburg

Parties to the main proceedings

Applicants: Simon, Evers & Co GmbH

Defendant: Hauptzollamt Hamburg-Hafen

Question referred

Is Council Regulation (EC) No 499/2009 of 11 June 2009 extending the definitive anti-dumping duty imposed by Council Regulation (EC) No 1174/2005 on imports of hand

pallet trucks and their essential parts originating in the People's Republic of China to imports of the same product consigned from Thailand, whether declared as originating in Thailand or not,⁽¹⁾ invalid because the Commission, by misjudging the requirements arising from Article 13 of Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community concerning the finding of a circumvention of anti-dumping duty measures,⁽²⁾ presumed that there was a circumvention merely because the volume of exports in question from Thailand increased significantly after the imposition of the measures, although the Commission, with reference to the lack of cooperation from Thai exporters, made no further specific findings?

⁽¹⁾ OJ 2009 L 151, p. 1.

⁽²⁾ OJ 1996 L 56, p. 1.

Appeal brought on 8 February 2013 by the Groupement des cartes bancaires (CB) against the judgment of the General Court (Seventh Chamber) delivered on 29 November 2012 in Case T-491/07 CB v Commission

(Case C-67/13 P)

(2013/C 114/38)

Language of the case: French

Parties

Appellant: Groupement des cartes bancaires (CB) (represented by: F. Pradelles, avocat, J. Ruiz Calzado, abogado)

Other parties to the proceedings: European Commission, BNP Paribas, BPCE, formerly Caisse Nationale des Caisses d'Épargne et de Prévoyance (CNCEP), Société générale

Form of order sought

The appellant claims that the Court should:

— set aside the judgment of the General Court of 29 November 2012 in Case T-491/07 CB v Commission;

— refer the case back to the General Court for a new decision to be taken, unless the Court considers that it is sufficiently well informed to annul Commission Decision C(2007) 5060 final of 17 October 2007 relating to a proceeding under Article 81 [EC] (Case COMP/D1/38.606 — Groupement des cartes bancaires 'CB');

— order the Commission to pay the costs of these proceedings, including the costs incurred by the appellant before this Court and before the General Court.